NEPOOL
NEW ENGLAND POWER POOL
**Sebastian Lombardi**
Secretary



June 20, 2023

**VIA ELECTRONIC MAIL**

**TO:** **MEMBERS AND ALTERNATES OF THE NEPOOL PARTICIPANTS COMMITTEE**

**RE:** Supplemental Notice of June 27-29, 2023 NEPOOL Participants Committee Summer Meeting

Pursuant to Section 6.6 of the Second Restated New England Power Pool Agreement, supplemental notice is hereby given that the NEPOOL Participants Committee Summer Meeting will be held on **June 27-29, 2023 at The Equinox in Manchester, VT**. Please see the attached meeting agenda and Sector meeting schedule, which are also posted with the meeting materials. For those unable to make the meeting in person, telephone participation will be available for the plenary sessions (and to a more limited extent for the separate meetings of the Sectors). Please contact us for the dial-in information.

As reflected on the meeting agenda, the general NEPOOL business will be conducted on Tuesday, with a planned 10:00 a.m. start. Note that Tuesday's agenda includes the annual markets presentation by the ISO's External Market Monitor. Wednesday's plenary session is planned to begin at 9:00 a.m., and will include a debrief from FERC's June 20 New England Winter Gas-Electric Forum as well as an update and discussion on the Resource Capacity Accreditation (RCA) project, including potential next steps/options. Wednesday afternoon is set aside for separate meetings or participation in networking events. Thursday's session is for modified Sector group meetings, scheduled to begin at 8:30 a.m., with times set aside for each group to meet separately with ISO Board members, State Officials and FERC representatives. ***Please note when and where your modified Sector group is scheduled to meet.***

The NEPOOL reservations block at The Equinox is now closed. If you are still in need of a room, please contact Jaki Sloan (jsloan@daypitney.com) who may be able to assist getting you into The Equinox or an alternative venue/inn if possible. **For those staying at The Equinox, please note that the check-in time is 4:00 p.m. and the check-out time is 11:00 a.m. The cancellation policy is 3 days prior to the first day of your reservation.**

**Dress for the Summer Meeting is business casual.** Additional information regarding the Summer Meeting is available on the Summer Meeting information page.

We look forward to seeing so many of you in Vermont next week.

Respectfully yours,

/s/
Sebastian Lombardi, Secretary

****All start and finish times subject to adjustment.**

# FINAL AGENDA

## TUESDAY, JUNE 27, 2023
**10:00 a.m. – 4:30 p.m. General Session****
**(Rockwell Ballroom)**

1. ~~[To approve the preliminary minutes of the Participants Committee meeting held on May 4, 2023. The draft minutes of that meeting will be circulated under separate cover and posted with the meeting materials.]~~ Deferred to August 3, 2023 meeting.

2. To adopt and approve all actions recommended by the Technical Committees set forth on the Consent Agenda included with this supplemental notice and posted on the NEPOOL website.

3. To receive a Chief Executive Officer (CEO) Report by Gordon van Welie, ISO New England.

4. To receive a Chief Operations Officer (COO) Update from Dr. Vamsi Chadalavada, ISO New England.

5. To receive a report on the ISO's preliminary 2024 and 2025 Operating and Capital Budgets by Chief Financial & Compliance Officer Robert Ludlow, ISO New England.

6. To consider, and take action, as appropriate, on changes to the Financial Assurance Policy to allow the ISO to remove a bank from its list of eligible Letter of Credit (LOC) Issuers if the ISO determines in its sole discretion that accepting a LOC from that bank presents an unreasonable risk that the bank may fail to honor the terms of the LOC. Background materials and a draft resolution are included and posted with this supplemental notice.

6A. To consider, and take action, as appropriate, on the request for a waiver of the NEPOOL Generation Information System (GIS) Operating Rules by 777 Residential LLC. Background materials and a draft resolution are included and posted with this supplemental notice.

7. To receive a report on current matters relating to regional wholesale power and transmission arrangements that are pending before the regulators and the courts.

8. To receive reports from other Committees, Subcommittees and working groups:

- Markets Committee
- Reliability Committee
- Transmission Committee
- Budget & Finance Subcommittee
- Membership Subcommittee
- Others

8a. To receive welcoming remarks from VT State Official.

9. To receive an External Market Monitor Report by Dr. David Patton, President, Potomac Economics. A presentation with highlights of the EMM's 2022 Annual Assessment of the ISO New England Electricity Markets will be circulated and posted following receipt.

10. To transact such other business as may properly come before the meeting.

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* The NEPOOL general business portions and plenary sessions of the meeting will be recorded, as are all the NEPOOL Participants Committee meetings. NEPOOL meetings, while not public, are open to all NEPOOL Participants, their authorized representatives and, except as otherwise limited for discussions in executive session, consumer advocates that are not members, federal and state officials and guests whose attendance has been cleared with the Committee Chair. All those participating in this meeting must identify themselves and their affiliation at the meeting. Official records and minutes of meetings are posted publicly. No statements made in NEPOOL meetings are to be quoted or published publicly.

****All start and finish times subject to adjustment.**

**WEDNESDAY, JUNE 28, 2023**
**9:00 a.m. – 12:00 p.m.****
**(Rockwell Ballroom)**

11. To receive opening remarks.

12. FERC Staff introductions.

13. ***Energy Adequacy in New England***.

    a. Post- FERC Forum Debrief & Discussion. Opportunities in plenary session for the ISO, State officials and Participants to share and discuss reactions and takeaways from FERC's June 20 New England Winter Gas-Electric Forum.

    b. Resource Capacity Accreditation (RCA) Update & Options. To receive RCA project update from Dr. Vamsi Chadalavada (ISO-NE COO), to review and discuss ISO's stated objectives, and to receive/provide preliminary stakeholder feedback on potential options for proceeding forward.

*Wednesday afternoon has been set aside for separate meetings and organized networking, as desired*

**THURSDAY, JUNE 29, 2023**
**8:30 a.m. – 12:45 p.m.****

*The last day of the Summer Meeting has been set aside for separate, modified Sectors meetings with individual ISO Board Members, State Officials and FERC Representatives, as detailed in the Sector meeting schedule included with this agenda.*

****All start and finish times subject to adjustment.**

# CONSENT AGENDA

## *Markets Committee (MC)*

***From the previously-circulated notice of actions of the MC's June 6, 2023 meeting, dated June 7, 2023.[1]***

1. **Revisions to Market Rule 1 Section III.13 (De-List Bid Price Downward Flexibility)**

Support the revisions to Section III.13 of Market Rule 1 related to incorporating downward bid price adjustment flexibility for Retirement and Permanent De-List bids, as recommended by the MC at its June 6, 2023 meeting, together with such further non-material changes as the Chair and Vice-Chair of the RC may approve.

The motion to recommend Participants Committee support was approved unanimously.

## *Reliability Committee (RC)*

***From the previously-circulated notice of actions of the RC's May 16, 2023 meeting, dated May 17, 2023.[2]***

2. **Revisions to OP-14 Appendices F, H and I (Biennial Review)**

Support revisions to Appendices F (Wind Plant Operator Guide), H (Solar Plant Operator Guide) and I (Continuous Storage Facility Operators Guide) to ISO New England Operating Procedure (OP) No. 14 (-Technical Requirements for Generators, Demand Response Resources, Asset Related Demands, and Alternative Technology Regulation Resources),[3] as recommended by the RC at its May 16, 2023 meeting, together with such further non-material changes as the Chair and Vice-Chair of the RC may approve.

The motion to recommend Participants Committee support was approved unanimously.

3. **Revisions to OP-16 Appendix K (Biennial Review)**

Support revisions to Appendix K (Instructions for Submission of Short Circuit Data) to OP-16 (Transmission System Data),[4] as recommended by the RC at its May 16, 2023 meeting, together with such further non-material changes as the Chair and Vice-Chair of the RC may approve.

The motion to recommend Participants Committee support was approved unanimously.

***(Cont. on Next Page)***

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

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

[3] The recommended revisions to OP-14 Appendices F, H and I (i) add clarifications to headers; (ii) remove "at point of interconnection" from Voltage Parameter; (iii) update references in Minimum Resolution/Accuracy, Minimum Update Frequency, and Required Reference(s) columns; and add Solar Plant day/night cycle disconnection clarification for OP-14 Appendix H.

[4] The recommended revisions to OP-16 Appendix K (i) add a new Attachment 1 (ASPEN OneLiner Bus Naming Standard); (ii) revise Tables 1 (Ongoing Short Circuit Update Schedule) and 2 (Area, Zone, and Bus Numbering); and (iii) incorporate grammatical edits to improve procedure flow, including making consistent "Year N+5" terminology.

**4. <u>Revisions to PP-4-1 (Conforming Changes)</u>**

Support revisions to ISO New England Planning Procedure (PP) No. 4-1 (Implementation of Cost Responsibility Determination for Schedule 11 Category C Project Transmission Upgrades in Circumstances of Multiple Needs),[5] as recommended by the RC at its May 16, 2023 meeting, together with such further non-material changes as the Chair and Vice-Chair of the RC may approve.

The motion to recommend Participants Committee support was approved unanimously.

[5] The recommended revisions (i) conform PP-4-1 with FERC-accepted changes to Attachment K that eliminated "concept" as a Regional System Plan subcategory for Reliability Transmission Upgrades and Market Efficiency Transmission Upgrades (*see* Transmission Planning Improvements, ISO New England Inc. and New England Power Pool Participants Comm., Docket No. ER20-92 (filed Oct. 11, 2019); accepted, *ISO New England Inc. and New England Power Pool Participants Comm.,* 169 FERC ¶ 61,195 (Dec. 10, 2019)); and (ii) updates to be current the link to PP-4 in footnote 5.

**Summary of ISO New England Board and Committee Meetings**

**June 27-29, 2023 Participants Committee Meeting**

Since the last update, the Audit and Finance Committee and the Nominating and Governance Committee met on May 16. The Board of Directors met on May 17 and 18, and the Markets Committee met on May 18. All of the meetings were held in Boston, Massachusetts. In addition, the Markets Committee met virtually on June 8.

**The Audit and Finance Committee** reviewed the Company's financial performance against the 2023 budget, and approved the first quarter's unaudited financial statements after management confirmed that all relevant disclosures were included in the financial statements. Next, the Committee discussed the preliminary 2024 operating and capital budgets, and potential costs related to the clean energy transition. Finally, the Committee reviewed a draft of the Company's 2022 tax return on Form 990.

**The Nominating and Governance Committee** discussed the onboarding process and orientation schedule for director-elect [redacted] The Committee also discussed assignments to Board committees and succession planning for board leadership positions. The Committee reviewed potential topics for discussion with the NEPOOL sectors in June. Next, the Committee discussed the logistics and format for the 2023 open Board meeting, including ideas for an outside speaker. The Committee then discussed ongoing Board education and considered possible topics for future training sessions.

**The Markets Committee** provided final comments on the Internal Market Monitor's draft annual markets report. The Committee was provided with a market monitoring review of market performance in winter 2022-2023 and received reports from both the Internal and External Market Monitors. The Committee also discussed market performance during December and February cold weather events and the impact of increased natural gas prices on cold weather days.

At its meeting in June, the Committee reviewed a draft of the External Market Monitor's annual markets report. The Committee discussed the comparison of key market metrics to those of other regional markets, and asked a number of clarifying questions. The Committee also requested that the External Market Monitor provide an assessment of the impact on wholesale markets of the increased levels of federal funding that is available for certain generation and transmission investments, including funding that is being pursued by individual states.

**The Board of Directors** met for an in-depth review of the Company's strategic plan. The Board received detailed reports on three key strategic issues: energy adequacy and the EPRI study results, the Resource Capacity Accreditation project, and the nGEM software project. The Board also considered scenario analyses, and the initiatives underlying the 2024 budget. The Board then received reports from the standing committees and prepared for upcoming meetings at the IRC Board Conference and the NECPUC Symposium, followed by an executive session.

JUNE 27, 2023

# ISO New England 2024 and 2025 Preliminary Operating and Capital Budgets

*NEPOOL Participants Committee 2023 Summer Meeting*


Robert Ludlow

CHIEF FINANCIAL OFFICER | ISO NEW ENGLAND

# Contents of Presentation

# EXECUTIVE SUMMARY

# Executive Summary

- The 2024 budget represents the organization's commitment to supporting the region as it transitions to clean energy and ensuring that its continued operations are efficient and reliable
- Public impetus around addressing climate change through clean energy investments and electrifying transportation and heating sectors is driving substantial changes to the New England power system:
  - Substantial increases to the number of interconnected and behind-the-meter (BTM) generating assets are changing how the transmission and distribution system operate and interact with each other
  - A shift from larger, dispatchable resources to smaller non-dispatchable, weather-dependent ones is changing the complexity involved in dispatching resources to meet demand
  - New daily and seasonal demand patterns are changing the types and timing that resources are needed
- The changes to the grid represent a step-up in system complexity that the ISO needs to be prepared to address beginning in 2024 and throughout the remainder of the decade
  - This step-up in complexity represents a considerable increase to ISO workload

# Executive Summary

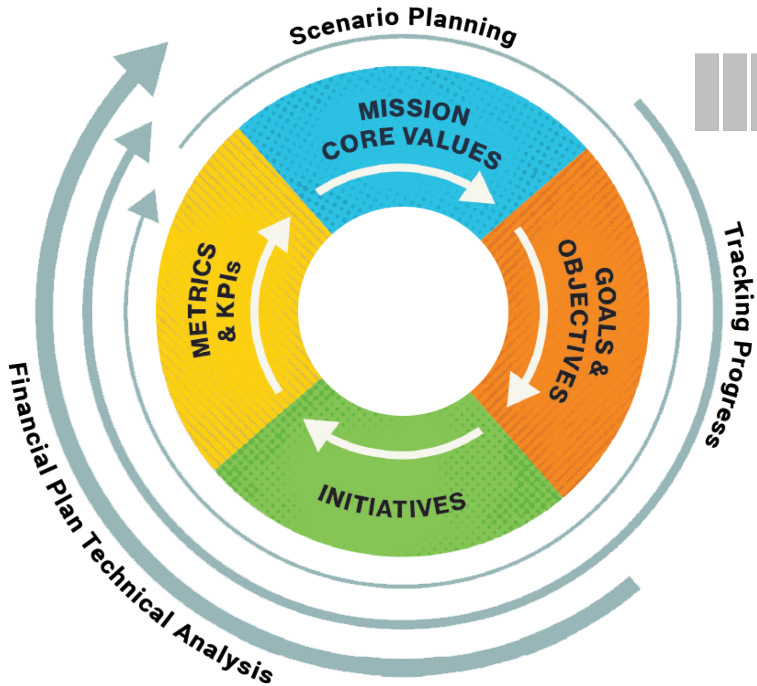
- The 2024 budget represents a ramping-up of organizational capacity to carry out the organization's mission of planning the transmission system, administering the region's wholesale markets, and operating the power system to ensure reliable and competitively priced wholesale electricity; *as well as* developing new capabilities that will be necessary for supporting the grid of the future
  - As indicated during last year's budgeting process, after years of keeping headcount flat or with minimal additions, the organization has seen the need to begin increasing headcount more substantially in order to meet the clean energy transition
- The proposed budget also represents what is needed for the ISO to remain competitive in the labor market and to keep pace with inflationary effects on employee compensation in order to attract and retain experienced personnel necessary to support the clean energy transition
  - The ISO conducted a job-specific market competitiveness analysis which outlined the need for the ISO to "catch-up" on salary commitments to both attract new talent and retain existing employees
  - Turnover rate has increased since the pandemic, and remains high
- Lastly, the budget reflects additional investment in information technology (IT) to address inflationary and renewal costs for IT infrastructure and licensing, cybersecurity, and the transition to cloud-based infrastructure

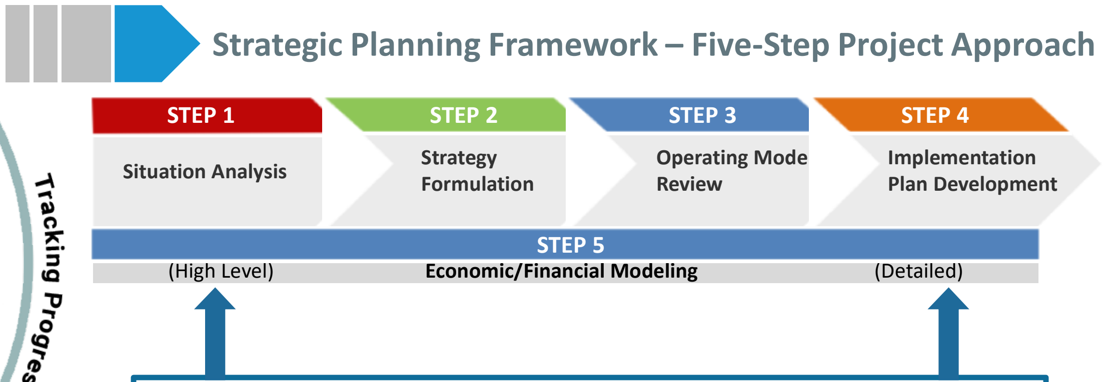
# THE STRATEGIC PROCESS

*ISO-NE's integrated business and strategic planning framework*

# Strategic Planning Framework

*The 2024 ISO-NE budget represents the needs for the organization's strategy in supporting the region on its path to a decarbonized grid*




The 2024 budget responds to the region's goal of decarbonizing the electric grid

# Annual Process – Business and Strategic Planning

*ISO-NE is guided by a purposeful and integrated business planning approach that drives focus towards a common target that management teams and the entire organization can get behind, with the aim of creating value for ISO stakeholders*

# 2024 Budget Process – Key Dates

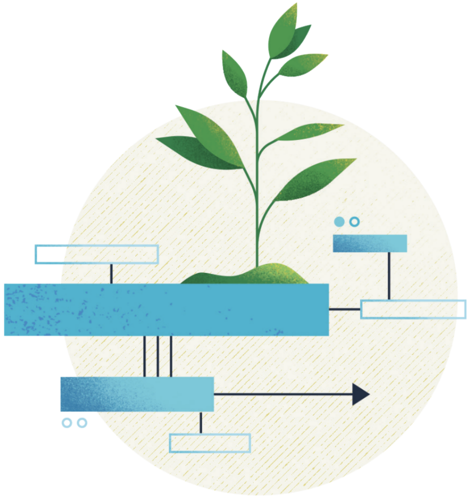
- Review preliminary 2024 and 2025 Operating and Capital Budgets on June 23rd with NECPUC and State Agencies
- Review preliminary 2024 and 2025 Operating and Capital Budgets at the June 27th NEPOOL Participants Committee (NPC) Summer Meeting
- Review 2024 proposed Operating and Capital Budgets (Budgets) at the August 11th NEPOOL Budget & Finance Subcommittee meeting
- Review 2024 proposed Budgets at the meeting with State Agencies on August 11th
- Review 2024 proposed Budgets at the  August 17th Audit & Finance Committee meeting
- Review 2024 proposed Budgets at the September 7th NPC meeting
- Review 2024 proposed Budgets at the September 13th Board Meeting with submitted State Agencies' comments and the ISO's response
- NPC vote on the ISO-NE 2024 proposed Budgets at the October 5th meeting
- ISO New England Board of Directors vote on the 2024 proposed Budgets after the NPC vote
- ISO New England filing of 2024 Budgets with FERC on or about October 13th

# Preliminary "Top Down" Draft Budget for June

- This is a preliminary (top-down) budget; management identifies major drivers and resources for discussion purposes
- Provides an opportunity for state agencies and stakeholders to review and provide feedback and suggestions
- In August, ISO-NE will present the results of the proposed (bottom-up) detailed budget that takes into consideration feedback and suggestions from the preliminary (top-down) budget
  - In the bottom-up budget process, each ISO business unit prepares a detailed line-item budget accounting for all known and/or estimated expenses and resource needs

# Our Guidepost: The ISO New England Vision Statement

*The ISO-NE Vision Statement is an explicit statement about our intent to achieve a reliable transition to clean energy utilizing competitive markets*



## Vision Statement:

*To harness the power of competition and advanced technologies to reliably plan and operate the grid as the region transitions to clean energy*

**The ISO's Vision represents the company's commitment to work with FERC, the states, and market participants to support the clean energy transition (within the limits of our jurisdiction)**

# Our Responsibility to the Region: ISO's Mission

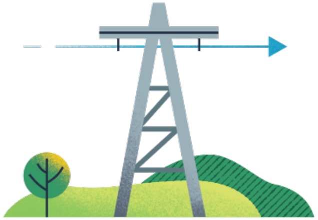
*The ISO-NE Mission Statement outlines the core role and responsibilities of the ISO's daily operations*

## Mission Statement:

*Through collaboration and innovation, ISO New England plans the transmission system, administers the region's wholesale markets, and operates the power system to ensure reliable and competitively priced wholesale electricity*

# Four Pillars of Supporting a Successful Energy Transition

*When the ISO looks toward the future, these are the objectives the ISO, states, market participants, and regulators need to advance in order to support the clean energy transition*



1

**Significant amounts of clean energy** to power the economy with a greener grid

2

**Balancing resources** that keep electricity supply and demand in equilibrium

3

**Energy adequacy**—a dependable energy supply chain and/or a robust energy reserve to manage through extended periods of severe weather or energy supply constraints

4

**Robust transmission** to integrate renewable resources and move clean electricity to consumers across New England

# TRENDS AND DRIVERS IMPACTING THE 2024 ISO-NE BUDGET

# Supporting Decarbonization of the New England Power System Will be the Primary Driver of ISO Work Over the Next Decade

- Decarbonization will change the composition of the power system
  - Increasing numbers of inverter-based resources looking to connect to the New England grid
  - Additional resources are connecting to the distribution system, outside of the ISO's current visibility, that contribute to load variability and forecasting challenges
- Changing load characteristics will exacerbate operational complexity
  - Increased load anticipated through electrification of heating and transportation
  - Increased variability through proliferation of behind-the-meter (BTM) generation
  - Increasing load-dependence on weather at a time when weather is becoming more erratic

# ISO Planning New Investments to Support Clean Energy Transition

*The region has embarked on a major grid transformation that the ISO is well-positioned to support*

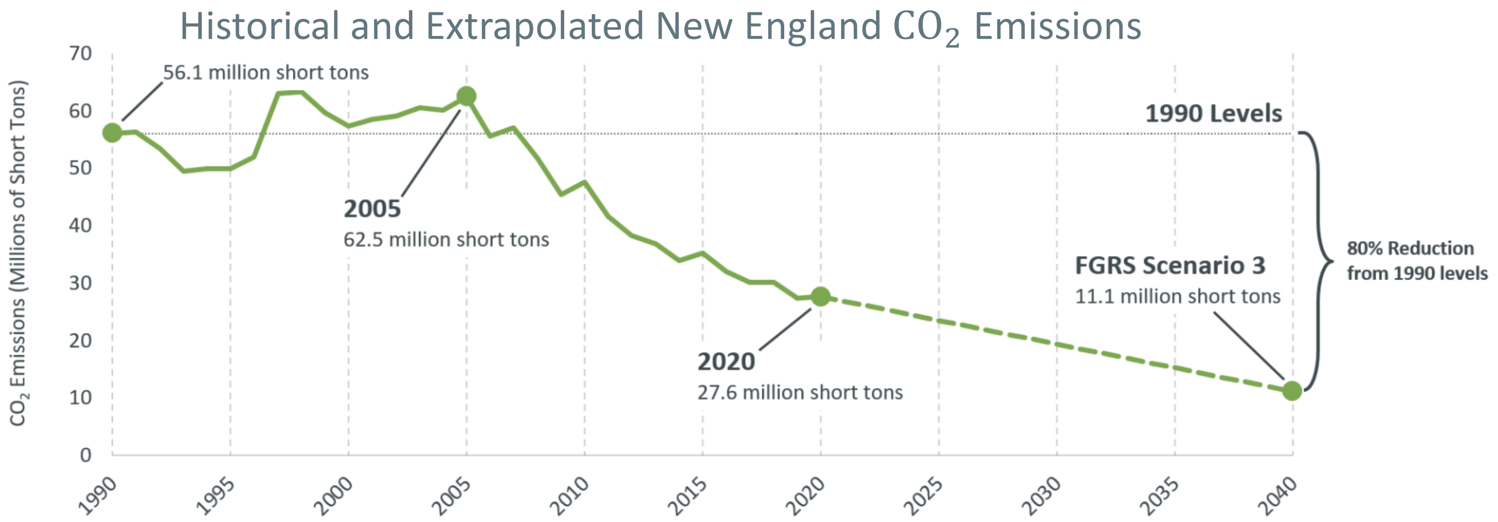
Public policies driving decarbonization represent the largest catalyst for change to the New England power system

Decarbonization goals will lead to a 2040 grid with much higher loads, load-variability, and a much greater number of variable supply resources

More employees, with different skillsets will be needed to address the volume of market design changes and operational/planning complexities

Major investments in new technologies to create and support the core business applications and processes, including increased computational capacity to deal with increased grid complexity

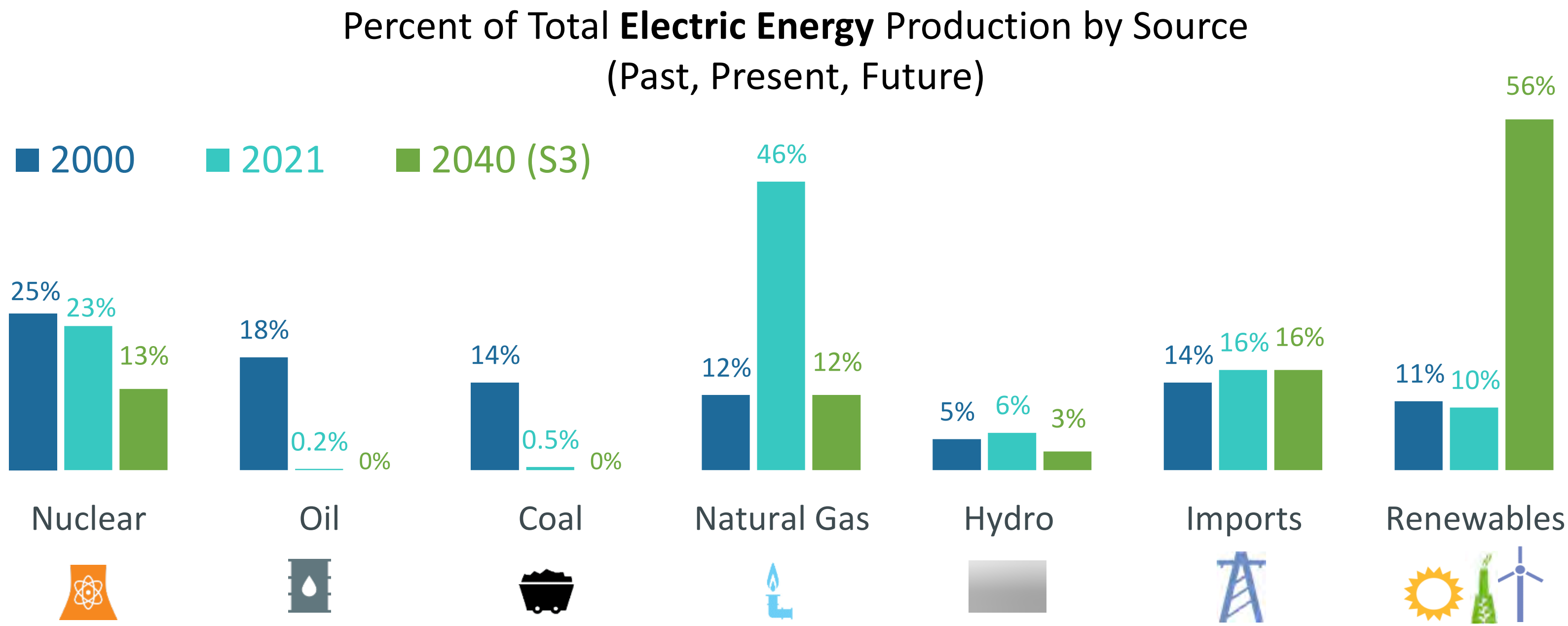
# Emissions Reduction of the New England Grid through Decarbonization of the Resource Fleet is The Catalyst for Change to the New England Grid




*Note: The dashed line between 2020 and 2040 illustrates the difference between the known emissions in 2020 and the simulated emissions in 2040 from FGRS Scenario 3. We are not predicting what the annual emissions levels or rate of reduction will be between those two years*

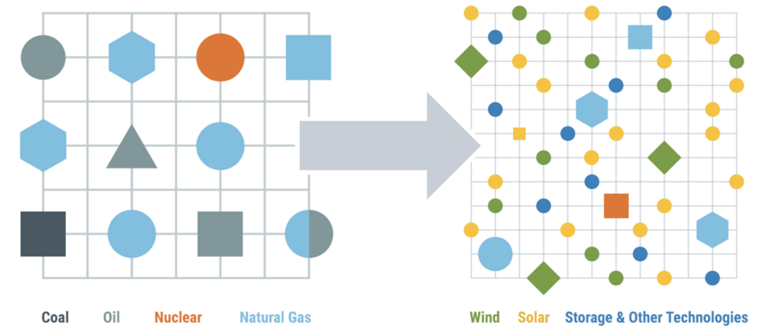
- State policies to address climate change through emissions reduction outline an **80% reduction from 1990 levels by 2040**
- These policies will result in a drastically different generation profile for the region

# Just as Natural Gas Displaced Oil/Coal-Fueled Resources Over the Last 20 Years, Renewables will Displace Natural Gas-Fired Resources Over the Next 20




Source: ISO New England Net Energy and Peak Load by Source; data for 2021 is preliminary and subject to resettlement; data for 2040 is based on Scenario 3 of the ISO New England 2021 Economic Study: Future Grid Reliability Study Phase 1. Renewables include landfill gas, biomass, other biomass gas, wind, grid-scale solar, behind-the-meter solar, municipal solid waste, and miscellaneous fuels.

# Two Dimensions to the Transition to Clean Energy that Contribute to Increased Grid Complexity




1. A shift from centrally dispatched generation to distributed resources
2. A shift from conventional generation to weather-dependent renewable generation

The changing resource mix **will** increase ISO workload in both the long- and short-term

- The number of assets in New England will grow into hundreds of thousands/one-million-plus in number, leading to increased administrative burden and computational capacity requirements
- Growing generation and fuel uncertainty will lead to increased focus on energy adequacy efforts
- The resource mix will likely require different market designs
- Urgency around the transition to clean energy will increase, leading to greater focus on ISO actions and the need for more and different types of public and regulatory engagement
- Additional ISO staff will be needed to support these efforts

# By 2030 the ISO Expects to See Substantial Changes to the New England Power System

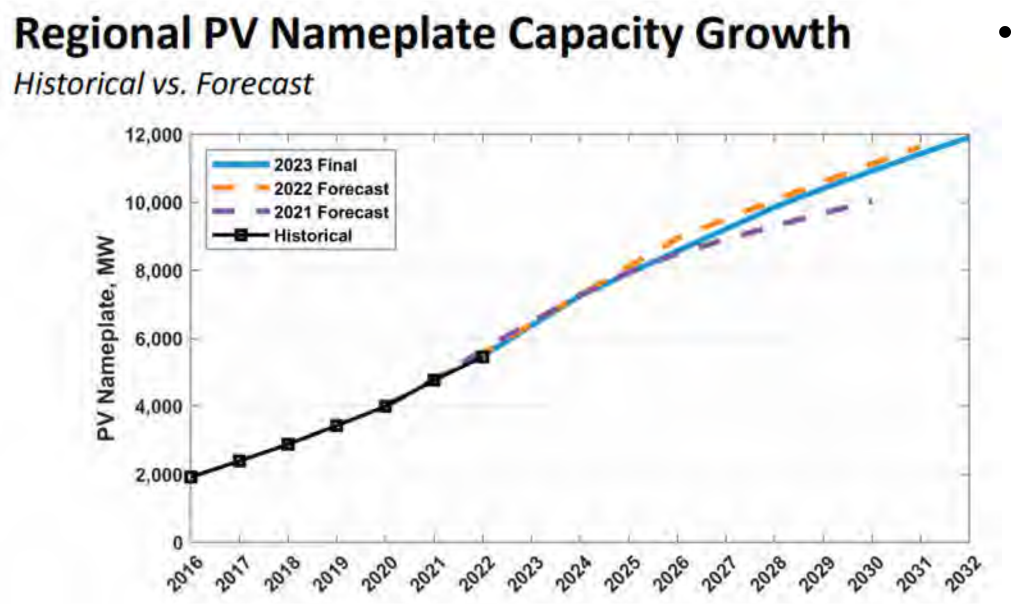
ISO needs to plan to administer, operate, and make market design changes for a power system that by 2030 is projected to be very different than the grid today.

- **Double the installed capacity of solar resources** (both on the grid and on the distribution system)
- **Thousands of MW of planned offshore wind**
- **Substantial new transmission investment**
  - Supporting inter- and intra-regional transfers, upgrading condition of existing assets, and addressing increasing interaction between transmission and distribution system
- **Substantial increase in number of energy resources** integrated into ISO markets – Order 2222
- **Enhanced market structures** – accounting for resource mix with different operating characteristics

To support these efforts, the ISO will engage in a slate of work in 2024 and beyond, that directly addresses these developments including, but not limited to:

- Market design focused on forward market overhauls for Resource Capacity Accreditation and assessments for auction format (prompt-seasonal), planning for Order 2222, FCA reforms, initiatives to improve forecasting and modeling, continued work on the 2050 Transmission Study, and extended/longer-term transmission planning

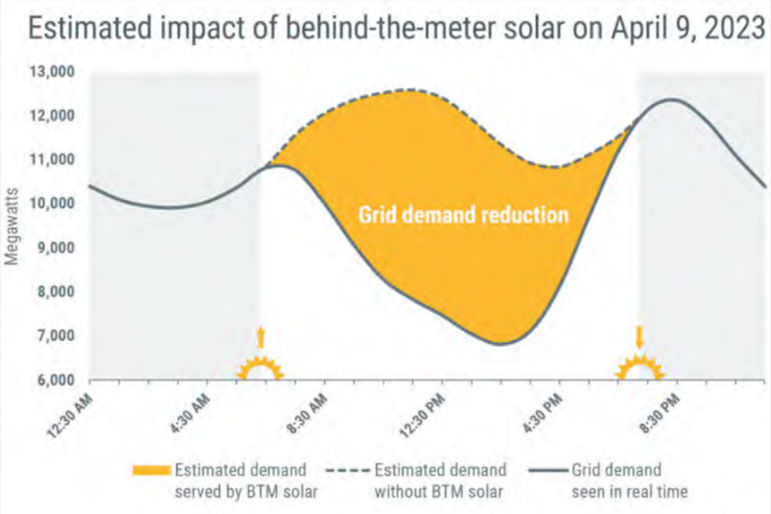
# ISO Forecasts Strong Growth in Solar Photovoltaic (PV) Resources




***Source:*** 2023 Final PV Forecast, NEPOOL Distributed Generation Forecast Working Group (Apr. 2023)

- Investments in ISO forecasting capabilities have improved its ability to predict PV capacity growth and will continue to be needed
  - ISO started forecasting electrification (both heating and transportation) as part of CELT 2020 and has since devoted increased attention to each forecast in terms of inputs and methodological enhancements
  - Each year, additional sub-trends and data emerge, and are expected to warrant continuous refinements/enhancements over time

# The Region Increasingly Relies on Variable, Weather-Dependent Resources Outside of ISO's Visibility

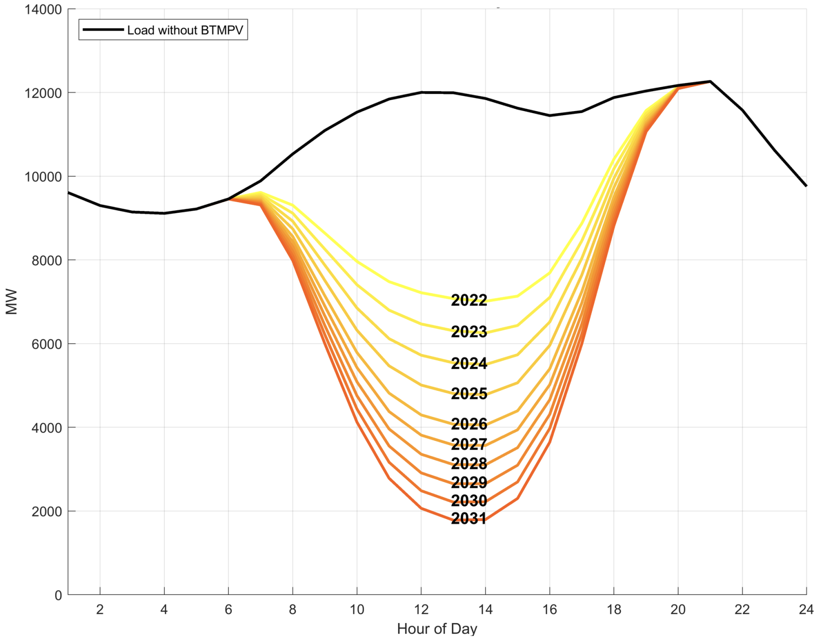



The 2024 budget increases represent initiatives and personnel to help address the changing system dynamics illustrated above

- Midday loads are driven by non-dispatchable, weather-dependent resources, outside of ISO's purview, whose output changes on a **second-to-second basis**
- This changing load profile, and impact on transmission system operations and generation dispatch, drive 2024 initiatives and work in the latter part of decade
  - Work with transmission owners and distribution companies to manage transmission system voltage/stability and develop new operating protocols
  - Allocate internal resources to obtaining EMS solutions
  - Study implications for generator dispatch as load reaches minimum generation levels
  - Study a bulk electric system that can work at very low load levels (e.g., sunny, spring days) and at very high levels (as electrification increases)
  - Enhance market rules to compensate balancing resources needed to address steep load changes

# Moving Towards 2030, Operational Impacts Will Become More Pressing as BTM Proliferation Continues

**Projected NE Load Profile with Increasing BTM PV**
**("Duck Curve" transitions to "Canyon")**



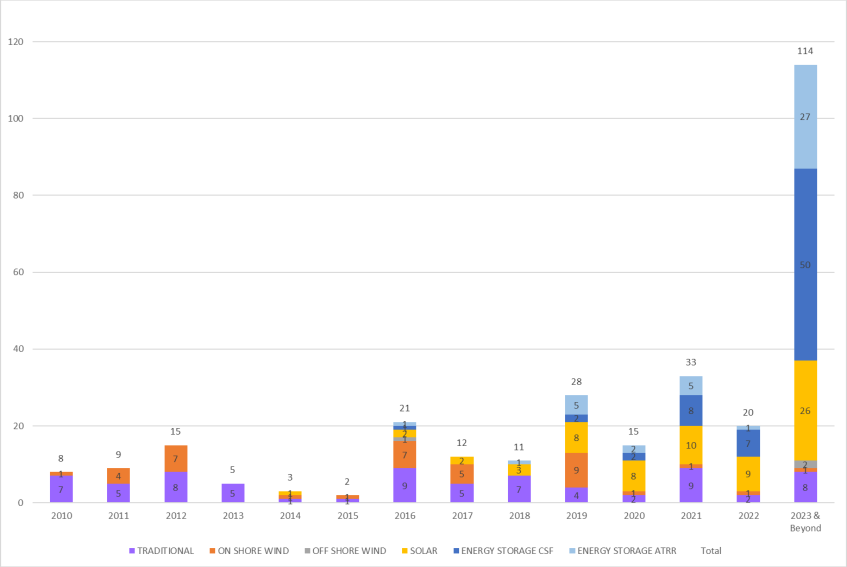

*Source: ISO Load Forecasting, May 2023*

- Trends in electrification and DERs also warrant continuous methodological enhancements to both long- and short-term load forecasting processes to prepare for future changes in grid operation:
  - Acquisition of new or improved data sources and the use of increasing volumes of data needed as model inputs
  - Improved modeling capabilities and related data analytics
  - Need to move to increasing levels of granularity in our processes and overall accounting
  - Greater emphasis on probabilistic forecasting to quantify and provide situational awareness regarding the time-varying amounts of uncertainty in planning and operating our system

# Commercial Modeled Assets Have Grown Substantially, This Requires a Substantial Increase in Asset Registration Workload

- The number of projects being coordinated per year has increased, while both the average and median size of Modeled Assets (MW) has decreased
- These new assets consist of primarily solar and energy storage
  - ISO expects to administer registration for an increasing number of new modeled assets
- The registration effort is mostly the same regardless of size of the project
- The change in market asset mix shows a shift from large controllable generation to smaller, weather-dependent generation

## New Commercial Modeled Assets by Category (Count)

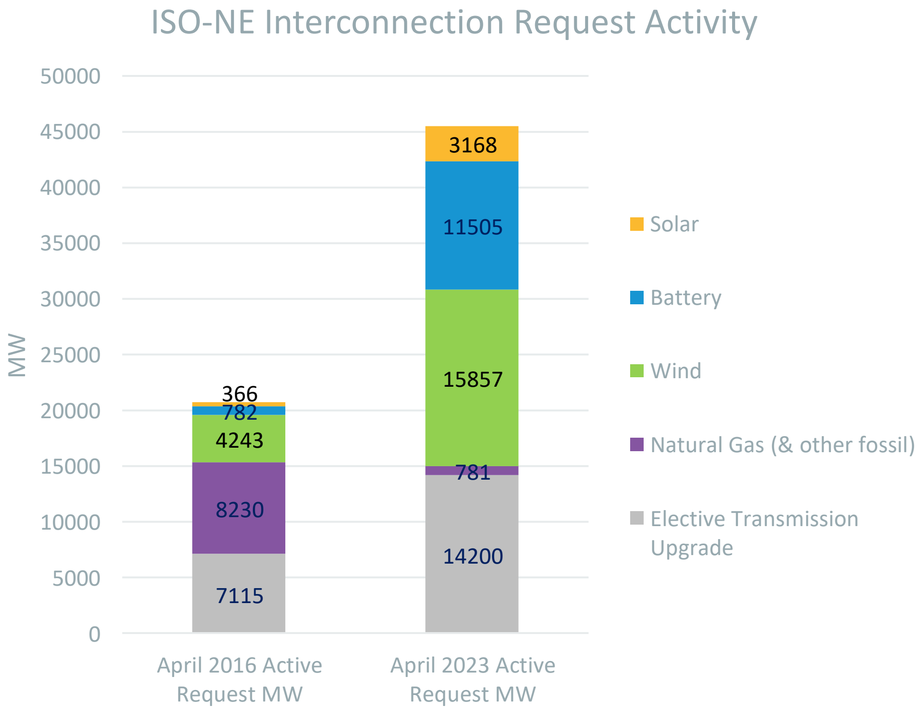



* The numbers from 2023-2025 include any projects that are being coordinated with the ISO-NE Asset Registration team and working towards Commercial Operation in the market.

*Source: ISO Asset Registration, June 2023*

# Administering More Resources Connecting to Transmission System

- Significant increase in applications to be studied (mainly solar, wind, & battery)
  - Number of requests in Queue is approx. 80% higher now than seven years ago
- Substantial increase in capacity being proposed to interconnect to grid requires analysis addressing a material revamping of supply & grid operations
- ISO is allocating resources while also taking into account potential policy changes (*see* FERC Interconnection NOPR – "first ready, first served") that will ameliorate some of the queue backlog

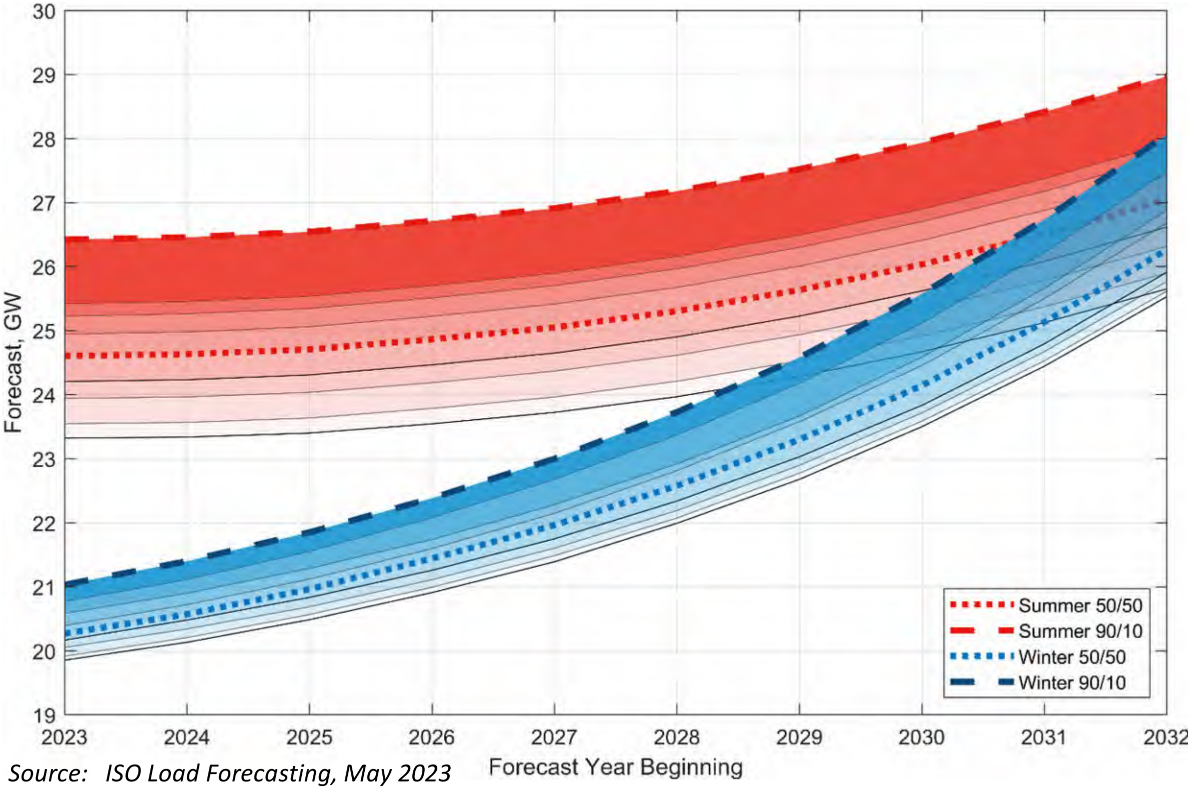


104 Requests    184 Requests

*Source: ISO Transmission Services & Resource Qualification, May 2023*

# Electrification of Heating and Transportation Cause Winter and Summer Peak Convergence Expected in the Early-Mid 2030s

- Plot shows "peak" portion of probabilistic net load forecast distribution for both winter and summer
- By 2031, the 90/10 net winter demand forecast exceeds the 50/50 net summer demand forecast
- Beyond the forecast horizon, by the mid-2030s, electrification will cause winter demand to become the typical, prevailing peak season




*Source: ISO Load Forecasting, May 2023*

# The Grid is Increasingly Reliant on Non-Dispatchable, Weather-Dependent Generators that Have Already Begun to Stress ISO Forecasting and Interconnection Capabilities

*Over the next 15 years, the region needs to add almost double the amount of new generation as was added to the system in the last 25 years*

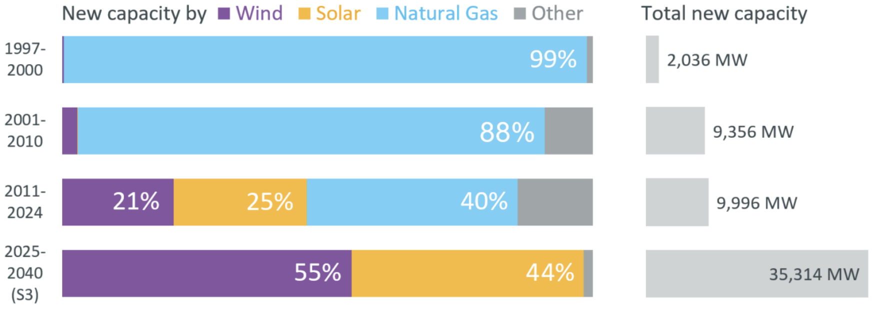
**2040 grid projection:**

- **Potential for 1 Million+** non-dispatchable/weather-dependent generators
- **Addition of 17,000 MW** of offshore wind
- **Addition of 28,000 MW** of solar power

**Compared to the grid of today:**

- **Approx. 350 dispatchable generators** with **approx. 32,600 MW** of generating capability
- **About 270,000** solar power installations totaling about **5,500 MW** (nameplate), with most connected "behind the meter"

Historical and Anticipated New Resource Capacity by Fuel Type, 1997 Baseline




*Source: Future Grid Reliability Study*

# ISO Planning New Investments to Support Clean Energy Transition

*The region has embarked on a major grid transformation that the ISO is well-positioned to support*

Public policies driving decarbonization represent the largest catalyst for change to the New England power system

Decarbonization goals will lead to a 2040 grid with much higher loads, load-variability, and a much greater number of variable supply resources

More employees, with different skillsets will be needed to address the volume of market design changes and operational/planning complexities

Major investments in new technologies to create and support the core business applications and processes, including increased computational capacity to deal with increased grid complexity

# Successfully Achieving the Goals Outlined by the Region Will Require Substantial Investment in ISO Workforce, Systems, and Processes

- In order to keep pace with the needs of the transition to cleaner generating resources, the ISO **must begin ramping-up its capabilities and operational capacity now**
- **The estimated, top-down, 2024 budget increases represent increases that explicitly support the clean energy transition** through:
  - Addressing the expanding interconnection queue/expected FERC interconnection order
  - Investments in cloud capabilities to support data requirements for increased number of resources
  - Incorporating hybrid, storage, renewable, and smaller generating assets into ISO markets
  - Assessment of a conceptual framework for a prompt/seasonal capacity market
  - Assessment and implementation of tools for improving ISO capabilities for modeling and maintaining situational awareness of distributed and limited energy resources and changing load behavior
  - Increasing granularity of weather forecasting for weather-dependent resources
  - Supporting states' policy/project preferences & NEPOOL prioritization process
  - Addressing forthcoming FERC order on long-term transmission planning for asset condition-based replacement and future-sizing of the transmission system
  - Developing and retaining in-demand skillsets for IT advancements and for clean energy transition
  - Commensurate increases to ISO support staff to ensure continued efficient operations

# Clean Energy Transition and Adjustment to Salaries

- Addressing inflationary effects and increased competition in labor market; for many years, ISO's annual budgets have focused on creating efficiency through keeping expenses and headcount flat
- As the clean energy transition is taking hold, ISO is experiencing **a step change in work** to enable/support the changing resource mix; associated operational/market design complexity; FERC directives; and related state and participant work requests
- Addressing the clean energy transition is impacting all aspects of industry nationwide, leading to a **tight labor market and inflation** on new and existing employees' compensation expectations
- To address, ISO engaged Mercer to conduct **a job-specific market competitiveness analysis** in addition to our historical annual merit increase surveys to ensure we have the data needed to budget and offer competitive wages for staff
  - Expect continued pressure on compensation with remote flexibility creating additional opportunities for highly-valued talent

# Clean Energy Transition – 2024 & 2025 FTE Additions

In 2024 the ISO needs to begin ramping up headcount to address the increased system complexity presented by the changing resource mix

- To support the objectives of the Four Pillars of the Clean Energy Transition and to continue making progress on the ISO's strategic goals, our top-down estimate is for approximately **40* FTE additions in 2024**
- **34** of the 2024 FTE additions or 85% are related to the Clean Energy Transition, spread across departments
- Preliminary 2025 estimates reflect **an additional 30 FTEs,** all related to the Clean Energy Transition

*The requested FTE additions may vary when the bottom-up budget is compiled

# 2024 AND 2025 PRELIMINARY BUDGET OVERVIEW

# 2024 and 2025 Preliminary Budget Overview

- The 2024 Preliminary Budget reflects the resources needed to support the Clean Energy Transition and to continue carrying out the work to fulfill ISO's mission and continuing operations
- The proposed 2024 revenue requirement before true-up is $277.2M, an increase of 15.4% over 2023, including the net true-up of $11.6M, the total revenue requirement increase is 21.5% year over year
- There are three key drivers supporting the proposed increase (see further details on the following pages):
  - Continued preparation for the Clean Energy Transition
  - Inflationary and Continued Operations Increases
  - Net Change in Revenue Requirement True-Up

**Note:** Throughout the presentation some schedules may appear inconsistent due to rounding.

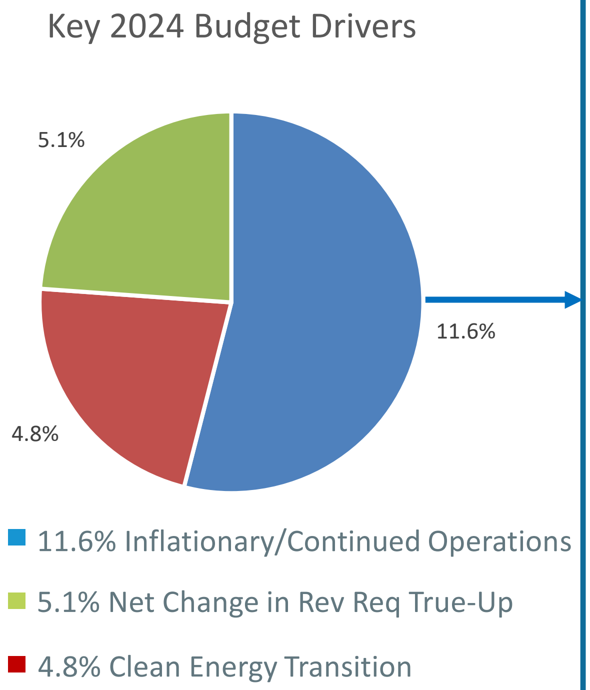
# For the ISO to Meet Region's Objectives for Transitioning to Clean Energy, a Significant Investment is Required in The Near-Term

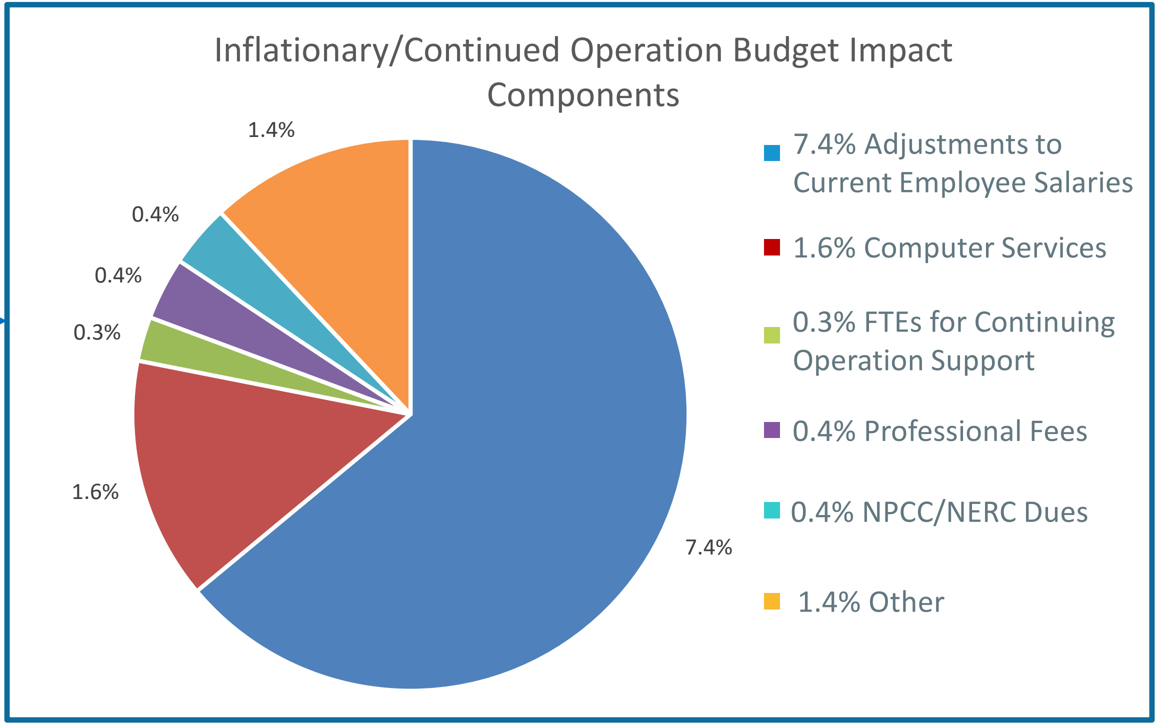
There are three main drivers for the increases to the 2024 ISO budget.

1. Adding full-time employees (FTEs) and other resources to address work directly related to the transition to clean energy and indirect support
2. Inflationary and continued operations drivers:
   - "Catch-up" on salary increases to retain and attract employees by keeping pace with labor market
   - Additional investment in information technology (IT) to address inflationary and renewal costs for IT infrastructure and licensing, cybersecurity, and the transition to cloud-based infrastructure
3. Net change in the annual revenue true-up

| Driver | % Increase | $ Amount |
|---|---|---|
| Clean Energy Transition | 4.8 % | $10,756,400 |
| Inflationary/ Continued Operations | 11.6 % | $26,195,800 |
| Net Change in Rev Req True-Up | 5.1 % | $11,582,500 |
| **Total:** | **21.5 %** | **$48,534,700** |

# Key Drivers to the 2024 ISO-NE Budget



# Continued Preparation for the Clean Energy Transition

- Continued preparation for the Clean Energy Transition requires the ISO to maintain current operations (markets, grid, and systems) while incorporating new models, redesigning and implementing new systems, and planning the transmission systems for the new mix of clean energy resources
  - Resources for market design focused on forward market overhauls for Resource Capacity Accreditation and assessments for auction format (prompt-seasonal); Day-Ahead Ancillary Services; Forward Capacity Market evolution and parameter updates; and Inverter-Based Resources
  - Will require utilization of the nGEM system for the next generation of the markets
  - Market & Credit Risk must design collateral requirements for the evolving markets and continually perform risk assessments for sufficiency
  - Funding will also include professional fees and computer services to support the continuing efforts towards the region's transition to high levels of renewable and distributed resources while maintaining a robust fleet of balancing resources
  - Improving power system modeling capabilities for both reliability and planning
  - Integrating new and enhanced systems for the Clean Energy Transition, reflecting the increasing levels of Distributed Energy Resources and Inverter-Based Resources
  - Depreciation Expense is also budgeted to increase in 2024 due primarily to the 2023 mid-year go-live of the nGEM Market Clearing Engine Implementation project resulting in a full year of depreciation expense in 2024
- 34 of 40 FTEs proposed for 2024 (with funding allocated throughout the year*) are to address the Clean Energy Transition

***See slide 46 for details on FTE funding impacts with allocating FTE additions throughout the year.**

# Inflation and Ensuring Continued Operations

- Address Employee Salaries and Recruiting Efforts:
  - Increased funding to align employee compensation in a tight labor market and to reduce turnover rates, particularly employees with mid-range experience (5-10 years) fulfilling critical roles, funding to reflect the impact of job specific benchmarking to level set the base salaries commensurate with the market, for incentive compensation to align with market, and for increases to expand recruiting efforts (within the industry and the broader market)
    - 8.0% increase (in 2024) for the annual merit and equity/promotion budgets (4.0% targeted for annual merit and 4.0% for standard and targeted equity/promotions); and the full-year impact of additional targeted equity increases given in 2023 (2.0%), that were funded primarily by the CEO emerging work allowance during 2023*
      - The past several years have been challenging in hiring and retention requiring the ISO to offer higher salaries to attract and retain employees
      - The ISO has been conducting compensation studies in phases to determine the appropriateness of compensation in roles across the organization; phase I was completed in 2023 with compensation increases funded by the emerging work allowance as noted above; compensation increases resulting from the results of the future study phases will be funded, as needed, in the 2024 budget.
    - Increases for employee incentive compensation target amounts including adjustments based on compensation study review
  - Funding for recruiting related costs including relocation and recruiter fees

* The amounts may vary when the bottom-up budget is compiled

# Inflation and Ensuring Continued Operations *(cont.)*

- Computer Services and Cyber Security Technology:
  - Providing additional resources to continue efforts to combat cyber security threats that have become more complex and frequent
  - Moving forward with technology shifts to utilize increased levels of cloud infrastructure and virtualization technology in a coordinated manner to improve performance while maintaining IT system reliability
  - Impacts of supply chain pressures and inflationary increases in procuring IT assets, renewal costs for IT licensing, and maintenance support
- A net increase of three consultant FTEs to augment staff in the area of Cyber Security; and various other increases including inflationary and rate increases across our consulting structure including staff augmentation consulting
- NPCC and NERC Dues which are increasing by 14.3% and 11.6%, respectively, due to many similar reasons as ISO-NE budgetary increases, including reliance on technology professionals and tools, decarbonization initiatives, cyber risks, criteria evaluation activity, and recruiting and retention of technically skilled employees
- Inflationary increases (in 2024) for other line items including Insurance Expense, Utilities, Network Operations, Data Services, Meeting, and Employee Training

# 2024 and 2025 Preliminary Budget Overview *(cont.)*

- 2025 Budget Assumptions include:
  - The addition of 30 FTEs, primarily to address the Clean Energy Transition, in the areas of System Operations & Market Administration, Information and Cyber Security Services, Participant Relations and Services, System Planning, Advanced Technology Solutions, Market Development, and External Affairs
  - Merit and promotional/equity annual increases totaling 6.0%
  - Estimated increases based on market or historical trends related to: employee benefits (primarily for health insurance); Computer Services; Insurance Expense; and NPCC/NERC Dues
  - Inflationary increases in other lines based on consumer price index indicator
  - An increase of Interest Expense to fund increases in the Capital Budget program (See Appendix 4)

# 2024 and 2025 Preliminary Budget Overview *(cont.)*

- The 2024 Capital Budget is also presented in summary form
  - Beginning in 2022 the capital budget has increased by $7M over the $28M budget that had been in place for several years through 2021
    - The increased capital budget need is being driven by four primary drivers as explained in further detail Appendix 4
    - The increased capital spending will result in higher interest expense costs and depreciation expense in future years as capital projects go into service and are included in budgets and rates
  - The 2024 Capital Budget is an increase of $1.5 million from the 2023 Capital Budget
  - The 2024 proposed capital budget of $35.0 million is provided with a list of projects by strategic goal that are currently chartered and on-going or in planning/conceptual design (See Appendix 5)
  - Detailed project descriptions will be presented in August once the final resource requirements are determined

# Proposed 2024 Strategic Goals

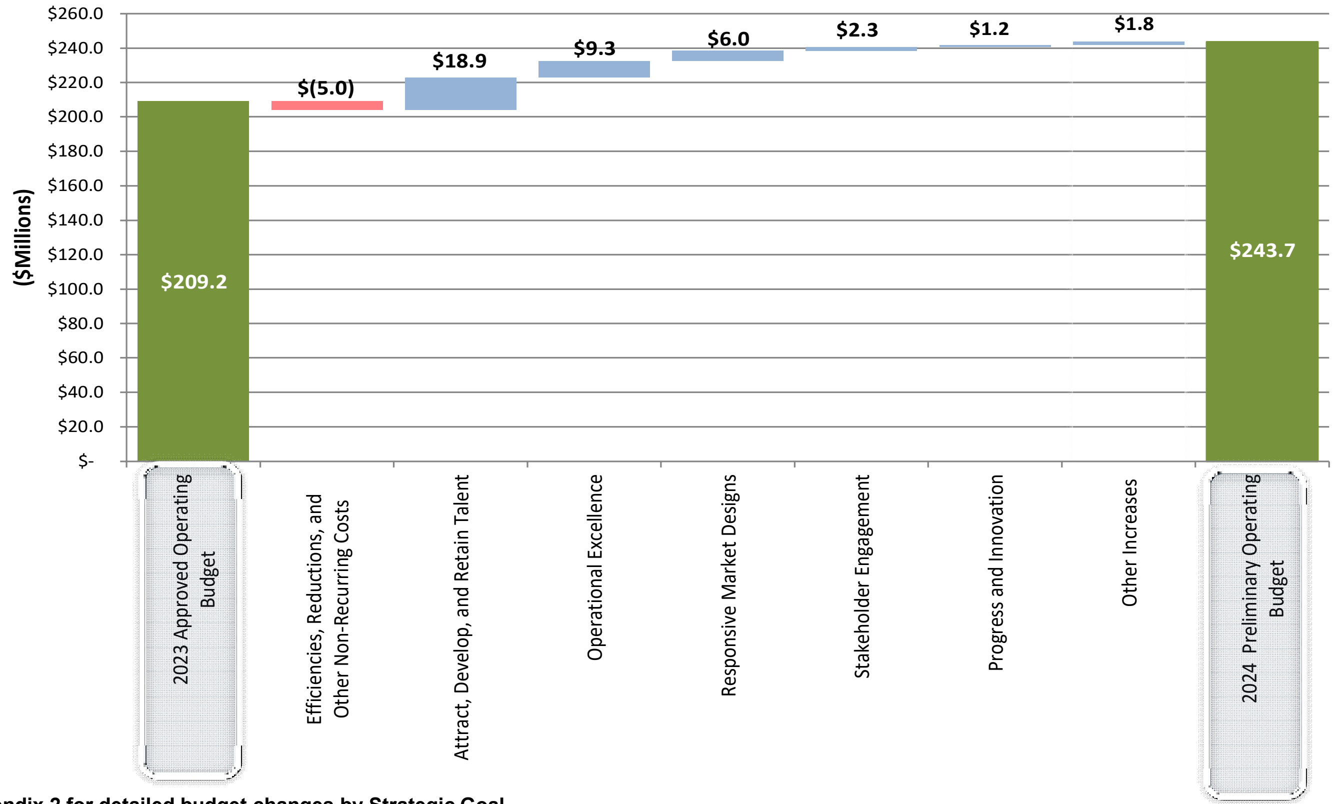
*The ISO ties its annual budget to resource requirements by Goals, Objectives, and Initiatives*

## ISO-NE Strategic Goals

- **Responsive Market Designs:** Improve the current market structure and continue to evolve and reposition the market design to support the states' objectives and transition to high levels of renewables and distributed resources; maintain a robust fleet of balancing resources and preserve the ability of the market to guide the orderly entry and exit of resources
- **Progress and Innovation:** Evolve capabilities to support the grid as the region transitions to clean energy, including improved power system and market modeling; support investments in transmission infrastructure to enable renewable energy; facilitate the integration of distributed energy resources; provide data and information-based services
- **Operational Excellence:** Continuously improve operations and processes, with a focus on prioritizing project scope and implementation, business results, and continuity of reliable operations
- **Stakeholder Engagement:** Collaboratively understand and anticipate needs, demonstrate thought leadership through high-quality analysis and communication, and nurture productive relationships with FERC, the states and market participants in supporting the four pillars of the clean energy transition
- **Attract, Develop, and Retain Talent:** Develop a sense of community around our Core Values, Mission, Vision, and Goals; prepare the workforce; recognize and reward employees' success and innovation; tailor programs to retain and attract critical, in-demand skills; and honor diversity and promote inclusion

# 2024 Preliminary Budget

## Changes in budget by Strategic Goal




(*) See Appendix 2 for detailed budget changes by Strategic Goal

# 2024 Budget Resourcing Needs

*In 2024 there are 40 FTE additions as follows:*

| | | Clean Energy Pillar(s) (*) | Strategic Goal(s) |
|---|---|---|---|
| **13.0 FTE's Information and Cyber Security Services** | | | |
| | Resources for Energy Management System; Power System Modeling; and Development for efforts including the nGEM system, the integration of increasing renewables, storage and distributed energy resources modeling and integration, and integration of Day Ahead Ancillary Services and Resource Capacity Accreditation projects. Resources for Cyber Security; IT Architecture to support leveraging cloud technologies; support for critical Market Monitoring analytics data management platforms; infrastructure support to alleviate understaffing pressures; and retaining the best early career technical talent to meet our future needs.<br>(12 FTE's Support the Clean Energy Transition) | Clean Energy Resources; Balancing Resources | Operational Excellence; Responsive Market Designs; Progress and Innovation; and Attract, Develop and Retain Talent |
| **12.0 FTE's System Planning** | | | |
| | Resources to support Resource Capacity Accreditation and use of probabilistic analysis, to accommodate evolving study and forecasting needs and increased complexity associated with the clean energy transition, a resource to support interconnection study requests, a resource for modeling and validation to integrate inverter-based resource models, resources to support expected increases in transmission RFPs, to address deferred projects due to a lack of staff (document RAS limitations, load interruption thresholds, etc.), support stakeholder requests for long-term transmission studies, to address forthcoming FERC order on long-term transmission planning for asset condition based replacement and future-sizing of the transmission system, and retaining the best early career technical talent to meet our future needs.<br>(12 FTE's Support the Clean Energy Transition) | Clean Energy Resources; Balancing Resources; Robust Transmission | Stakeholder Engagement; Progress and Innovation; Operational Excellence; and Attract, Develop and Retain Talent |

**(*) See the Four Pillars of the Clean Energy Transition on Slide 13**

# 2024 Budget Resourcing Needs *(cont.)*

*In 2024 there are 40 FTE additions as follows: (cont.)*

| | | Clean Energy Pillar(s) | Strategic Goal(s) |
|---|---|---|---|
| **4.0 FTE's** | **Market Development** | | |
| | Resources for market design focused on forward market overhauls for RCA and assessments for auction format (prompt-seasonal); efforts on energy adequacy will likely require significant assessment and novel market initiatives; continued progress on integrating large-scale storage, intermittent, and distributed resources for the future grid transition.<br>(4 FTE's Support the Clean Energy Transition) | Clean Energy Resources; Balancing Resources; Energy Adequacy | Responsive Market Designs; Stakeholder Engagement; Progress and Innovation |
| **3.0 FTE's** | **Participant Relations and Services** | | |
| | Resources to continue effort to convert in-person training and webinar modules to self-paced micro-learning modules that provide time and cost savings to the ISO and participant companies; continue effort for the gathering, managing, and supporting the assessment of participant proposals/requests that the ISO will consider incorporating into our Annual Work Plans; and an additional resource to support NEPOOL committee meetings including expanded work for RCA in Power Supply Planning Committee.<br>(2 FTE's Support the Clean Energy Transition) | Support | Stakeholder Engagement; Operational Excellence |
| **3.0 FTE's** | **Advanced Technology Solutions** | | |
| | Resources for R&D needs in advanced modeling and simulation of inverter-based resources, probabilistic planning and operations, impact of climate change and extreme weather on power system reliability; Re-architecting and deployment of Integrated Market Simulator in cloud environment; new market design to deal with increasing risk of operational uncertainty, investigation of energy adequacy definition/metrics, the development of a more efficient market clearing algorithm, and integration of new technologies.<br>(3 FTE's Support the Clean Energy Transition) | Clean Energy Resources; Balancing Resources; Energy Adequacy | Progress and Innovation; Responsive Market Designs; Operational Excellence |

# 2024 Budget Resourcing Needs *(cont.)*

*In 2024 there are 40 FTE additions as follows: (cont.)*

| FTE | Area / Description | Clean Energy Pillar(s) | Strategic Goal(s) |
|---|---|---|---|
| **1.0 FTE** | **Market & Credit Risk** | | |
| | Resource for developing, designing, and testing the risk-based adequacy of market participant collateral obligations and support the design, IT implementation, and risk reporting required for all new market development projects (IEP, Day-Ahead Ancillary Services, Distributed Energy Resources, Prompt Seasonal Capacity Market).<br>(1 FTE Supports the Clean Energy Transition) | Clean Energy Resources; Support | Responsive Market Designs |
| **1.0 FTE** | **Internal Audit** | | |
| | Audit plan includes higher focus on IT and Cyber area including the nGEM implementations, Cloud Technology adoption, and data/cyber security testing; the onboarding of Pennsylvania Power and Light to the ISO grid network requires additional IT and operations audit field work which will utilize audit resources and CIP readiness audits. | Support | Operational Excellence |
| **1.0 FTE** | **Corporate Communications** | | |
| | Resource to focus on marketing communications/graphics/employee communications (including support for Human Resources internal employee communications (diversity and inclusion) and recruiting communications). | Support | Stakeholder Engagement; Operational Excellence |
| **1.0 FTE** | **Strategy, Risk, and Operations Compliance** | | |
| | Support ISO-NE resiliency program. Primary responsibilities will include the collection of data, analysis of information, and enhancements of plans related to Disaster Recovery for IT applications and related technology supporting essential company functions. | Support | Operational Excellence |
| **1.0 FTE** | **Human Resources** | | |
| | For a Talent Program Manager to lead and support the design and improvement of HR programs including diversification of talent, employee advancement, succession planning, and business knowledge transfer. | Support | Attract, Develop, and Retain Talent |

**40.0 FTE's Total 2024 Proposed FTE Additions**

# 2024 Budget Resourcing Needs *(cont.)*

## *2024 Gross and Net FTE Funding*

In budgeting for FTE additions the ISO has only partially funded new FTEs in the year they are authorized in the budget while deferring a portion due to length of time to recruit and onboard these additional positions. In the 2023 budget 9 FTE positions were deferred that are largely expected to be onboarded in 2024. For 2024 and 2025 the gross FTE proposed additions are 40 and 30, respectively, and of those, only 20 and 15 are included in the respective budget year, with the remainder deferred to the following year. See the table below to illustrate the deferment "layering" effect.

| | FTE Impacts | | | | |
|---|---|---|---|---|---|
| | A | B | = A and B | C | = A and C |
| Year | Net Current Year FTEs Budget | Previous Year FTEs Deferrals Included in Current Year Budget | Total Funded FTEs Included in Current Year Budget | Current Year FTEs Deferred to Following Year | Gross FTEs Authorized for Recruiting - Current Budget Year |
| 2023 | 23 | 5 | 28 | 9 | 32 |
| 2024 | 20 | 9 | 29 | 20 | 40 |
| 2025 | 15 | 20 | 35 | 15 | 30 |
| 2026 | TBD | 15 | TDB | TBD | TBD |

# 2024 and 2025 Operating Budget Risks

- Additional funding may be required to construct new models to study extreme weather and contingencies; and to conduct new studies related to the integration of variable resources and emerging technologies, including long-range transmission planning studies
- Resources may be needed as operations evolve (e.g., energy forecasting, load management) due to the changing resource mix occurring
- Information Technology software licensing and maintenance costs, and cloud migration costs may each require additional funding
- Insurance policy renewals may be higher than increases estimated in the budgets
- Interest Rates may impact the ISO floating rates on tax-exempt debt, pension and post-retirement benefit plans liability costs, and interest income on settlement float balance
- Legal costs from material litigation that may arise during the course of the year would pose a risk to the ISO's ability to operate within the approved budget
- Federal and state policy directives/changing policies could result in additional cost associated with new requirements
- Workforce sourcing and related pay rates and supply chain disruption may each have budgetary impacts
- Increases across multiple expense lines due to inflationary pressures in the current economic environment

# APPENDIX 1: 2024 STRATEGIC GOAL INITIATIVES

# 2024 Initiatives: Responsive Market Designs

**Ensure sufficient balancing resources to support reliability**

1. Assess options for Alternative FCM Commitment Horizons (Prompt/Seasonal)
2. Continued work on Resource Capacity Accreditation
3. Implement Day-Ahead Ancillary Services
4. Implement FCM Reforms in advance of FCA 19 (Bid Flexibility & Return to Service; File FCM Parameters updates supporting MOPR Reforms)

**Integrate distributed and storage assets into ISO markets**

1. Develop business requirements and software design for Order No. 2222

**Other Initiatives:**

1. Implement Inventoried Energy Program (winters of 23/24 & 24/25)
2. Design storage modeling market enhancements

# 2024 Initiatives: Progress and Innovation

**Improve modeling for emerging technology resources**

1. Implement nGEM Real-Time Market Clearing Engine
2. Enhance data collection for co-located and hybrid resources to improve modeling/visibility
3. Improve modeling and validation to integrate inverter-based resource models

**Develop forecasting and load-management solutions for weather-dependent resources**

1. Load, Solar, Wind Forecast Improvements – Seeks to improve the wind, solar, and load forecasts through a continuous improvement method including more sophisticated forecast models, increasing the number of weather stations
2. Distribution congestion management
   – Develop a plan for aggregators that will be critical for Order 2222 implementation and settlement-only resource (SOR) enhancements or elimination

# 2024 Initiatives: Operational Excellence

**Continue to modernize IT assets, technologies, and tools to mitigate cybersecurity threats**

1. Modernizing tools for escalating cybersecurity threats
2. IT Asset Workflow (ITAW) Integration and Updates
3. IT Support for specific projects (e.g., market design evolution; enhancements to system operator situational awareness/modeling tools)
4. Cloud Computing

**Assess near-term impacts of BTM and DER resources on the distribution system**

1. Assess voltage issues related minimum loads
2. Assessing solutions for legacy distributed energy resources tripping on the distribution system

**Implement internal process and technology improvements to address increasing grid complexity**

1. Enhance reliability assessment software and processes to reflect uncertainty of intermittent resources, energy storage, and hybrid resources
2. Coordinate with PJM and NYISO to initiate study on 1,200 MW single source limit
3. Report on evaluation of tie-benefits to Power Supply Planning Committee
4. Develop and test software for planned 2025 implementation of ambient adjusted line ratings (per FERC Order 881)

# 2024 Initiatives: Stakeholder Engagement

**Working with stakeholders on power system needs for the Clean Energy Transition**

1. Extended Term/Longer Term Transmission Planning Phase 2
2. Assist States with RFPs for transmission proposals
3. Coordinate asset replacement for the clean energy transition
4. 2050 Transmission Study

**Provide high-quality services to stakeholders**

1. Finalize Communication Plan in support of ISO Initiatives
2. Survey stakeholders' satisfaction for ISO services

**Assessing energy adequacy solutions for the clean energy transition**

1. Support the ongoing development of initiatives that promote and ensure energy adequacy in the region (EPRI follow-up)
2. Future Grid Reliability Study Phase 2 & Completion – work in 2024 will be dictated by stakeholder requests
3. Implement Economic Planning for Clean Energy Transition (EPCET)

# 2024 Initiatives: Attract, Develop, and Retain Talent

**Maintain Competitiveness in Labor Market**

1. Advance competitive pay benchmarking and associated salary adjustments and structure

2. Continue critical talent retention strategies inclusive of pay, development, and succession planning

3. Additional investment in early career talent - intern, rotation, and network programs

4. Improve employee experience- onboarding, coaching and development, flexible work (hybrid)

5. Deliver competitive benefit programs with a focus on emotional, physical, and financial wellness

**Support the Professional Development of the ISO Workforce**

1. Advance Diversity and Inclusion- raising awareness, employee networks, reducing bias

2. Meet identified training needs through design and delivery of all mandatory and requested training

3. Effectively administer all HR core processes to achieve required results- annual/interim performance review process, development plans, etc.

4. Refresh and administer HR policies and programs

5. Operations training for departments beyond control room

# APPENDIX 2: 2024 Detailed Budget Changes by Strategic Goal

# 2024 Preliminary Budget Details

## Efficiencies, Reductions, and Other Non-Recurring Costs

**Reductions include: ($5.0M)**

- Reduction from non-recurring markets study work, including Future Grid and Pathways Phase II studies; Inventoried Energy Program; and Day-Ahead Ancillary and FCA 19 Parameter update reviews
- Resource Capacity Accreditation Parameters and Design work to be completed in 2023
- Reduction for Mystic Cost of Service agreement fuel supply management work with agreement ending in mid-2024
- 2050 Transmission Study Work to be completed in 2023
- Participant proposal support work to be covered by internal positions
- No board search required in 2024 based on current turnover dates and non-recurring board evaluations in 2024
- Information Technology patching work staff augmentation to be covered by internal staff
- Reduction in communications campaign work in 2024, with funding only included for periodic updates

# 2024 Preliminary Budget Details *(cont.)*

## Detailed allocation by Strategic Goal/2024 Initiatives

**Goal 5: Attract, Develop, and Retain Talent: $18.9M**

- Merit and Promotion increases: for annual merit (4.0%) and for standard and targeted equity/promotions (4.0%); 2.0% impact for additional targeted equity increases in 2023 that were funded primarily by contingency funding during that year that will have an impact on 2024 budget ($13.8M)
- Increase for employee incentive target amounts including adjustments based on compensation study review ($2.6M)
- Increases in employee benefit costs, primarily for medical trend and increased number of employees in Defined Contribution Benefit Plan ($1.3M)
- Higher recruiting related expenses including relocation, recruiter fees, and background checks ($0.4M)
- Funding for 2.5 early career technical talent FTE's to meet future talent needs with continued investment in attracting, developing, and retaining talent ($0.3M)
- Increase of intern program funding for both number of interns and higher pay rates ($0.3M)
- Funding for 0.75 of an FTE for Talent Program Manager to lead and support the design and improvement of HR programs ($0.1M)
- Increase in board member retainers based on compensation firm recommendation ($0.1M)

**Note:** FTE counts in this section and in blue font are net funded amount for the 2024 budget which is 29. FTE counts on Slides 43 through 45 (equaling 40 FTEs) are proposed gross additions.

# 2024 Preliminary Budget Details *(cont.)*

## Detailed allocation by Strategic Goal/2024 Initiatives

**Goal 3: Operational Excellence: $9.3M**

- Computer Services infrastructure increases for operating system support including extended coverage for unsupported versions while completing the version upgrades; additional backup storage needs; for backup recovery software; and for additional virtualization licensing ($1.2M)
- Professional Fees to support Information Technology reliability and cyber defenses including the development of a cyber security framework, an engineer to support cyber security network monitoring and detection software, for a network reliability engineer, and increases for social engineering assessment work ($1.0M)
- Support a regional study with PJM and NYISO for 1,200MW single source contingency limit appropriateness and determine upgrades required to support 2,000MW single source limit ($1.0M)
- Professional Fees for Distributed Energy Resource and minimum load studies for assistance in determining requirements on how to ensure reliability on the system under conditions where the system is powered solely by inverter-based resources ($0.5M)
- Computer Services cyber security costs for cloud enterprise software to provide visibility and management of growing portfolio of SaaS applications and for impacts of increased cyber security tool enhancements ($0.5M)

**Note:** FTE counts in this section and in blue font are net funded amount for the 2024 budget which is 29. FTE counts on Slides 43 through 45 (equaling 40 FTEs) are proposed gross additions.

# 2024 Preliminary Budget Details *(cont.)*

## Detailed allocation by Strategic Goal/2024 Initiatives

**Goal 3: Operational Excellence:** *(cont.)*

- Increases for various other Computer Service costs across multiple areas including Enterprise Application Support and Architecture & Data Governance ($0.4M)
- 1.25 FTE in Transmission Planning resources to support expected increases in transmission RFPs, to move project work forward (document RAS limitations, load interruption thresholds), and support stakeholder requests for long-term transmission studies ($0.2M)
- 1.25 FTE in IT Cyber Security support to address threats quickly and the addition of identity and access management functions, ransomware concerns, and additional monitoring for cloud technologies ($0.2M)
- 1.0 FTE in IT Enterprise Application Support for settlements support due to Day-Ahead Ancillary Services and Resource Capacity Accreditation projects and for continued integration and delivery of new software products ($0.2M)
- Professional Fees to support the enhancement and utilization of Human Resource systems including employee benefit program applications ($0.1M)
- Building Services increases for facility updates and cyclical maintenance ($0.1M)
- Power System Modeling license increase due to software vendor no longer providing product discount ($0.1M)

**Note:** FTE counts in this section and in blue font are net funded amount for the 2024 budget which is 29. FTE counts on Slides 43 through 45 (equaling 40 FTEs) are proposed gross additions.

# 2024 Preliminary Budget Details *(cont.)*

## Detailed allocation by Strategic Goal/2024 Initiatives

**Goal 3: Operational Excellence:** *(cont.)*

- 1.0 FTE in Strategy, Risk, and Operations Compliance to support ISO-NE resiliency program ($0.1M)
- 1.0 FTE in Internal Audit primarily to support Information Technology, Cyber Security, and CIP related audits ($0.1M)
- 0.75 FTE in Information Technology Infrastructure to alleviate understaffing pressures that impact the whole organization as new technologies are implemented ($0.1M)
- 0.75 FTE in Participant Relations & Services to continue effort to convert in-person training and webinar modules to self-paced micro-learning modules that provide time and cost savings to the ISO and participant companies ($0.1M)
- 0.5 FTE in Advanced Technology Solutions for re-architecting and deployment of Integrated Market Simulator in cloud environment ($0.1M)
- 0.5 FTE in Resource Qualification for increased workload of RCA requirements starting with FCA 19 (increased qualification steps and activities, fuel contracting reviews, and customer interactions and training) ($0.1M)
- 0.5 FTE in IT Energy Management Systems to support development as multiple markets related projects progress ($0.1M)

**Note:** FTE counts in this section and in blue font are net funded amount for the 2024 budget which is 29. FTE counts on Slides 43 through 45 (equaling 40 FTEs) are proposed gross additions.

# 2024 Preliminary Budget Details *(cont.)*

Detailed allocation by Strategic Goal/2024 Initiatives

**Goal 3: Operational Excellence:** *(cont.)*

- 0.5 FTE in IT Architecture to support critical Market Monitoring analytics data management platforms ($0.1M)
- Inflationary increases for Computer Services and Network Operations costs for which the ISO has seen a steep increase in recent history across our portfolio of products ($1.8M)
- Other increases primarily inflationary, and rate increases for staff augmentation consulting, utilities and building maintenance, travel and training, and data services ($1.2M)

**Note:** FTE counts in this section and in blue font are net funded amount for the 2024 budget which is 29. FTE counts on Slides 43 through 45 (equaling 40 FTEs) are proposed gross additions.

# 2024 Preliminary Budget Details *(cont.)*

## Detailed allocation by Strategic Goal/2024 Initiatives

**Goal 1: Responsive Market Designs: $6.0M**

- Consulting support for assessment of Prompt Seasonal Capacity Market and Resource Capacity Accreditation market mechanisms ($3.0M)
- Funding for FCA 21 Cost of New Entry (CONE) parameter updates ($0.8M)
- 3.0 FTEs in Market Development to support continued market design and development of RCA, Day-Ahead Ancillary Services, Forward Capacity Market (FCM) evolution and parameters, and the integration of renewable resources in market designs ($0.7M)
- 2.0 FTEs in Market Development for integration of distributed energy resources, large scale storage resources including batteries ($0.4M)
- 1.0 FTE in Energy Management Systems for integration and utilization of nGEM as market mechanisms get built into the system and to ensure a market structure that will support clean energy and reliability throughout the green energy transition ($0.3M)
- Consulting support for build out of new margin model for Real-Time, Day-Ahead, and Prompt Seasonal Capacity Markets ($0.2M)

**Note:** FTE counts in this section and in blue font are net funded amount for the 2024 budget which is 29. FTE counts on Slides 43 through 45 (equaling 40 FTEs) are proposed gross additions.

# 2024 Preliminary Budget Details *(cont.)*

## Detailed allocation by Strategic Goal/2024 Initiatives

**Goal 1: Responsive Market Designs:** *(cont.)*

- 1.0 FTE in Market & Credit Risk for developing, designing, and testing the risk-based adequacy of market participant collateral obligations and supporting implementation of new Market Development projects ($0.2M)
- 0.5 FTE each in Advanced Technology Solutions related to the development of market design and in Planning Services due to workload related to RCA and increased use of probabilistic analysis in projects ($0.2M)
- 0.5 FTE in IT Application Software Development to add software development staff to contribute to the Day Ahead Ancillary Services and Resource Capacity Accreditation projects ($0.1M)
- 0.25 FTE in Resource Adequacy to support work including: Order 2222 and requirements related to a new resource category; additional qualification reviews regarding Sponsored Policy Resources as a result of the MOPR removal; qualification changes related to Resource Capacity Accreditation ($0.1M)

**Note:** FTE counts in this section and in blue font are net funded amount for the 2024 budget which is 29. FTE counts on Slides 43 through 45 (equaling 40 FTEs) are proposed gross additions.

# 2024 Preliminary Budget Details *(cont.)*

Detailed allocation by Strategic Goal/2024 Initiatives

## Goal 4: Stakeholder Engagement: $2.3M

- To provide support for New England States' requests ($1.0M)
- Funding for a medium term energy adequacy assessment ($0.5M)
- Funding for a Maine Interconnection Cluster Study ($0.2M)
- 1.0 FTE in Participant Relations & Services to assist in the gathering, managing, and supporting the assessment of participant proposals/requests for the ISO's Annual Work Plan ($0.2M)
- 1.0 FTE in Corporate Communications for communications on initiatives, projects, issue positions, emergency communications, and other related regional efforts ($0.1M)
- 0.5 FTE in Market Development for efforts on energy adequacy that may require significant assessment and novel market initiatives ($0.1M)
- 0.5 FTE in Transmission Services to support volume increases in the interconnection queue ($0.1M)
- 0.25 FTE in Planning Services to accommodate evolving economic study needs and environmental outlook efforts ($0.1M)

**Note:** FTE counts in this section and in blue font are net funded amount for the 2024 budget which is 29. FTE counts on Slides 43 through 45 (equaling 40 FTEs) are proposed gross additions.

# 2024 Preliminary Budget Details *(cont.)*

## Detailed allocation by Strategic Goal/2024 Initiatives

**Goal 2: Progress and Innovation: $1.2M**

- 1.5 FTE in Power System Modeling - the increase of renewables, storage, and DERs in the region has resulted in a significant increase in the demand for power system modeling – both for reliability and planning purposes ($0.3M)
- 1.0 FTE in Planning Services for evolving forecast needs and increased complexity/risk associated with the industry's clean energy transition ($0.2M)
- 0.75 FTE in IT Architecture for leveraging cloud technology benefits, including greater agility and reduced time to deploy infrastructure, infinitely scalable computing performance, and reduced hardware maintenance ($0.2M)
- 0.75 FTE in Advanced Technology Solutions for research and development needs in advanced modeling and simulation of inverter-based resources, probabilistic planning and operations, impact of climate change and extreme weather on power system reliability, and the development of a more efficient market clearing algorithm ($0.2M)
- 0.5 FTE in Market Development for continuing work on integration of DERs and large scale storage integration ($0.1M)
- 0.25 FTE in Transmission Services to support increased requirements to review, validate, and integrate inverter-based resource models ($0.1M)
- Increase in Computer Services for higher utilization and related fees for cloud storage through Amazon Web Services ($0.1M)

**Note:** FTE counts in this section and in blue font are net funded amount for the 2024 budget which is 29. FTE counts on Slides 43 through 45 (equaling 40 FTEs) are proposed gross additions.

# 2024 Preliminary Budget Details *(cont.)*

Detailed allocation by Strategic Goal/2024 Initiatives

## Other Increases: $1.8M

- The allocation of NPCC and NERC dues ($1.0M)
- An increase in Interest Expense and fees due primarily to an increase in borrowing, including higher working capital line utilization due to increases in operating and capital budgets ($0.5M)
- Insurance policy rate increase ($0.3M)

# APPENDIX 3: 5 YEAR BUDGET COMPARISON

# 2024 Preliminary Budget – 5 Year Comparison

| (Budget Amounts are in Millions) | 2024 | % Change | 2023 | % Change | 2022 | % Change | 2021 | % Change | 2020 |
|---|---|---|---|---|---|---|---|---|---|
| Operating Budget Before Depreciation | $243.7 | 16.5% | $209.2 | 10.7% | $189.1 | 5.8% | $178.6 | 1.8% | $175.4 |
| Capital Budget | 35.0 | 4.5% | 33.5 | 4.7% | 32.0 | 14.3% | 28.0 | 0.0% | 28.0 |
| **Total Cash Budget** | **$278.7** | **14.8%** | **$242.7** | **9.8%** | **$221.1** | **7.0%** | **$206.6** | **1.6%** | **$203.4** |
| Operating Budget Before Depreciation | $243.7 | 16.5% | $209.2 | 10.7% | $189.1 | 5.8% | $178.6 | 1.8% | $175.4 |
| Depreciation **(1)** | 33.4 | 7.9% | 31.0 | 19.1% | 26.0 | (1.2)% | 26.3 | 0.2% | 26.3 |
| Revenue Requirement Before True-up | 277.2 | 15.4% | 240.2 | 11.7% | 215.1 | 4.9% | 205.0 | 1.6% | 201.7 |
| True up | (3.0) | | (14.6) | | 1.1 | | 0.2 | | (2.9) |
| **Revenue Requirement** | **$274.2** | **21.5%** | **$225.6** | **4.4%** | **$216.1** | **5.4%** | **$205.1** | **3.2%** | **$198.8** |
| **Forecast – TWhs (2)** | **140.7** | **(1.6)%** | **143.0** | **(1.0)%** | **144.4** | **(2.0)%** | **147.4** | **1.0%** | **145.9** |
| **$/KWh Rate** | **$0.00195** | **23.5%** | **$0.00158** | **5.4%** | **$0.00150** | **7.5%** | **$0.00139** | **2.1%** | **$0.00136** |
| **Average Monthly Consumer Cost (3)** | **$1.46** | | **$1.18** | | **$1.12** | | **$1.04** | | **$1.02** |

(1) The 2024 *preliminary* depreciation budget is a placeholder. The 2024 *proposed* budget will result in a detailed review of project budgets and estimated go-live dates for the impact on depreciation expenses.

(2) 2024 Forecast based on May 2023 CELT Report (Schedule 1.5.2 - Net Annual Energy - Gross (without reductions)). All other years based on CELT Report for the applicable year, which can be found on www.iso-ne.com.

(3) Based on average consumption of 750 kWh per month.

Note: Throughout the presentation some schedules may be inconsistent due to rounding.

# Appendix 4: Forward Looking Capital Budget Spending

# Forward Looking Capital Budget Spending

- The capital budget over the next five years and beyond will continue to support the Company's strategic goals with specific focus on four primary drivers:
  - nGem platform (replacing the current market system)
  - Major market and reliability related efforts
  - Cyber security
  - IT asset and infrastructure replacement
- In order to achieve these goals, ISO has increased the capital spending over the last few years with spending of $33.5M in 2023 and projected increase to $35M in 2024 and beyond with the possibility of needing up to $40M for a period of time; the capital costs are dependent on various factors, including regulatory orders and approvals and the use of professional services or internal staff
  - The ISO will continue with its current practice of providing a rolling two-year look-ahead window

# Forward Looking Capital Budget Spending *(cont.)*

## nGEM Platform Replacement (*)

- The nGEM program (next Generation Markets Management) will upgrade the core market software by supporting a system with a growing number and type of grid assets, new and more complex market features, ever multiplying security threats, and advancing IT technologies
  - GE Solutions is developing nGEM in collaboration with ISO-NE, MISO, and PJM; the portion of the software upgrade unique to each ISO will be shouldered by each ISO individually
- The ISO has been working, for the last few years, on the complex processes for customizing and implementing the day-ahead version of the new market clearing engine (MCE) software and infrastructure, which is expected to be in service in the middle of 2023
- Once MCE goes into service, the ISO expects to continue work on the next phases, which include a real-time version of the MCE; this work is expected to continue over the next few years with an estimated cost of up to $40M

(*) nGEM Platform Replacement is a multi-year initiative that will advance multiple strategic goals, including Responsive Market Designs, Progress and Innovation, and Operational Excellence. The initiative will require significant investment (over $15M) and, as such, is being flagged consistent with the enhanced process for Board overview of significant and multi-year capital projects.

# Forward Looking Capital Budget Spending *(cont.)*
## Major Market and Reliability Related Efforts

- The capital budget will support ISO's market design objective for 2024 and beyond of moving toward clean energy, balancing resources, energy adequacy, and robust transmission
- Many of these projects are complex efforts that will have long lead times to complete and have dependencies of stakeholder and regulatory approval; the following projects have been identified for 2024 and beyond but may fluctuate depending on stakeholder/FERC priorities:
  – Day-Ahead Ancillary Services Improvements Design: This project seeks to develop market constructs for procuring and transparently pricing ancillary service capabilities needed for a reliable, next-day operating plan with an evolving resource mix; the ISO plans to develop day-ahead flexible response services to enable the system to recover from sudden source-loss contingencies and respond quickly to fluctuations in net load during the operating day
  – FERC Order 2222: The ISO will be building software systems to integrate distributed energy resources into the wholesale markets
  – Energy Storage Modeling: The ISO filed a set of enhancements with FERC to improve the modeling of energy storage in wholesale markets; the ISO plans to make substantial improvements to the modeling of storage over the next few years

# Forward Looking Capital Budget Spending *(cont.)*

## Major Market and Reliability Related Efforts *(cont.)*

- Significant Capacity Market Reforms: The ISO is currently assessing the feasibility of moving from a forward capacity auction construct to a prompt and seasonal capacity auction construct; this is a substantial scope of work that will better position the ISO to mitigate energy adequacy risks as the power system evolves
- Resource Capacity Accreditation (RCA): This is a major project that accredits resources on their marginal reliability contributions during reliability hours; this project is currently being discussed with stakeholders
- Transmission Line Ratings Enhancements: This project is in response to recent FERC orders and will require substantial IT and database work to collect and appropriately use data in planning and operations
- Market Simulator, 21 Day Energy Simulator, Inverter-Based Resource Modeling: There are various research and development efforts at the ISO that are expected to result in significant improvements to ISO modeling capabilities and situational awareness
- Stakeholder Priorities: The ISO has embarked on an improved prioritization process with stakeholders; each year, the ISO expects stakeholders to highlight three key priorities; some of these priorities will require the development of new software and associated applications
- Other Market Design Projects Identified in the ISO's Multi-Year Work Plan: The ISO plans to continue to make improvements to existing ancillary services, and design new ancillary services products; new ancillary products may include replacement reserves and ramping products

- Based on the complexity of the projects, the ISO expects the cost for market and reliability efforts will range from approximately $45M - $65M over the next five plus years

# Forward Looking Capital Budget Spending *(cont.)*

## Cyber Security & IT Asset and Infrastructure Replacement

- Capital spending on improvements to cyber security and IT assets and infrastructure will support the ISO's strategic goals of Operational Excellence and Progress and Innovation
- The ISO expects that it will continue to invest capital funding in cyber security over the next 3-5 years by improved monitoring, detection, and recovery tools to keep pace with increasingly sophisticated attack threats
- The ISO's transition to a cloud environment began in 2022 and is expected to be a major capital effort over the next several years
  - Reliability of operating a modern system comprised of renewable and storage resources requires the processing, transfer, and storing of vast amounts of data; in multiple phases, the ISO will be implementing cloud-computing infrastructure and virtualization technology to reduce reliance on energy-heavy data centers and enable more dynamic expansion of computing capability, while maintaining reliability
- The cost for IT and cyber security initiatives will vary depending on the use of professional services or internal staff; the cost will range from approximately $20M - $40M over the next several years

# APPENDIX 5: 2024 Preliminary Capital Budget

# Capital Budget

## 2024 Expenditures

### Goal: Responsive Market Designs

| Project | 2024 Budget | Total Project Cost | Estimated Completion Date | Project Stage |
|---|---|---|---|---|
| Day-Ahead Ancillary Services Improvements | $4.0M | $8.6M | 3/25 | Planning/Conceptual Design |
| FERC Order 2222 | $0.5M | $7.4M | 11/26 | Planning/Conceptual Design |
| Resource Capacity Accreditation | $2.0M | $2.5M | 12/24 | Planning/Conceptual Design |
| Solar Do Not Exceed Dispatch Phase II | $0.9M | $2.0M | 10/24 | In Development |
| **Total:** | **$7.4M** | | | |

### Goal: Progress and Innovation

| Project | 2024 Budget | Total Project Cost | Estimated Completion Date | Project Stage |
|---|---|---|---|---|
| nGEM Real-Time Market Clearing Engine Implem. (see Note 1) | $7.0M | $16.9M | 10/25 | Planning/Conceptual Design |
| nGEM Software Development Part III (see Note 1) | $3.0M | $4.0M | 12/24 | Planning/Conceptual Design |
| MIS Reporting by Sub Accounts | $0.5M | $0.7M | 12/24 | Planning/Conceptual Design |
| **Total:** | **$10.5M** | | | |

Note 1: nGEM related projects will advance multiple goals including Responsive Market Designs, Progress and Innovation, and Operational Excellence. For purposes of this presentation, nGEM projects have been grouped under the Progress and Innovation strategic goal.

# Capital Budget

## 2024 Expenditures *(cont.)*

Goal: Operational Excellence

| Project | 2024 Budget | Total Project Cost | Estimated Completion Date | Project Stage |
|---|---|---|---|---|
| Eterra Source Project | $2.5M | $3.0M | 10/24 | Planning/Conceptual Design |
| Enterprise Resource Planning System Replacement | $2.0M | $2.4M | 03/25 | Planning/Conceptual Design |
| CIP Electronic Security Perimeter Redesign Phase II | $1.3M | $2.3M | 12/24 | Planning/Conceptual Design |
| Microsoft 365 Service Adoption | $1.4M | $1.5M | 09/24 | Planning/Conceptual Design |
| IT Asset Workflow Integration and Updates | $0.2M | $1.1M | 07/24 | In Development |
| Replace Employee & Pager Application | $0.6M | $0.6M | 08/24 | Planning/Conceptual Design |
| Settlement Technology Improvements Project | $0.1M | $0.6M | 01/24 | In Development |
| Privileged Account Management Security Enhancements | $0.5M | $0.5M | 11/24 | Planning/Conceptual Design |
| Non-Project Capital Expenditures | $5.5M | | | |
| **Total:** | **$14.1M** | | | |

# Capital Budget
## 2024 Expenditures Summary

- 2024 Capital Budget Expenditure Summary

| Allocation Category | 2024 Budget |
|---|---|
| Goal: Responsive Market Designs | $ 7.4M |
| Goal: Progress and Innovation | $10.5M |
| Goal: Operational Excellence | $14.1M |
| Other Emerging Work | $ 2.3M |
| Capital Interest | $ 0.7M |
| **Total:** | **$35.0M** |

# APPENDIX 6: CAPITAL STRUCTURE

# Capital Structure

- The ISO currently has a $20M working capital line which is set to expire on July 1, 2024; the line is used to cover the ISO's operational needs; based on the proposed 2024 budget, the ISO will be looking to obtain a $20M-$30M working line of credit in 2024 and will refine the amount once the 2024 budget is presented in August
- Capital project costs are largely funded by $50M in Private Placement Notes set to expire in November 2024
- For the three months ended March 31, 2023, the ISO's total weighted average cost of capital was 3.60%, excluding fees charged on the various debt financing; fees ranged from .075% to .38%

# Capital Structure *(cont.)*

- The ISO expects the capital budget needs to increase from the current capital program of $33.5M in 2023 to $35M in 2024 and beyond with the possibility of needing up to $40M for a period of time in order to support markets and reliability efforts
  - As noted last year and in Appendix 4 regarding Capital Budget Spending, the areas driving the increase in spending are dependent on various factors such as regulatory approvals, use of professional services versus internal staff, estimated range of spending, and longer lead times to complete
  - Longer lead time to complete results in a greater period of time from when the ISO spends capital funds to tariff recovery through depreciation expense of these projects

# Capital Structure *(cont.)*

- In order to support the future capital program, the ISO anticipates going out to market in 2024 for $75M - $90M in Private Placement Notes and will refine the amount once the 2024 budget is presented in August
- To fund the increase in the capital program for 2023 and 2024, the ISO plans to use the operating cash flow, largely provided by the existing working capital line, and may need to secure short-term financing until the Private Placement Notes are in place
- Once the project charters have been developed, and the budgets are known, the ISO will refresh the 5 and 10 year projected cash flows

# APPENDIX 7: 2022 DELIVERABLES AND SELECT METRICS

# ISO Tracks Metrics to Monitor Progress and Efficiency in Upholding its Regional Responsibilities

- To carry out the ISO's mission and keep track on its strategic goals, the organization tracks a number of metrics to gauge progress; those metrics are listed in the subsequent slides
- ISO-NE Five strategic goals:
  - Responsive Market Designs
  - Progress and Innovation
  - Operational Excellence
  - Stakeholder Engagement
  - Attract, Develop, and Retain Talent

**Mission Statement:**

*Through collaboration and innovation, ISO New England plans the transmission system, administers the region's wholesale markets, and operates the power system to ensure reliable and competitively priced wholesale electricity*

# The ISO in 2022 took on a large number of complex and novel initiatives addressing the clean energy transition

A subset of 2022 initiatives illustrates the effort the ISO has dedicated to supporting the region in their efforts to decarbonize the New England grid:

- Support NE States' policy initiatives
  - Completed the Pathways Study: Evaluation of Pathways to a Future Grid
  - Obtained FERC approval to administer capacity markets without a Minimum Offer Price Rule (MOPR)
  - Completed the Future Grid Reliability Study Phase 1
  - Initiated the 2050 Transmission Study
  - Respond to inquiries about 2022/23 Winter Reliability Program
  - Provided technical support to the states for their procurements of renewable and clean energy resources
- Enhance market design to improve pricing and resource accreditation to promote reliability and manage resource uncertainty
  - Delivered a detailed design proposal for Resource Capacity Accreditation (RCA, also known as effective load carrying capability) to stakeholders and held numerous discussions with them regarding design elements
  - Developed and proposed to stakeholders the Day-Ahead Ancillary Services Initiative (DASI) for reserve markets and to support fuel security
- Enhance ISO modeling and situational awareness to address changing resource mix
  - Improved system software and analytic methods for inverter-based resources (through developing a unique simulation scheme that will enable time-efficient electromagnetic transient simulation of multiple inverter based resources projects in the Eastern Interconnection system)
  - Completed a prototype of a scenario engine tool to support the modeling and assessment of operational impacts of extreme weather events
  - Developed a sub-hourly simulation model for the integrated market simulator (IMS)

# Responsive Market Design

*Improve the current market structure and continue to evolve and reposition the market design to support the states' objectives and transition to high levels of renewables and distributed resources. Maintain a robust fleet of balancing resources and preserve the ability of the market to guide the orderly entry and exit of resources*

Wholesale energy market is structurally competitive

- Operating reserve margins remain relatively high
- Residual Supply Index (RSI) scores meet expectations
- Energy market mitigation is relatively infrequent
- Markups in RT and DA markets were close to zero or negative
- In 2022, withheld economic capacity relatively low

Wholesale capacity market structurally competitive

- RSI and Pivotal Supplier Test scores: no pivotal suppliers
- Overall competitiveness increased with decrease in SENE zonal load forecast & increase in import capability limit

Wholesale Ancillary Services generally performing well. Regulation market structurally competitive. Forward Reserve Market (FRM) structurally uncompetitive.

- Recent FRM auctions show low Residual Supply Index scores at system-level for TMNSR; and for total thirty reserves

**See IMM 2022 Annual Markets Report for detail*

2024 focus in on enhancing market design for capacity, energy and ancillary services markets to send more accurate price signals – addressing changing resource mix, associated operating complexity, and the region's winter security risks

**See Annual Work Plan & Wholesale Markets Plan for detail*

# Progress & Innovation

*Evolve capabilities to support the grid as the region transitions to clean energy, including improved power system and market modeling. Support investments in transmission infrastructure to enable renewable energy. Facilitate the integration of distributed energy resources. Provide data and information-based services.*

Improve day-ahead load forecasting accuracy

- Average accuracy for peak hours of the month meets ISO's standards, *but* average accuracy across all hours of month does not. *See Monthly COO report to NEPOOL for detail*

Enhance programs to incorporate state policy objectives

- Reflect state energy efficiency goals; PV and electrification growth in long-term forecasting methodology. *See NEPOOL Load Forecast Committee & Planning Committee working groups*
- In consultation with states, conduct longer-term transmission planning program

Interconnect and register new resources to meet FERC established timeframes

- *See Order 845 Quarterly Performance metric filings*
- Streamline DER process through transferring all distribution system interconnection to state processes

2024 focus is on enhancing existing tools and programs to improve modeling of emerging technology resources and develop forecasting solutions and load management solutions for weather dependent resources:

- collect more detailed information about resources' operating characteristics, reflecting increased complexity and limited energy of resources
- methods for tracking and forecasting amount and impact of electrification of heating (space & water) and transportation (vehicle classes)
- Process interconnection requests more quickly and advocate/plan for federal interconnection queue policy changes

# Operational Excellence:

*Continuously improve operations and processes, with a focus on prioritizing project scope and implementation, business results, and continuity of reliable operations*

Maintain NERC Standards compliance

- Operate bulk electric system reliability, e.g., within frequency limits; to avoid instability, cascading outages or uncontrolled separation;
- Maintain accurate planning models and update planning studies
- Oversee facility interconnection studies

Accurately settle markets with no errors

- Satisfactorily complete annual SSAE 18 audit
- Administer hourly market operations with minimal LMP corrections and zero provisional DAM results adjustments

Maintain IT uptime and ensure business continuity

- Continuous assessments of cyber security threats and risks against CIP Standards; NIST Framework; DHS Known Exploited Vulnerabilities; phishing attempts

Maintain accurate quarterly budget forecasts, comparing projected costs/revenues against actual financial results

2024 focus is on improving business operations across organization

- Implement internal process and technology improvements to address increasing grid complexity
- Maintain resources for providing participants with settlements finality and allocate resources to administer unique provisions of the Mystic Cost of Service Agreement
- Continue to modernize IT assets, technologies, and tools to mitigate cybersecurity threats

# Stakeholder Engagement:

*Collaboratively understand and anticipate needs, demonstrate thought leadership through high-quality analysis and communication, and nurture productive relationships with FERC, the states and market participants in supporting the four pillars of the clean energy transition*

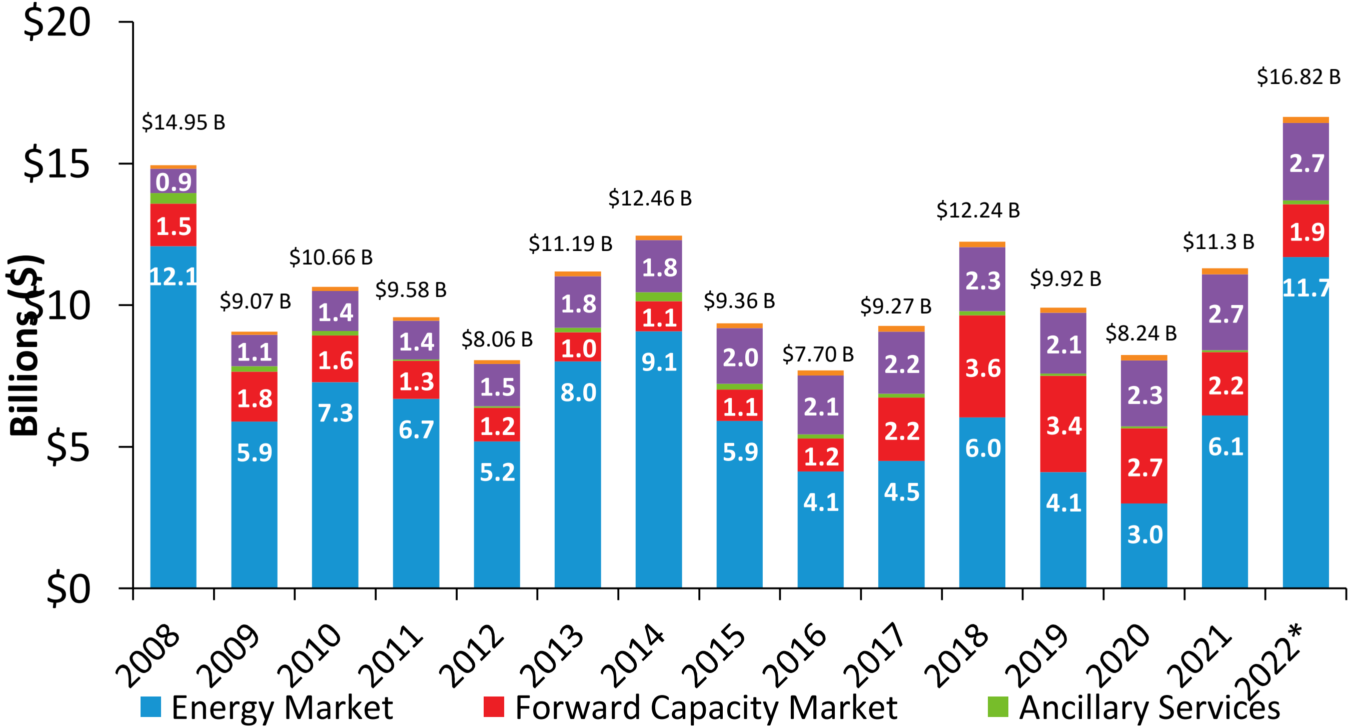
- Address public policy concerns
  - Assess regional policy requests
  - Administer stakeholder prioritization process
- Annually survey stakeholder satisfaction with ISO services
  - Overall service quality
  - Market Participant training course satisfaction
- Over past several years, ISO has delivered products responsive to:
  - NE States 2020 Vision
  - Request to evaluate clean energy pricing (Pathways report)
  - Request to conduct longer-term transmission planning (Future Grid Reliability Study; 2050 transmission study)
  - Requests for mid-year winter energy adequacy assessments
  - Technical support on states' RFP efforts

- Focus in 2024 is addressing:
  - Building on novel analyses performed in 2022-23 to update assessments of regional energy adequacy vulnerabilities
  - Mature longer-term transmission planning program
  - Provide technical support to States, as requested, on RFP programs

# APPENDIX 8: HISTORICAL NEW ENGLAND WHOLESALE AND RETAIL ENERGY COSTS

# New England Wholesale Electricity Costs

*Annual wholesale electricity costs have ranged from $7.7 billion to almost $17 billion*




(The total costs for each year include Ancillary Services and RTO costs)

**Source:** *2022 Report of the Consumer Liaison Group*; *2022 data is preliminary and subject to resettlement

**Note:** Forward Capacity Market values shown are based on auctions held roughly three years prior to each calendar year.

# New England Wholesale Electricity Costs(a)

| | 2018 | | 2019 | | 2020 | | 2021 | | 2022* | |
|---|---|---|---|---|---|---|---|---|---|---|
| | $ Mil. | ¢/kWh | $ Mil. | ¢/kWh | $ Mil. | ¢/kWh | $ Mil. | ¢/kWh | $ Mil. | ¢/kWh |
| **Wholesale Market Costs** | | | | | | | | | | |
| **Energy (LMPs)(b)** | $6,041 | 4.7 | $4,105 | 3.3 | $2,996 | 2.4 | $6,099 | 4.8 | $11,698 | 9.0 |
| **Ancillaries(c)** | $147 | 0.1 | $83 | 0.1 | $62 | 0.1 | $59 | 0.0 | $134 | 0.1 |
| **Capacity(d)** | $3,606 | 2.8 | $3,401 | 2.7 | $2,662 | 2.2 | $2,245 | 1.8 | $1,864 | 1.4 |
| ***Subtotal*** | *$9,794* | *7.6* | *$7,589* | *6.0* | *$5,720* | *4.7* | *$8,404* | *6.6* | *$13,697* | *10.6* |
| **Transmission charges(e)** | $2,250 | 1.7 | $2,146 | 1.7 | $2,331 | 1.9 | $2,688 | 2.1 | $2,741 | 2.1 |
| **RTO costs(f)** | $196 | 0.2 | $184 | 0.1 | $191 | 0.2 | $216 | 0.2 | $214 | 0.2 |
| | | | | | Mystic Cost of Service Agreement | | | | $166 | 0.1 |
| **Total** | **$12,240** | **9.4** | **$9,918** | **7.9** | **$8,242** | **6.7** | **$11,308** | **8.9** | **$16,819** | **13.0** |

(a) Average annual costs are based on the 12 months beginning January 1 and ending December 31. Costs in millions = the dollar value of the costs to New England wholesale market load servers for ISO-administered services. Cents/kWh = the value derived by dividing the dollar value (indicated above) by the real-time load obligation. These values are presented for illustrative purposes only and do not reflect actual charge methodologies. ***The wholesale values for 2022 are preliminary and subject to resettlement.**

(b) Energy values are derived from wholesale market pricing and represent the results of the Day-Ahead Energy Market plus deviations from the Day-Ahead Energy Market reflected in the Real-Time Energy Market.

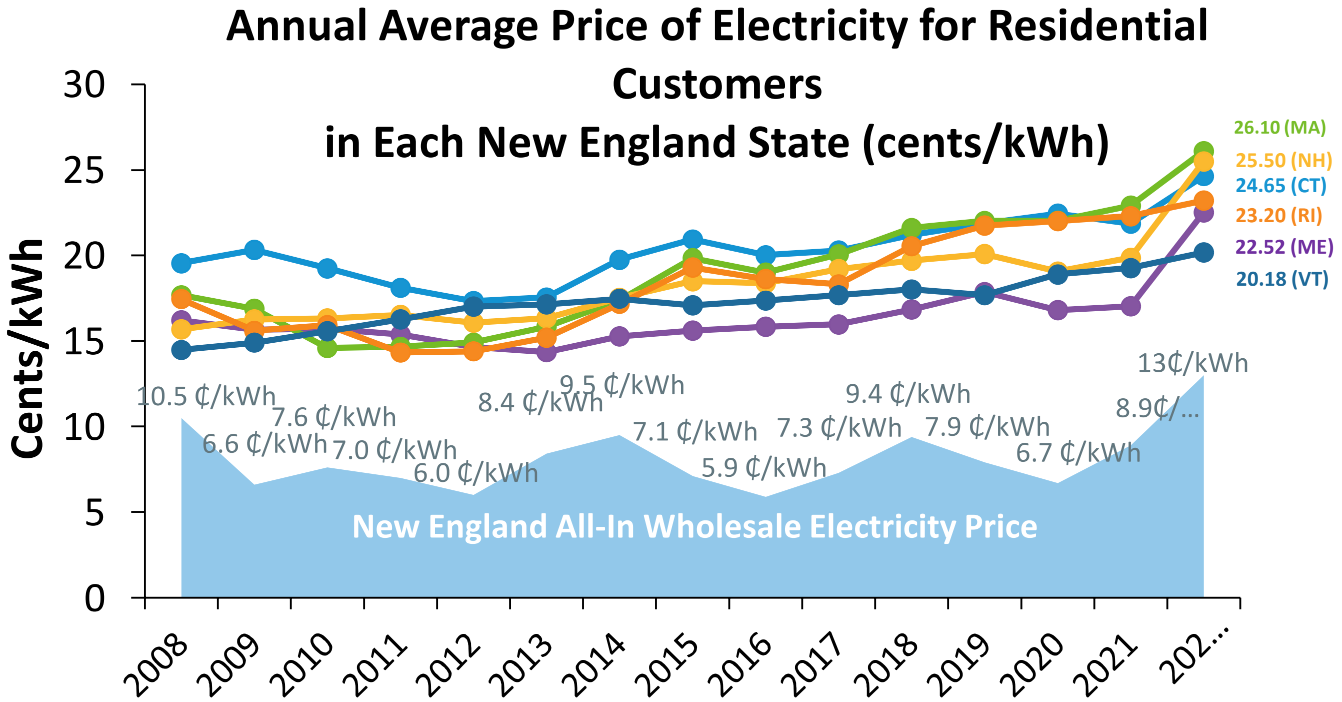
(c) Ancillaries include first- and second-contingency Net Commitment-Period Compensation (NCPC), forward reserves, real-time reserves, regulation service, and a reduction for the Marginal Loss Revenue Fund.

(d) Capacity charges are those associated with the Forward Capacity Market (FCM).

(e) Transmission charges reflect the collection of transmission owners' revenue requirements and tariff-based reliability services, including black-start capability, voltage support, and FCM reliability.

(f) RTO costs are the costs to run and operate ISO New England and are based on actual collections, as determined under Section IV of the *ISO New England Inc. Transmission, Markets, and Services Tariff*.

# Retail Electricity Prices Follow Wholesale Prices, But Are Also Influenced by Individual State Policies




**Source**: U.S. Energy Information Administration, *Electric Power Monthly*, Table 5.6.B Average Price of Electricity to Ultimate Customers by End-Use Sector, by State (Through Dec. 2022); *2022 Report of the Consumer Liaison Group*, the New England all-in wholesale electricity price is derived by dividing total wholesale electricity costs by real-time load obligation (presented for illustrative purposes; does not reflect actual charge methodologies)

# M E M O R A N D U M

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

**FROM:** Paul Belval, NEPOOL Counsel

**DATE:** June 20, 2023

**RE:** Change to ISO-NE Financial Assurance Policy – Eligible Letter of Credit Issuers

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At the 2023 Participants Committee Summer Meeting, members will be asked to consider changes to the eligibility standards for letter of credit banks under the ISO New England Financial Assurance Policy ("FAP"). The ISO has stated that the changes are needed to respond quickly in period of stress in the banking market. The proposed changes are included in Attachment 1 to this memorandum, and this memorandum summarizes those changes.

The FAP currently states that letters of credit must be issued by banks that are organized under the laws of the United States or any state or that are the United States branch of a foreign bank. Those banks must also be either (i) recognized by the Chicago Mercantile Exchange ("CME") as an approved letter of credit bank, or (ii) have a minimum long-term debt or corporate rating of at least A- by S&P Global Ratings or A3 by Moody's Investors Service or A- by Fitch Ratings, Inc. and be confirmed by a CME-approved bank or (iii) have a minimum long-term debt or corporate rating of at least A- by S&P Global Ratings or A3 by Moody's Investors Service or A- by Fitch Ratings, Inc. and be approved by the ISO in its sole discretion. Under the FAP, a letter of credit bank can be disqualified if it fails to satisfy any of those criteria or if it fails to honor two letter of credit draw requests in a rolling 730-day period. When a letter of credit bank is disqualified, the Market Participants providing letters of credit from that bank must replace those letters of credit with letters of credit from an acceptable bank within five Business Days. The ISO may extend that period to 20 Business Days in its sole discretion only if the disqualification is caused by the bank being removed from the CME list of approved letter of credit banks.

The ISO has proposed changing the FAP to permit it to disqualify a letter of credit bank if it determines in its sole discretion that, despite satisfying the conditions described above, accepting a letter of credit from that bank presents an unacceptable risk that the bank will fail to honor that letter of credit. It would also expand the circumstances in which it could extend the period to replace the letter of credit to 20 Business Days to any instance in which a letter of credit bank does not meet the eligibility criteria (i.e., including when the ISO disqualifies the bank because it presents an unreasonable risk of not honoring a letter of credit). If a letter of credit bank is disqualified because it presents an unreasonable risk of not honoring its letter of credit, the ISO may reinstate that bank in sole discretion so long as it meets the other criteria described above. The ISO would provide notice to the NEPOOL Budget and Finance Subcommittee (the "Subcommittee") when a bank is removed from its eligible bank list.

The Subcommittee discussed the changes to the letter of credit bank eligibility standards on its May 12, 2023 teleconference. During that meeting, the ISO stated that the FAP changes are a response to a deterioration of the credit quality of some banks this year. In one case, CME did not remove a stressed bank from its list of approved letter of credit issuers, which would have required the ISO to accept letters of credit from that bank. The ISO said it independently monitors the credit quality of banks on its list of letter of credit issuers. None of the Subcommittee members attending that May 12 meeting expressed any objections to the FAP changes.

The following form of resolution may be used for Participants Committee action on the FAP changes:

> RESOLVED, that the Participants Committee supports the revisions to the letter of credit bank eligibility standards in the ISO New England Financial Assurance Policy, as proposed by the ISO and as circulated to this Committee with the June 20, 2023 supplemental notice, together with [any changes agreed to by the Participants Committee at this meeting and] such non-substantive changes as may be approved by the Chair of the Budget and Finance Subcommittee.

An irrevocable standby letter of credit provides an acceptable form of financial assurance to the ISO. For purposes of the ISO New England Financial Assurance Policy, the letter of credit shall be valued at $0 at the end of the Business Day that is 30 days prior to the termination of such letter of credit. If the letter of credit amount is below the required level, the Posting Entity shall immediately replenish or increase the letter of credit amount or obtain a substitute letter of credit. The account party on a letter of credit must be either the Posting Entity whose obligations are secured by that letter of credit or an Affiliate of that Posting Entity.

**1. Requirements for Banks**

Each bank issuing a letter of credit that serves as ~~additional~~ financial assurance must meet the requirements of this Section X.B.1. Each such bank must be on the ISO's "List of Eligible Letter of Credit Issuers~~.~~" which shall be established pursuant to this Section X.B.1. The ISO will post the current List of Eligible Letter of Credit Issuers on its website, and update that List and posting no less frequently than quarterly; provided that if a bank is removed from the List of Eligible Credit Issuers, the ISO shall update the List and provide notice to the NEPOOL Budget & Finance Subcommittee. To be included on the List of Eligible Letter of Credit Issuers, the bank must be organized under the laws of the United States or any state thereof, or be the United States branch of a foreign bank and either: (i) be recognized by the Chicago Mercantile Exchange ("CME") as an approved letter of credit bank; or (ii) have a minimum long-term debt rating (or, if the bank does not have minimum long-term debt rating, than a minimum corporate rating) of "A-" by S&P, or "A3" by Moody's or "A-" by Fitch so long as its letter of credit is confirmed by a bank that is recognized by CME as an approved letter of credit issuer as described in clause (i) above; or (iii) have a minimum long-term debt rating (or, if the bank does not have minimum long-term debt rating, than a minimum corporate rating) of "A-" by S&P, or "A3" by Moody's, or "A-" by Fitch and be approved by the ISO in its sole discretion (the ISO will promptly advise the NEPOOL Budget and Finance Subcommittee of any additional bank approved by it under this provision). Because the ratings described in clauses (ii) and (iii) are minimum ratings, a bank will not be considered to have satisfied the requirement of those clauses if any applicable rating from the Rating Agencies falls below the levels listed in those clauses. In addition, no Posting Entity may provide a letter of credit that has been issued or confirmed by a bank that is an Affiliate of that Market Participant. If a bank that is included on the List of Eligible

Letter of Credit Issuers fails to satisfy any of the criteria set forth above or if the ISO determines in its sole discretion that despite satisfying any of the criteria set forth above, accepting a letter of credit from a bank on the List of Eligible Letter of Credit Issuers presents an unreasonable risk that a bank may fail to honor the terms of such letter of credit, the applicable Posting Entity will have five (5) Business Days from the date on which the ISO provides notice of such failure or removal to replace the letter of credit with a letter of credit from a bank satisfying those criteria or provide other financial assurance satisfying the requirements of the ISO New England Financial Assurance Policy. ~~In the case of a bank that is removed from CME list of approved letter of credit banks, t~~The ISO may extend that cure period to twenty (20) Business Days in its sole discretion. The ISO must promptly advise the NEPOOL Budget and Finance Subcommittee of any extension of a cure period beyond five (5) Business Days under this provision. No letter of credit bank may issue or confirm letters of credit under the ISO New England Financial Assurance Policy in an amount exceeding either: (i) $100 million in the aggregate for any single Posting Entity; or (ii) $150 million in aggregate for a group of Posting Entities that are Affiliates. If a bank is removed from the List of Eligible Letter of Credit Issuers based on the ISO's determination that there is an unreasonable risk that a bank may fail to honor the terms of such letter of credit, the ISO in its sole discretion may reinstate eligibility, provided that the bank otherwise meets the conditions of this Section X.B.1.

The following provisions shall apply when a bank fails to honor the terms of one or more letters of credit issued or confirmed by the bank in favor of the ISO: (i) if the bank fails to honor the terms of one letter of credit in a rolling seven hundred and thirty day period, then the ISO will issue a notice of such failure to the NEPOOL Budget and Finance Subcommittee, to all members and alternates of the Participants Committee, to the New England governors and utility regulatory agencies and to the billing and credit contracts for all Market Participants; (ii) if the bank fails to honor either the terms of one letter of credit twice or the terms of two letters of credit in a rolling seven hundred and thirty day period, then (A) the ISO shall issue a notice described in subsection (i) above, (B) the bank will no longer be eligible to issue or confirm letters of credit in favor of the ISO, (C) any letters of credit issued or confirmed by such bank in favor of the ISO will not be renewed, and (D) any letters of credit issued or confirmed by such bank in favor of the ISO must be replaced with another acceptable form of financial assurance within five (5)

MAY 12, 2023

NEPOOL BUDGET & FINANCE COMMITTEE MEETING

# Eligible Letter of Credit Issuers- Financial Assurance Policy

*Proposed updates to the Financial Assurance Policy to allow ISO-NE discretion to remove banks on its list of eligible LC issuers*

Christopher Nolan

DIRECTOR OF MARKET AND CREDIT RISK

# Contents of Presentation

# Current Letter of Credit Eligibility Criteria – Financial Assurance Policy – Eligible Issuing Banks

- ISO-NE currently accepts letters of credit (LCs) from banks under the following initial requirements
  - Eligible banks must be organized under the laws of the United States or any state thereof or be a United States branch of a foreign bank
  - And be either
    - (i) Recognized by the Chicago Mercantile Exchange ("CME") as an approved letter of credit bank; OR
    - (ii) have minimum long-term debt or corporate rating of (S&P A- / Moody's A3 / Fitch A-) and the letter of credit is confirmed by a bank that is recognized by CME; OR
    - (iii) have minimum long-term debt or corporate rating of (S&P A- / Moody's A3 / Fitch A-) and be approved by the ISO in its sole discretion

**Such initial requirements will remain unchanged in the policy**

# Current Letter of Credit Eligibility Criteria – Financial Assurance Policy – Disqualification of Issuing Banks

- Disqualification occurs if (A) a bank fails to satisfy the Eligible Letter of Credit Issuers criteria (previous slide), OR (B) a bank fails to honor either the terms of one letter of credit twice or the terms of two letters of credit in a 730 day period
- The posting entity has 5 business days to replace the existing letter of credit with a LC from an acceptable bank (or provide other financial assurance)
- In its sole discretion, ISO-NE may extend cure period to 20 business days for banks removed from CME’s list of approved letter of credit banks or when a bank is removed for failure to honor the terms of a letter of credit
- The Financial Assurance Policy also provides that a posting entity may not provide LCs from an affiliate and that a bank may not issue LCs exceeding $100 million for any single posting entity or $150 million for a group of affiliated posting entities; these limitations will remain unchanged

# Why is ISO-NE Proposing Changes to the LC Eligibility Provisions?

- ISO-NE needs to take timely action to update the list of approved LC banks especially during stressed market events to protect NEPOOL from default risk
- Counterparty credit risk in the banking sector deteriorated this year requiring several bailouts. The CME did not remove one of the stressed banks from its list of acceptable LC banks
- During these events, ISO-NE is currently not able to exercise its own discretion to reject letters of credit from banks that are showing signs of distress but still meet the criteria (e.g., if the CME list isn't updated quickly as a crisis unfolds)
- Such discretion may be warranted during periods of market stress resulting in heightened credit concerns with any of the banks providing letters of credit to ISO-NE
- ISO-NE independently monitors bank counterparty risk through various surveillance techniques and would take prudent actions to protect market participants when deemed necessary

# ISO-NE Proposal - Update FAP to give ISO-NE Discretion to Remove Banks From the List of Eligible Letters of Credit Issuers

- ISO-NE's discretion may be exercised if ISO-NE determines that a bank on the eligible list presents an unreasonable risk that the bank may fail to honor the terms of the letter of credit
- Examples of when ISO-NE's discretion may be exercised:
  - Multi-notch downgrades to sub-investment grade by any of the rating agencies
  - 5-year credit default swap prices show significant signs of stress
  - Share price drops more than 50% in a month
- ISO-NE in its sole discretion may reinstate eligibility (typically once such unreasonable risk has abated), provided that the bank otherwise meets the conditions of this Section X.B.1.

# ISO Proposed Language Change to Financial Assurance Policy

Each bank issuing a letter of credit that serves as ~~additional~~ financial assurance must meet the requirements of this Section X.B.1. Each such bank must be on the ISO's "List of Eligible Letter of Credit Issuers" which shall be established pursuant to this Section X.B.1. The ISO will post the current List of Eligible Letter of Credit Issuers on its website, and update that List and posting no less frequently than quarterly; provided that if a bank is removed from the List of Eligible Credit Issuers, the ISO shall update the List and provide notice to the NEPOOL Budget & Finance Subcommittee. To be included on the List of Eligible Letter of Credit Issuers, the bank must be organized under the laws of the United States or any state thereof, or be the United States branch of a foreign bank and either: (i) be recognized by the Chicago Mercantile Exchange ("CME") as an approved letter of credit bank; or (ii) have a minimum long-term debt rating (or, if the bank does not have minimum long-term debt rating, than a minimum corporate rating) of "A-" by S&P, or "A3" by Moody's or "A-" by Fitch so long as its letter of credit is confirmed by a bank that is recognized by CME as an approved letter of credit issuer as described in clause (i) above; or (iii) have a minimum long-term debt rating (or, if the bank does not have minimum long-term debt rating, than a minimum corporate rating) of "A-" by S&P, or "A3" by Moody's, or "A-" by Fitch and be approved by the ISO in its sole discretion (the ISO will promptly advise the NEPOOL Budget and Finance Subcommittee of any additional bank approved by it under this provision). Because the ratings described in clauses (ii) and (iii) are minimum ratings, a bank will not be considered to have satisfied the requirement of those clauses if any applicable rating from the Rating Agencies falls below the levels listed in those clauses. In addition, no Posting Entity may provide a letter of credit that has been issued or confirmed by a bank that is an Affiliate of that Market Participant. If a bank that is included on the List of Eligible Letter of Credit Issuers fails to satisfy any of the criteria set forth above or if the ISO determines in its sole discretion that despite satisfying any of the criteria set forth above, accepting a letter of credit from a bank on the List of Eligible Letter of Credit Issuers presents an unreasonable risk that a bank may fail to honor the terms of such letter of credit, the applicable Posting Entity will have five (5) Business Days from the date on which the ISO provides notice of such failure or removal to replace the letter of credit with a letter of credit from a bank satisfying those criteria or provide other financial assurance satisfying the requirements of the ISO New England Financial Assurance Policy. ~~In the case of a bank that is removed from CME list of approved letter of credit banks, t~~The ISO may extend that cure period to twenty (20) Business Days in its sole discretion. The ISO must promptly advise the NEPOOL Budget and Finance Subcommittee of any extension of a cure period beyond five (5) Business Days under this provision. No letter of credit bank may issue or confirm letters of credit under the ISO New England Financial Assurance Policy in an amount exceeding either: (i) $100 million in the aggregate for any single Posting Entity; or (ii) $150 million in aggregate for a group of Posting Entities that are Affiliates. If a bank is removed from the List of Eligible Letter of Credit Issuers based on the ISO's determination that there is an unreasonable risk that a bank may fail to honor the terms of such letter of credit, the ISO in its sole discretion may reinstate eligibility, provided that the bank otherwise meets the conditions of this Section X.B.1.

# Stakeholder Process and Next Steps

- Initial discussion with Budget & Finance Subcommittee: May 12, 2023
- Participants Committee: June 1, 2023
- FERC Filing: End of Second Quarter/Third Quarter

# APPENDIX – LC ELIGIBILITY CRITERIA

# Overview of Proposed Changes to FAP

| ISO Eligible LC Banks | Current Policy | Updated Policy |
|---|---|---|
| • Eligible banks must be organized under the laws of the United States or any state thereof or be a United States branch of a foreign bank; and be either | Yes | No change |
| • (i) recognized by the Chicago Mercantile Exchange ("CME") as an approved letter of credit bank; OR | Yes | No change |
| • (ii) have minimum long-term debt or corporate rating of (S&P A- / Moody's A3 / Fitch A-) and the letter of credit is confirmed by a bank that is recognized by CME; OR | Yes | No change |
| • (ii) have minimum long-term debt or corporate rating of (S&P A- / Moody's A3 / Fitch A-) and be approved by the ISO in its sole discretion | Yes | No change |

# Overview of Proposed Changes to FAP *(cont.)*

| Disqualification of ISO Eligible LC Banks | Current Policy | Updated Policy |
|---|---|---|
| • A bank fails to satisfy the Eligible Letter of Credit Issuers criteria (previous slide) | Yes | No change |
| • Or a bank fails to honor either the terms of one letter of credit twice or the terms of two letters of credit in a 730 day period | Yes | No change |
| • Posting entity may not provide LCs from an affiliate | Yes | No change |
| • A bank may not issue LCs exceeding $100 million for any single posting entity or $150 million for a group of affiliated posting entities | Yes | No change |
| • ISO-NE determines in its sole discretion that despite satisfying the criteria set forth above, accepting a letter of credit from a bank on the List of Eligible Letter of Credit Issuers presents an unreasonable risk that a bank may fail to honor the terms of such letter of credit | No | Yes |

# Overview of Proposed Changes to FAP *(cont.)*

| Disqualification of ISO Eligible LC Banks | Current Policy | Updated Policy |
|---|---|---|
| • The posting entity has 5 business days to replace the existing letter of credit with an acceptable bank from the ISO's list of eligible LC issuers (or provide other financial assurance) | Yes | No change |
| • At its sole discretion, ISO-NE may extend cure period to 20 business days for banks removed from CME's list of approved letter of credit banks or when a bank is removed for failure to honor the terms of a letter of credit | Yes | Expanded to clarify that extended cure period may apply if bank fails any of the three criteria |
| • At its sole discretion, ISO-NE may extend cure period to 20 business days for any bank removed from the ISO-NE list of eligible LC issuers | No | Yes |

# Overview of Proposed Changes to FAP *(cont.)*

| Reinstatement of Disqualified LC Banks | Current Policy | Updated Policy |
|---|---|---|
| • ISO-NE in its sole discretion may reinstate eligibility after not less than 2 years from the loss of eligibility due to a bank failing to honor either the terms of one letter of credit twice or the terms of two letters of credit in a 730 day period | Yes | Yes |
| • ISO-NE may reinstate eligibility of a bank that was disqualified using ISO-NE's discretion, provided that the bank otherwise meets the conditions of this Section X.B.1. | No | Yes |

# Overview of Proposed Changes to FAP *(cont.)*

| Miscellaneous and Clean-up Changes | Explanation |
|---|---|
| • Deletion of “additional” in opening sentence. | Deletes extra word |
| • Add clarifying language that the “List of Eligible Letter of Credit Issuers” is established by the criteria in FAP Section X.B.1 | Provides clarity |
| • NEPOOL Budget & Finance Subcommittee notified of any changes to list of eligible LC issuers | Consistent with the requirement to update the list no less than quarterly; clarifies expectations |

# M E M O R A N D U M

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

**FROM:** Paul Belval and Samantha Regan, NEPOOL Counsel

**DATE:** June 20, 2023

**RE:** Request by 777 Main for Waiver of GIS Operating Rules and GIS Agreement

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At the 2023 Participants Committee Summer Meeting, members will be asked to consider once again whether to waive certain NEPOOL Generation Information System ("GIS") requirements, this time in order to correct renewable energy Certificates for a Connecticut generator for the fourth quarter of 2022. To provide the requested relief NEPOOL would need to waive provisions of both the GIS Operating Rules ("Rules") and the Amended and Restated Generation Information System Administration Agreement dated as of October 1, 2017, between APX, Inc. ("APX") and NEPOOL, as amended and extended (the "GIS Agreement"). The 777 Main Street facility ("777 Main"), owned by 777 Residential LLC,[1] failed to have its 2022 fourth quarter Certificates qualify as Connecticut Class I because it did not enter its emission data by the deadline for doing so. 777 Main states that the value of the Certificates which were issued without Connecticut Class I eligibility is approximately $62,000 based on the pricing applicable to the trading period for fourth quarter 2022 Certificates, which period closed June 15, 2023.

777 Main is a fuel cell facility located in Hartford, Connecticut. 777 Main's emissions data and Connecticut Class I eligibility for the months of October, November and December 2022 were not reflected on its GIS Certificates when they were issued on April 15, 2023. 777 Main stated that it was unable to access the GIS website in order to enter its emissions data on April 10, 2023 (the deadline for providing that data under the Rules) because its login password had been changed without the knowledge of the current staff of Bridge Energy Services, the asset manager for the fuel cell. Bridge Energy Services has stated, without providing evidence, that it believes APX may have caused the password reset. Because the Certificates did not reflect Class I eligibility, Eversource was not required to purchase the Certificates under its agreement with 777 Main. 777 Main has asked APX to provide it with information regarding the password reset, and APX has stated that it will only do so if directed by NEPOOL to provide that information.

777 Main attempted to rectify the problem via a request filed on June 2, 2023, to the Connecticut Public Utilities Regulatory Authority ("PURA") that it recognize the Certificates as Connecticut Class I eligible, which request is attached as Attachment 1 to this memorandum. 777 Main then filed a Withdraw of Request for Expedited Ruling on June 16, 2023 (the "Withdrawal"). In the Withdrawal 777 Main withdrew its Request for Expedited Ruling explaining that the trading period of fourth quarter 2022 Certificates closed on June 15, 2023 and as the requested ruling was

[1] 777 Residential LLC is not a NEPOOL Participant and is a Non-Participant Account Holder under the GIS Rules.

not received prior to the close of the trading period, the request was now moot. The Withdrawal is attached as Attachment 2.

APX does not have the authority to correct the monthly generation data on the Certificates without both APX and NEPOOL waiving Section 4.2 of the GIS Agreement and Rule 1.4, which require APX to administer and operate the GIS in accordance with the Rules. APX, as the GIS Administrator, has under those provisions "the sole responsibility for the compilation, indexing, reasonable interpretation and implementation of the GIS Operating Rules." Since APX believes it has followed the Rules and GIS Agreement, it can correct 777 Main's Certificates only if that Rule and Section of the GIS Agreement are waived. APX indicates that it would be willing to waive the applicable requirements but only if NEPOOL, as the counterparty to the GIS Agreement, agreed to such a waiver and directed APX to correct the Certificates.

When asked in August 2021 and October 2022 by other renewable energy generators, Stored Solar, LLC and NuPower Cherry Street, LLC, to waive these applicable Rules and the GIS Agreement, the issue was referred to the GIS Operating Rules Working Group (the "Working Group") for recommendations on the requests and suggestions on proposed criteria for NEPOOL to consider any future waiver requests.[2] The Participants Committee can act on 777 Main's waiver request without any recommendation from the Markets Committee or the Working Group.

The following alternative forms of resolution can be used for Participants Committee actions on 777 Main's request:

> RESOLVED, that the Participants Committee refers to the NEPOOL GIS Operating Rules Working Group consideration of the request by 777 Residential LLC to waive certain NEPOOL Generation Information System Operating Rules and sections of the Amended and Restated Generation Information System Administration Agreement dated as of October 1, 2017, between APX, Inc. and NEPOOL for a recommendation to [this Committee/The Markets Committee] on the specific waivers sought by 777 Main, as discussed in the materials circulated for this meeting.
>
> OR
>
> RESOLVED, that the Participants Committee [grants] [denies] 777 Residential LLC's request to waive certain NEPOOL Generation Information System Operating Rules and sections of the Amended and Restated Generation Information System Administration Agreement dated as of October 1, 2017, between APX, Inc. and NEPOOL as discussed in the materials circulated for this meeting.

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[2] Before ultimate action on its request, Stored Solar found alternative means of relief and withdrew its requests for a waiver. The Participants Committee denied NuPower Cherry Street's waiver request in November 2022.

# Attachment 1

PULLMAN
&COMLEY LLC
ATTORNEYS

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fklein@pullcom.com
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June 2, 2023

VIA ELECTRONIC FILING

Jeffrey R. Gaudiosi, Esq.
Executive Secretary
Public Utilities Regulatory Authority
Ten Franklin Square
New Britain, CT 06051

RE: Docket No. 15-11-18 - Application of 777 Residential LLC for Qualification of 777 Main Street as a Class I Renewable Energy Source

Request for Expedited Ruling to Recognize Class I Renewable Energy Certificates for Fuel Cells Located at 777 Main Street Hartford

Dear Secretary Gaudiosi:

Bridge Energy Services LLC ("Bridge Energy"), on behalf of 777 Residential LLC, the owner of a 400 kW Connecticut Class I fuel cell located at 777 Main Street Hartford, CT (the "Facility"), respectfully requests that the Public Utilities Regulatory Authority ("PURA" or the "Authority") order the recognition of the Facility's Connecticut Class I Renewable Energy Certificates ("RECs"). The RECS have not been recognized as Class I RECs due to the inadvertent inability, despite due efforts, to enter its fourth quarter ("Q4") 2022 Quarterly Generation Report from the NEPOOL-GIS showing the number of RECs created by the NEPOOL GIS Administrator based on the Class I activities of the Facility. Bridge Energy also requests that the Authority designate the Q4 2022 RECs as Connecticut Class I compliant.

777 Residential LLC owns a 400 kW Doosan PureCell, Model 400 Fuel Cell located at 777 Main Street Hartford, CT. Becker and Becker Associates, Inc. is the affiliate of 777 Residential that provided development services and had an employee who previously handled the quarterly REC filings. Becker Development is also an affiliate that has been involved in some of the PURA filings. The building is powered, heated and cooled with clean energy created on site with a 115 kW solar array and the 400 kW fuel cell. Other conservation measures, such as smart thermostats and water savings measures contribute to the building's LEED Platinum certification by the U.S. Green Building Council. In addition to LEED Platinum certification the building is 45% more

energy efficient than code requirements. The Class I 400 kW fuel cell and 115 kW solar array provides electric heat, and hot water to the building; electric car charging stations; smart metering with energy and water tracking for residents. The building also was developed with recycled and local construction materials and finishes, has a high-performance envelope with industry-leading thermal insulation technology, an energy recovery system, and high-efficiency water-source heat pumps.

The Facility has a 15-year Standard Contract for the Purchase and Sale of Connecticut Class I Renewable Energy Credits under the Low Emissions Renewable Energy Credit ("LREC") Program. All the electricity produced at the facility is either sold to Eversource or used on-site. The fuel cell has been classified as a Class I renewable energy source by PURA order issued January 6, 2016 in the above-referenced (Docket No. 15-11-18) pursuant to Conn. Gen. Stat. §16-1(a)(20). The fuel cell is assigned Connecticut Renewable Portfolio Standard Registration No. CT151118. The fuel cell is also registered in the NEPOOL GIS and assigned NEPOOL GIS Unit ID: NON58274.

Bridge Energy is filing this request because the deadline for quarterly REC reporting was missed for the Q4 2022 REC submission. This missed deadline was due to login credentials that were deactivated by the NEPOOL GIS system, ***unbeknownst and with no notice to the account holder***, sometime between the prior quarterly submission and the initial submission attempt prior to the Q4 deadline. Bridge Energy has discussed this with ISO-NE, Eversource and Ms. Devino at PURA and they all indicated that the RECs will not be recognized unless PURA rules that they should. As a result, Eversource will not purchase the RECs from the fuel cells.

Specifically:

- 1/1/2023: Bridge Energy was hired to provide energy management services for the fuel cell at 777 Main Street, one of the tasks being quarterly REC reporting.

- 1/10/2023: Bridge Energy successfully completed the facility's Q3 2022 NEPOOL REC submission.

- 4/10/2023: Bridge Energy's NEPOOL login attempt failed. Apparently, the credentials on record were not functioning. Bridge Energy attempted a password reset, however, a password reset email was never received by the owner of the previous credentials. There was no ability to reset the password due to no active associated email. Bridge Energy attempted to call NEPOOL to correct this error with no response.

- 4/11/2023: Bridge Energy sent an email to NEPOOL GIS program administrator after trying to communicate with the former employee who was supposed to have received the 4/10/2023 communication from NEPOOL and received a response from NEPOOL GIS program administrator indicating that the client would have to reach out directly to provide verification of administration transfer.

- 4/14/2023: After undergoing multiple verification steps to receive new credentials, Bridge Energy was regranted access on Friday 4/14/2023, however, the data upload option was locked.

- 4/17/2023: Eversource sent a notice that it would accept changes and clarifications made until 4/20/23.[3]

- 4/18/2023: Bridge Energy contacted Bao Ngo, NEPOOL Admin, and he responded that the 4/10/2023 submission deadline is firm. Bridge Energy was referred to and contacted NEPOOL Counsel who could not meet to discuss this matter until 4/20/2023.

- 4/20/2023: Bridge Energy spoke with NEPOOL Counsel who advised that Bridge Energy would be required to first contact PURA before the NEPOOL committee would consider the issue.

- 4/25/2023: Bridge Energy made inquiry to PURA Staff and received a response stating that once the trading period for RECs closes there is nothing that PURA can do.[4]

As a result, the Q4 2022 RECs were not designated as Connecticut Class I compliant and Eversource refused to recognize them under the Company's LREC contract.

Bridge Energy now has the necessary filing credentials to avoid this type of situation in the future and is submitting the required emissions data as an attachment to this letter (see Attachment 3).

Bridge Energy respectfully requests that the Q4 2022 RECs be designated as Connecticut Class I compliant. Bridge Energy's request is consistent with a similar request made to the Authority where a facility inadvertently failed to enter emissions data into the NEPOOL GIS which created RECs that are not identified as Connecticut Class I compliant, yet the Authority allowed them to use these RECs for Connecticut Class I compliance.[5]

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[3] See Attachment 1 hereto.

[4] See Attachment 2 hereto.

[5] *See,* Docket No. 17-10-19, *Review of LREC/ZREC Projects,* Ruling on Motion No. 122, dated May 14, 2021, recognizing that RECs from the Cherry Street fuel cell project could be used for Connecticut Class I compliance despite the owner's inadvertent failure to enter emission data into the NEPOOL GIS system. "The Authority has reviewed and approves NuPower's request, specifically finding that NuPower's fourth quarter RECs can be used for 2020 Connecticut Class I compliance. Conn. Gen. Stat. §16-1 (a) (20) does not require emission data for the particular type of generator in question".

Bridge Energy appreciates the Authority's consideration of this request and asks that PURA render a decision on the request prior to June 15, 2023 as the RECs need to be sold prior to that date before the Q4 REC trading period closes.

Respectfully submitted,

Bridge Energy Services LLC

By *Frederic Lee Klein*

Frederic Lee Klein
Pullman & Comley LLC
90 State House Square
Hartford, CT 06103
(860) 424-4300
fklein@pullcom.com
Attorney for Bridge Energy Services LLC

Certificate of Service

I certify that this filing is being made electronically and that the filing is complete. I also certify that a copy of this filing will be provided by electronic mail and/or first-class mail, postage prepaid, to all parties and participants of record according to the Department's Service List for this docket as of this date.

Respectfully submitted,

*Frederic Lee Klein*

Frederic Lee Klein
Pullman & Comley LLC
90 State House Square
Hartford, CT 06103
(860) 424-4300
fklein@pullcom.com
Attorney for Bridge Energy Services LLC

From: **LRECZREC** <LREC.ZREC@eversource.com>
Date: Mon, Apr 17, 2023 at 3:44 PM
Subject: ACTION REQUIRED: RECs Being Returned to Your Account in NEPOOL GIS for the 777_Main_Street LREC3-1887 Project NON58274
To: bruce@beckerandbecker.com <bruce@beckerandbecker.com>

Good Morning,

Eversource has noted an issue with the Q4, 2022 certificates that were created for the fuel cell unit for the above-referenced project.

- Eversource uploaded meter reads that totaled 652 MWhrs for the months of October, November, December, 2023 by the 04/10/2023 NEPOOL GIS deadline.
- NEPOOL GIS created certificates for Q4, 2023 on 04/15/2023.
- Eversource received 652 certificates from your facility via forward certificate transfer on 04/15/2023. However, the certificates are not designated as CT Class I qualified, nor are they CT LREC qualified.

Since these certificates are not CT Class I qualified, Eversource will not purchase these certificates. We suggest that you follow-up with NEPOOL GIS to determine if these is any corrective action you may be able to take. If there is any corrective action, and NEPOOL is able to grant you CT Class I designation for these certificates, we will need you to provide that as soon as possible, but no later than 5:00pm on 04/20/2023.

For your convenience, we have provided you with the email address for NEPOOL GIS: gis@apx.com

---

Attachment 2

**From:** Devino, Donna <Donna.Devino@ct.gov>
**Sent:** Tuesday, April 25, 2023 12:11 PM
**To:** joseph.marsalisi@bridgeenergy.com
**Subject:** FW: NEPOOL REC Certification Issue

Hi Joseph:

Once the trading period for RECs closes, there is absolutely nothing that PURA can do.

Respectfully,
Donna

**From:** Joseph Marsalisi <joseph.marsalisi@bridgeenergy.com>
**Sent:** Tuesday, April 25, 2023 10:49 AM
**To:** Information, Pura <Pura.Information@ct.gov>
**Subject:** NEPOOL REC Certification Issue

You don't often get email from joseph.marsalisi@bridgeenergy.com. Learn why this is important

EXTERNAL EMAIL: This email originated from outside of the organization. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

To whom it may concern,

We were advised by Paul Belval, NEPOOL counsel, to initiate conversation with PURA on a NEPOOL REC designation issue we are experiencing with a client, resulting in Eversource not purchasing class I RECs for Q4 of 2022.

In summary, we were dealing with an administrative issue with NEPOOL GIS and were unable to login to the account due to admin transfer purposes, after successfully logging in prior to the submission deadline. The RECs were therefore not certified by NEPOOL and Eversource will not purchase them in their current state. Ultimately in our experience and with speaking to Paul, there is a fairly straightforward process giving a one-time exception for circumstances such as this to allow Eversource (or other utility) to purchase RECs with approval in a majority of New England states. It is my understanding there is no current formal process for CT to do this, however we have heard of success from others when routing through PURA.

I am happy to provide more background on the circumstance and other details, but wanted to reach out initially to get in touch with the correct contact to work toward a resolution.

Thank you,
Joey

--

**Joey Marsalisi, REP**

**Bridge Energy Services, LLC**

**Connecticut Center for Advanced Technology, Suite 108**

Attachment 3

| | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 777 Main Street, Hartford CT | | | | | | | | | | | |
| Fuel Cell Generation and Emissions Data | | | | | | | | | | | |
| Nepool Unit ID: NON58274 | | | | | | | | | | | |
| | | | | | | | | | | | |
| 2022-Q4 | Generation MWH | Carbon Dioxide | Carbon Monoxide | Mercury | Nitrogen oxides | Particulate Matter | Particulate Matter (<=10m) | Sulfur dioxides | VOCs | | |
| 10/1/2022 | 125 | 124,750 | 3 | 0 | 3 | 0 | 0 | 0 | 1 | | |
| 11/1/2022 | 274 | 273,452 | 5 | 0 | 5 | 0 | 0 | 0 | 3 | | |
| 12/1/2022 | 253 | 252,494 | 5 | 0 | 5 | 0 | 0 | 0 | 3 | | |
| | | | | | | | | | | | |
| | 652 | 650,696 | 13 | - | 13 | - | - | - | 7 | | 61,940.00 |

# Attachment 2

PULLMAN
&COMLEY LLC
ATTORNEYS

FREDERIC LEE KLEIN
90 State House Square
Hartford, CT 06103-3702
p 860 424 4354
f 860 424 4370
fklein@pullcom.com
www.pullcom.com

June 16, 2023

VIA ELECTRONIC FILING

Jeffrey R. Gaudiosi, Esq.
Executive Secretary
Public Utilities Regulatory Authority
Ten Franklin Square
New Britain, CT 06051

RE: Docket No. 15-11-18 - Application of 777 Residential LLC for Qualification of 777 Main Street as a Class I Renewable Energy Source

Withdrawal of Request for Expedited Ruling to Recognize Class I Renewable Energy Certificates for Fuel Cells Located at 777 Main Street Hartford

Dear Secretary Gaudiosi:

Bridge Energy Services LLC ("Bridge Energy"), on behalf of 777 Residential LLC, owner of a 400 kW Connecticut Class I fuel cell located at 777 Main Street Hartford, CT, hereby withdraws its Request for Expedited Ruling to Recognize Class I Renewable Energy Certificates for Fuel Cells Located at 777 Main Street Hartford.

As explained in the filing, the trading period for Q4 2022 RECs closed on June 15, 2023. Inasmuch as Bridge Energy did not receive the requested ruling prior to the close of the trading period, Bridge Energy hereby withdraws its request as moot.

Respectfully submitted,

Bridge Energy Services LLC

By *Frederic Lee Klein*

It's Attorney

Certificate of Service

I certify that this filing is being made electronically and that the filing is complete. I also certify that a copy of this filing will be provided by electronic mail and/or first-class mail, postage prepaid, to all parties and participants of record according to the Department's Service List for this docket as of this date.

Respectfully submitted,

By *Frederic Lee Klein*

Frederic Lee Klein
Pullman & Comley LLC
90 State House Square
Hartford, CT 06103
(860) 424-4300
fklein@pullcom.com
Attorney for Bridge Energy Services LLC

# EXECUTIVE SUMMARY
## Status Report of Current Regulatory and Legal Proceedings
## as of June 24, 2023

The following activity, as more fully described in the attached litigation report, has occurred since the report dated May 3, 2023 ("last Report") was circulated. New matters/proceedings since the last Report are preceded by an asterisk '*'. Page numbers precede the matter description.

## I. Complaints/Section 206 Proceedings

| | | | | |
|---|---|---|---|---|
| | 1 | 206 Proceeding: ISO-NE Market Power Mitigation Rules (EL23-62) | May 10-Jun 6 | NEPOOL, Calpine, MA AG, CT OCC, NEPGA, NESCOE, Public Systems, NRG, EPSA, MA DPU (out-of-time), MPUC, Public Citizen intervene |
| | 3 | 206 Proceeding: ISO-NE Tariff Schedule 25 and Section I.3.10 (EL21-94) | Jun 15 | FERC terminates proceeding |
| | 4 | NextEra/Avangrid/NECEC Seabrook Complaint (EL21-6) and Seabrook Declaratory Order (EL21-3) | Jun 15 | FERC issues *Seabrook Dispute Allegheny Order*, modifying the discussion in, but sustaining the results of, the *Seabrook Dispute Order* |

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

| | | | | |
|---|---|---|---|---|
| * | 8 | CSC CIP-IROL (Schedule 17) Section 205 Cost Recovery Filing (ER23-1826) | May 4<br>May 12-25 | Cross-Sound Cable requests recovery of incremental medium impact CIP-IROL Costs incurred between Jun 1, 2021 and Dec 31, 2022<br>NEPOOL, National Grid, NESCOE file doc-less motions to intervene |
| | 8 | BHD Regulatory Asset-Establishment & Recovery Through Rates (ER23-1598) | May 5<br>May 18<br>Jun 5 | Versant answers MPUC protest<br>MPUC answers Versant's May 5 answer<br>FERC issues deficiency letter; Versant response due on or before ***Jul 5, 2023*** |
| | 9 | FCA17 Results Filing (ER23-1435) | May 8<br>May 11<br>May 22<br>Jun 9 | 20 individual citizens file anti-fossil fuel comments (out-of-time)<br>No Coal No Gas submits report its comment initiative opposing<br>ISO-NE files answer to individual protests<br>No Coal No Gas answers ISO-NE's May 22 answer |
| | 9 | Add'l Cost Recovery Due to Dec 24 General Threshold Energy Mitigation: Dynegy (ER23-1261) | May 5 | FERC conditionally grants Dynegy's request for recovery of unrecovered costs related to downward price mitigation (and to the regulatory costs incurred in connection with the cost recovery filing), but not for upward price mitigation-related costs; compliance filing due on or before ***Jul 5, 2023*** |
| | 10 | **Mystic 8/9 COSA (ER18-1639)** | | |
| * | 11 | (-000) Public Systems' Request for Disclosure of Audit Information | May 19<br>Jun 9 | Public Systems request that ISO-NE be directed to release additional information concerning ISO-NE's audit of performance under the Mystic COSA<br>Constellation, ISO-NE and CT Parties answer May 19 Audit Information Request |
| | 11 | (-024) Mystic Request for Rehearing of Mystic I Order on Remand | May 12<br>May 15<br>May 25<br>May 30 | ENECOS file answer to Mystic requests rehearing of *Mystic I Order on Remand*<br>ISO-NE files limited comments to Mystic's request<br>Mystic files motion to lodge ISO-NE's Mystic Agreement audit controls report<br>FERC issues notice of denial of rehearing by operation of law and providing for further consideration |

| | | | | |
|---|---|---|---|---|
| | 12 | (-021) First CapEx Info. Filing Settlement Agreement | Jun 2<br>Jun 7 | Settlement Judge McBarnette issues her Settlement Report<br>Acting Chief ALJ Satten terminates settlement judge procedures, subject to final action by the Commission |
| | 13 | 30-Day Compliance Filing per *Order on ENECOS Mystic COSA Complaint* (ER23-1735) | May 10 | ISO-NE intervenes |
| * | 14 | ISO Securities: Authorization for Future Drawdowns (ES23-41) | May 26 | FERC authorizes continued ISO-NE drawdowns under its $20 million Revolving Credit Line and $4 million line of credit supporting the Payment Default Shortfall Fund, through *May 29, 2025* |

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

| | | | | |
|---|---|---|---|---|
| | 15 | IEP Parameter Updates (ER23-1588) | May 12<br>May 15<br>May 25<br>May 26<br><br>Jun 9<br><br>Jun 12 | Senator Blumenthal (D-CT) files response to filing<br>NEPOOL and ISO-NE files answers to protests<br>FERC issues deficiency letter<br>Consumer Advocates, Sierra Club/CLF/UCS answer ISO-NE and NEPOOL answers<br>ISO-NE submits response to May 25 deficiency letter; comment deadline ***Jun 30, 2023***<br>Public Citizen intervenes |
| | 15 | SATOA Revisions (ER23-739; ER23-743) | May 15<br>Jun 14 | FERC issues a deficiency letter<br>ISO-NE submits response to May 15 deficiency letter; comment deadline ***Jul 5, 2023*** |
| | 16 | New England's *Order 2222* Compliance Filing (ER22-983) | May 5<br>May 9<br>May 22<br>May 30<br><br>Jun 14 | MPUC answers ISO-NE's Mar 31 Request for Rehearing<br>ISO-NE files 60-day compliance filing<br>NECPUC answers ISO-NE's Mar 31 Request for Rehearing<br>NEPOOL comments on, AEU/PowerOptions/SEIA protests, 60-day compliance filing<br>ISO-NE answers AEU/PowerOptions/SEIA protest |

## IV. OATT Amendments / TOAs / Coordination Agreements

| | | | |
|---|---|---|---|
| 18 | CNRIS Time-Out Rules Removal (ER23-1581) | Jun 5 | FERC accepts CNRIS Time-Out Rules Removal, eff. *Jun 6, 2023* |
| 19 | Phase I/II HVDC-TF *Order 881* Compliance Filing: HVDC TOA (ER22-2467) and Sched. 20-A Common Attachment M (ER22-2468) | Jun 15 | FERC conditionally accepts Phase I/II HVDC-TF *Order 881* Compliance Filing, eff. Jul 12, 2025; compliance filing due on or before ***Nov 12, 2024*** |
| 19 | *Order 881* Compliance Filing: New England OATT (ER22-2357) | Jun 15 | FERC conditionally accepts OATT *Order 881* Compliance Filing; 60-day compliance filing due ***Aug 14, 2023***; AAR explanation filing due ***Nov 12, 2024*** |

## V. Financial Assurance/Billing Policy Amendments

*No Activities to Report*

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

| | | | | |
|---|---|---|---|---|
| * | 20 | Schedule 21-VP: Real Power Loss Factor Change (ER23-2142) | Jun 15 | Versant files a revised Schedule 21-VP to reflect a change in the Real Power Loss factor for Local Point-to-Point Service from 1.99 % to 1.764 %; comment deadline ***Jul 6, 2023*** |

| | | | | |
|---|---|---|---|---|
| * | 20 | Schedule 21-VP: Versant/Black Bear LSAs (ER23-2035) | Jun 1 | Versant Power files 7 fully executed, non-conforming LSAs by and among Versant, ISO-NE and Black Bear |
| | 20 | Schedule 21-NEP: NEP/Dichotomy Collins Hydro SGIA (ER23-888) | Jun 12 | FERC accepts SGIA, eff. *Dec 19, 2022* |

## VII. NEPOOL Agreement/Participants Agreement Amendments

*No Activities to Report*

## VIII. Regional Reports

| | | | | |
|---|---|---|---|---|
| * | 21 | Capital Projects Report - 2023 Q1 (ER23-1875) | May 12<br>May 22-Jun 2<br>May 22<br>Jun 23 | ISO-NE files 2023 Q1 Report<br>Eversource and National Grid intervene<br>NEPOOL files comments supporting 2023 Q1 Report<br>FERC accepts 2023 Q1 Report |
| * | 21 | Interconnection Study Metrics Processing Time Exceedance Report Q1 2023 (ER19-1951) | May 15 | ISO-NE files required quarterly report |
| * | 22 | IMM 2022 Annual Markets Report (ZZ23-4) | Jun 5 | IMM files annual report covering calendar year 2022 |
| * | 23 | IMM Quarterly Markets Reports (ZZ23-4) | May 30 | IMM files Winter 2022/23 Report; reviewed at Jun 6 Markets Committee meeting |
| * | 23 | ISO-NE FERC Form 3Q (2023/Q4) (not docketed) | May 26 | ISO-NE submits its 2023 Q1 FERC Form 3Q |
| * | 23 | ISO-NE FERC Form 714 (2022) (not docketed) | Jun 14 | ISO-NE submits its 2022 FERC Form 714 |

## IX. Membership Filings

| | | | | |
|---|---|---|---|---|
| * | 23 | Jun 2023 Membership Filing (ER23-2025) | May 31 | ***New Members***: Con Edison Transmission; Generate NB Fuel Cells; Jonathan Lamson; and Tomorrow Energy Corp;<br>***Terminations***: Northern States Power; Granite Reliable Power |
| | 24 | Membership - NTE CT Involuntary Termination (ER23-1689) | Jun 13 | FERC accepts the involuntary termination of the Participant status of NTE Connecticut, LLC, eff. *Jun 22, 2023* |

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

| | | | | |
|---|---|---|---|---|
| | 24 | NERC Report on Evaluation of Physical Reliability Standard (CIP-014) (RD23-2) | May 11-15<br><br>May 30 | Comments filed by, among others: ISO-NE, Trade Associations, WIRES<br>FERC issues notice of Joint FERC/NERC tech. conf. to be held ***Aug 10, 2023***, to discuss physical security of the BPS |
| | 26 | CIP Standards Development: Info. Filings on Virtualization and Cloud Computing Services Projects (RD20-2) | Jun 15 | NERC files required quarterly report with further revised schedule for Project 2016-02 (projected filing of revised standards now ***Jan 2024***) |
| | 27 | *Order 896*: Transmission System Planning Performance Reqs. for Extreme Weather (RM22-10) | Jun 15 | FERC directs NERC to develop a new or modified Reliability Standard, no later than ***Dec 15, 2024*** to address reliability concerns pertaining to transmission system planning for extreme heat and cold weather events that impact the Reliable Operation of the BPS |
| * | 28 | Report of Comparisons of Budgeted to Actual Costs for 2022 for NERC and the Regional Entities (RR23-2) | May 31 | FERC files Report |

## XI. Misc. - of Regional Interest

| | | | | |
|---|---|---|---|---|
| * | 28 | 203 Application: Three Corners Solar/Three Corners Prime Tenant (EC23-90) | May 26 | Three Corners request authorization for the disposition and consolidation of jurisdictional facilities and the lease of an existing 112 MWac solar PV generation facility in Kennebec County, Maine |
| | 28 | 203 Application: Energy Harbor / Vistra (EC23-74) | Jun 23 | Office of the Ohio Consumers' Counsel, NOPEC, PJM IMM file comments/protests |
| | 29 | 203 Application: Weaver Wind / Greenbacker (EC23-68) | May 12 | FERC authorizes Greenbacker acquisition of Weaver Wind, making Weaver Wind, upon consummation, a Related Person to Howard Wind, Rox Wind and Hecate Energy |
| | 29 | 203 Application: Talen Energy Supply Reorganization (EC23-42) | May 22 | TES notifies the FERC that the authorized transaction was consummated on May 17, 2023 |
| * | 29 | IA Cancellation: NEP/TransCanada (ER23-2182) | Jun 14 | NEP files notice of cancellation of IA with TransCanada superseded by SGIA with Great River Hydro; comment deadline ***Jul 5, 2023*** |
| * | 29 | D&E Agreement Cancellation: NSTAR/Medway Grid (ER23-2117) | Jun 12 | NSTAR submits notice of cancellation of D&E Agreement; comment deadline ***Jul 3, 2023*** |
| * | 30 | Changes to Depreciation Rates in MPD OATT Formula Rate (ER23-2085) | Jun 7 | Versant files a revised Attachment J to its MPD OATT to change certain depreciation rates in the MPD OATT Formula Rate; comment deadline ***Jun 28, 2023*** |
| * | 30 | LGIA: National Grid/Millennium Power (ER23-2065) | Jun 2 | National Grid submits LGIA with Millennium Power to provide for continued interconnection service to Millennium's Facility |
| * | 30 | FOA: Generate NB Fuel Cells/FRPC, SBD, EIP (ER23-1979) | May 26 | Generate submits modified Facilities Operating Agreement for a planned 20 MW fuel cell project on SBD's New Britain, CT manufacturing campus |
| * | 30 | Revised LSAs: NEP/ISO-NE/RIE (ER23-1831; ER23-1830) | May 4 | ISO-NE and NEP file revisions to TSA-NEP-86 (ER23-1831) and NEP-SA 23 (ER23-1830) to ensure that provisions related to the Contract Termination Charges remain in effect |
| | | | May 8 | RIE files doc-less interventions |
| | 31 | LGIA: RIE / ISO-NE/Various Entities (ER23-1748, ER23-1741, ER23-1767) | May 8 | National Grid intervenes |
| | | | Jun 21 | FERC accepts LGIAs filed in ER23-1767 and ER23-1748, each eff. *Jan 1, 2023* |
| | 31 | D&E Agreement: NSTAR/Vineyard Wind (ER23-1665) | Jun 13 | FERC accepts amended D&E Agreement, eff. *Apr 21, 2023* |
| | 31 | NSTAR/Commonwealth Wind D&E Agreement (ER23-1607) | Jun 1 | FERC accepts D&E Agreement, eff. *Jun 11, 2023* |
| | 31 | NSTAR/Ocean State Power RFA Termination (ER23-1606) | May 31 | FERC accepts notice of termination, eff. *Apr 11, 2023* |
| | 32 | D&E Agreement: PSNH/National Grid (ER23-1481) | May 22 | FERC accepts D&E Agreement, eff. *Mar 29, 2023* |
| | 32 | LGIA: CL&P/Generate NB Fuel Cells/ISO-NE (ER23-1479) | May 22 | FERC accepts revised LGIA, eff. *Feb 23, 2023* |
| | 32 | LSAs: RI Energy/ISO-NE/BIPCO (ER23-1000; ER23-1003) | May 22 | RI Division files protest (ER23-1003) |
| * | 33 | VEC-HQUS Use Rights Transfer Agreement (NJ23-12) | Jun 7 | VEC files for acceptance an Agreement with HQUS for the Transfer of Use Rights on the Phase I/II HVDC Transmission Facilities |

## XII. Misc. - Administrative & Rulemaking Proceedings

| | | | | |
|---|---|---|---|---|
| * | 33 | Interregional Transfer Capability Transmission Planning & Cost Allocation Requirements (AD23-3) | May 15 | Comments filed by, among others: Advanced Energy United, Invenergy, Vistra/NRG, ACPA, ACRE, APPA, ELCON, NRECA, Public Interest Orgs, Eastern Interconnection Planning Collaborative, US DOE; reply comments due ***Jun 28, 2023*** |
| | 34 | Second New England Winter Gas-Electric Forum (AD22-9) | May 26<br>Jun 9-20<br><br><br><br><br><br>Jun 20 | FERC issues final agenda for Second NE Winter Gas-Electric Forum<br>Pre-Forum Comments and Position Statements filed by: ISO-NE (Ltr, Opening Presentation, Extreme Weather Risks), Constellation (Allen), Eversource (Daly, Divatia), NEPGA (Dolan), NextEra (Gardner), NHOCA, Vistra, NERC/NPCC, Excelerate, Orsted (DiOrio), National Grid (Holodak), Enbridge, Kinder Morgan, Berkshire Environmental Action Team, Repsol.<br>Second NE Winter Gas-Electric Forum held in Portland, Maine<br>Comment deadline not yet established |
| | 35 | Transmission Planning & Cost Management Tech. Conf. (AD22-8) | May 11-Jun 23<br>Jun 8 | WIRES, AEP, EEI file reply comments<br>CA Utilities move to lodge CA PUC Final Resolution E-5252 |
| | 37 | *Order 893*: Incentives for Advanced Cybersecurity Investment (RM22-19) | May 22<br>Jun 22 | NRECA requests clarification and/or rehearing of *Order 893*<br>FERC issues *Order 893 Allegheny Notice* (confirming *Order 893* may be deemed denied by operation of law) |
| | 39 | *Order 895*: ISO/RTO Credit Information Sharing (RM22-13) | Jun 15 | FERC issues *Order 895*, amending its regulations to require ISO/RTOs to have tariff provisions that permit credit-related information sharing with other ISO/RTOs; *Order 895* to be eff. Aug 21, 2023 |
| | 38 | *Order 897*: Extreme Weather Vulnerability Assessments (RM22-16; AD21-13) | Jun 15 | FERC issues *Order 897*, directing transmission providers to file a one-time info report describing their current/planned policies and processes for conducting extreme weather vulnerability assessments |
| | 38 | NOPR: Interconnection Reforms (RM22-14) | Jun 8, 15 | R Street Institute, AES Clean Energy Development submit additional comments |
| | 40 | NOPR: Transmission Siting (RM22-7) | May 16 -17 | Comments filed by CLF, AL PSC, National Wildlife Federation Action Fund, National Wild Life Federation and State-Affiliated Organizations, AEU, CLF, NESCOE, ACPA, ACRE, Clean Energy Buyers Assoc., EDF, EEI/WIRES, Joint Consumer Advocates, Public Interest Organizations, SEIA, and US Chamber of Commerce |

## XIII. FERC Enforcement Proceedings

### Electric-Related Enforcement Actions

| | | | | |
|---|---|---|---|---|
| * | 42 | Leapfrog Power (IN23-7) | May 22 | FERC approves Stipulation and Consent Agreement that resolved OE's investigation into Leapfrog's compliance with the CAISO Tariff section requiring resources to make bids that they reasonably expect to be able to fulfill between Feb 2019 and Aug 2019; Leapfrog must ***disgorge $46,120*** and pay a ***$73,880 civil penalty*** |
| * | 42 | OhmConnect (IN23-6) | May 22 | FERC approves Stipulation and Consent Agreement that resolved OE's investigation into OhmConnect's compliance with its CAISO Tariff Offer Requirement from Jan to Jun 2018; OhmConnect must ***disgorge $8,906***, pay a ***$141,094 civil penalty***, and submit at least one annual compliance monitoring report |

| | | | | |
|---|---|---|---|---|
| * | 43 | Entergy Arkansas (IN23-5) | Jun 22 | FERC approves Stipulation and Consent Agreement that resolved OE's investigation into whether Entergy AK, on four days in 2020, violated the MISO Tariff and the FERC's Unit Operation and Communications market behavior rules; Entergy AK must pay a ***$52,000 civil penalty*** and submit at least two annual compliance monitoring reports |

**Natural Gas-Related Enforcement Actions**

| | | | |
|---|---|---|---|
| 43 | Rover Pipeline, LLC and Energy Transfer Partners, L.P. (CPCN Show Cause Order) (IN19-4) | Jun 14 | FERC issues an Order on Presiding Officer Reassignment |
| 45 | Total Gas & Power North America, Inc. et al. (IN12-17) | Jun 14 | FERC issues an Order on Presiding Officer Reassignment |

## XIV. Natural Gas Proceedings

*No Activity to Report*

## XV. State Proceedings & Federal Legislative Proceedings

*No Activity to Report*

## XVI. Federal Courts

| | | | |
|---|---|---|---|
| 47 | Seabrook Dispute Order (23-1094) | May 8 | Initial submissions filed; FERC moves to hold case in Abeyance |
| | | May 15 | NextEra opposes Abeyance Motion |
| | | May 18 | FERC opposes NextEra motion to govern future proceedings |
| | | May 22 | FERC responds to NextEra's May 15 motion |
| | | May 23 | NextEra responds to FERC's May 22 motion |
| | | May 25 | Court grants Avangrid and NECEC Transmission intervention |
| | | May 31 | Court establishes briefing schedule |
| 50 | Northern Access Project (22-1233) | Jun 23 | Court schedules oral argument for ***Sep 18, 2023*** |

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

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

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

**DATE:** June 27, 2023

**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 June 24, 2023. If you have questions, please contact us.

## I. Complaints/Section 206 Proceedings

- **206 Proceeding: ISO Market Power Mitigation Rules (EL23-62)**

On May 5, 2023, the FERC instituted a Section 206 proceeding finding that the existing ISO-NE Tariff provisions related to the mechanics of its market power mitigation and the consideration of any proposed fuel price adjustment, may be unjust and unreasonable.[2] Accordingly, ISO-NE was directed, on or before July 5, 2023, to either: (1) show cause as to why the Tariff remains just and reasonable and not unduly discriminatory or preferential; or (2) explain what changes to the Tariff it believes would remedy the identified concerns if the FERC were to determine that the Tariff has in fact become unjust and unreasonable or unduly discriminatory.[3] The refund effective date for this proceeding will be May 12, 2023.[4] Interventions were due on or before May 26 and were filed by: NEPOOL, Calpine, Connecticut office of Consumer Counsel ("CT OCC"), Massachusetts ("MA") Attorney General ("MA AG"), New England Power Generators Association ("NEPGA"), New England States Committee On Electricity (NESCOE"), Public Systems,[5] Electric Power Supply Association ("EPSA"), MA Department of Public Utilities ("MA DPU"), Maine Public Utilities Commission ("MPUC"), and Public Citizen.

- **RENEW Network Upgrades O&M Cost Allocation Complaint (EL23-16)**

The December 13, 2022 complaint by RENEW Northeast, Inc. ("RENEW") against ISO-NE and the Participating Transmission Owners ("PTOs"), which seeks changes to the ISO-NE Tariff (Schedules 11 and 21) that would eliminate the direct assignment of Network Upgrade Operations and Maintenance ("O&M") costs to Interconnection Customers,[6] remains pending before the FERC. As previously reported, the proposed revisions to Schedule 11 of the Tariff were voted by the Transmission Committee at its October 26, 2021 meeting, and were

[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] *Dynegy Marketing and Trade, LLC and ISO New England, Inc.*, 183 FERC ¶ 61,091 (May 5, 2023) ("*Dynegy Mitigation Order*").

[3] *Id.* at P 39.

[4] Notice of the 206 proceeding was published in the *Fed. Reg.* on May 12, 2023 (Vol. 88, No. 92) at pp. 30,738-30, 739.

[5] "Public Systems" for purposes of this proceeding are, collectively: the Connecticut Municipal Electric Energy Cooperative ("CMEEC"), Massachusetts Municipal Wholesale Electric Company ("MMWEC"), New Hampshire Electric Cooperative ("NHEC"), and Vermont Public Power Supply Authority ("VPPSA").

[6] RENEW also requested (i) that it be considered an Interested Party or afforded adequate opportunity to participate and access transmission rate information under the PTOs' Formula Rate Protocols and (ii) the PTOs be directed to provide greater transparency regarding O&M costs in the interconnection process.

discussed at the Participants Committee November 3, 2021 meeting. RENEW asked the FERC to issue an order granting the Complaint by April 14, 2023 (approximately 60 days prior to the June 15, 2023 deadline for the NE PTOs to publish a draft of the Annual Update to the data used in the transmission formula rate). Both of those dates have since passed.

Responses, comments and protests were filed in late January 2023 by ISO-NE (which alternatively moved to dismiss itself as a party ("ISO-NE Jan 19 Motion")), the PTO AC, NEPOOL, AEU/Clean Energy Council, CPV Towantic, Glenvale, MA AG, NECOS, NEPGA, and NESCOE. Doc-less interventions only were filed by Calpine, CMMEC, EMI, Eversource, Narragansett ("RI Energy"), National Grid, New Leaf Energy, NextEra, NRG, Versant, CT DEEP, MA DPU, the American Clean Power Association ("ACPA"), Solar Energy Industries Association ("SEIA"), and Public Citizen. In additional rounds of briefing, RENEW answered ISO-NE's Jan 19 Motion; RENEW, the PTO AC, and National Grid filed answers to the January 23 protests/comments; ISO-NE answered RENEW's February 7 answer; and CPV Towantic, Glenvale, and the MA AG filed answers to the February 7 answers. There was no activity since the last Report. As noted, this matter remains pending before the FERC. If you have questions on this proceeding, please contact Eric Runge (617-345-4735; ekrunge@daypitney.com) or Margaret Czepiel (202-218-3906; mczepiel@daypitney.com).

- **206 Proceeding: FTR Collateral Show Cause Order (EL22-63)**

Also still pending before the FERC is the Section 206 proceeding, instituted on July 28, 2022, in which the FERC found that the existing tariffs of certain ISO/RTOs, including the ISO-NE Tariff, appear to be unjust and unreasonable.[7] The FERC found that ISO-NE's Tariff appears to be unjust and unreasonable in the absence of volumetric minimum collateral requirements for FTR Market Participants ("volumetric FTR collateral requirements"). Accordingly, ISO-NE was directed, on or before October 26, 2022, to either: (1) show cause as to why the Tariff remains just and reasonable and not unduly discriminatory or preferential; or (2) explain what changes to the Tariff it believes would remedy the identified concerns if the FERC were to determine that the Tariff has in fact become unjust and unreasonable or unduly discriminatory or preferential.[8] As noted below, ISO-NE answered by explaining why it believes its existing Tariff provisions to be just and reasonable and changes not necessary.

By way of background, the *FTR Collateral Show Cause Order* follows PJM's *Green Hat* experience,[9] a 2019 request by the Energy Trading Institute requesting a FERC-convened technical conference to consider a potential rulemaking to improve ISO/RTO credit practices,[10] and a two-day technical conference in February 2021 that discussed principles and best practices for credit risk management in organized wholesale electric markets.[11] In the *FTR Collateral Show Cause Order*, the FERC stated that, although the record developed through the technical conference highlighted numerous different approaches to managing credit risk, "we believe that two specific practices may be particularly critical to effectively managing credit risk for FTRs: the use of a mark-to-auction

[7] *CAISO, ISO-NE, NYISO, and SPP*, 180 FERC ¶ 61,049 (July 28, 2022) ("*FTR Collateral Show Cause Order*").

[8] *Id.* at P 31.

[9] *See GreenHat Energy, LLC*, 175 FERC ¶ 61,138 (2021) (order to show cause) (GreenHat Show Cause Order); *GreenHat Energy, LLC*, 177 FERC ¶ 61,073 (2021) (order assessing civil penalties). In June 2018, GreenHat Energy LLC ("GreenHat") defaulted on its obligations to PJM after amassing one of the largest FTR portfolios in the PJM region. At the time of its default, GreenHat had only $559,447 on deposit as collateral with PJM and no other material assets. However, over the subsequent three-year period ending in May 2021, this FTR portfolio incurred approximately $179 million in losses, which were borne by non-defaulting market participants in PJM.

[10] Energy Trading Institute Request for Technical Conference and Petition for Rulemaking to Update Credit and Risk Management Rules and Procedures in the Organized Markets, *Credit Reforms in Organized Wholesale Elec. Mkts.*, Docket No. AD20-6-000 (Dec. 16, 2019).

[11] *See* Supp. Notice of Tech. Conf., *RTO/ISO Credit Principles and Practices*, Docket No. AD21-6, et al. (Feb. 10, 2021).

mechanism and a volumetric minimum collateral requirement for FTRs."[12] ISO-NE currently employs a mark-to-auction mechanism but not volumetric FTR collateral requirements.

The FERC issued on July 28, 2022, a notice of this proceeding and of the refund effective date, August 3, 2022.[13] Those interested in participating in this proceeding were required to intervene on or before August 18, 2022. Doc-less interventions were filed by NEPOOL, Calpine, DC Energy, NRG, MPUC, EPSA, PJM, SPP, Public Citizen, and Financial Marketers Coalition[14] (out-of-time).

***ISO-NE October 26, 2022 Response***. In its Answer in response to the *FTR Collateral Show Cause Order*, ISO-NE explained how the FTR financial assurance calculations contained in the Financial Assurance Policy ("FAP") remain just and reasonable, adequately accounting for FTR risk in the absence of a more sophisticated risk management solution such as a clearing solution. ISO-NE asked that, should the FERC not agree and proceed to require volumetric FTR collateral requirements, that it be permitted to follow the Participant Processes to propose revisions to the FAP consistent with any such order. Comments on ISO-NE's response were due on or before November 25, 2022; none were filed. As noted, this matter remains pending before the FERC.

If you have any questions concerning this matter, please contact Paul Belval (860-275-0381; pnbelval@daypitney.com).

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

On June 15, 2023, the FERC terminated this Section 206 proceeding.[15] As previously reported, this proceeding arose 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.[16] In the *Seabrook Dispute Allegheny Order*, the FERC, having determined that its findings in the *Seabrook Dispute Order*[17] that Seabrook must replace the breaker at Seabrook Station pursuant to the terms

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[12] The FERC explained that (i) the mark-to-auction mechanism mitigates the risk of default by updating collateral requirements to reflect the most recent valuation of the FTR position and (ii) volumetric FTR collateral requirements ensure that a market participant is required to post a minimum amount of collateral to cover potential defaults, even when the market participant has offsetting positions. With respect to volumetric FTR collateral requirements, the FERC expressed a concern that netting of FTRs with negative collateral requirements against FTRs with positive collateral requirements can lead to insufficient collateral for a portfolio's risk should future congestion be significantly different than historical congestion. Without explicit $/MWh volumetric FTR collateral requirements, the FERC is "concerned that market participants may be able to minimize their collateral requirements without a corresponding reduction in risk". The ISO-NE Financial Assurance Policy allows for some limited offsetting. *See* FAP § VI (allowing for netting of FTRs with the same or opposite path, same contract month and type). *FTR Collateral Show Cause Order* at PP 28-29.

[13] The *Notice* was published in the *Fed. Reg.* on Aug 3, 2022 (Vol. 87, No. 148) p. 47,409.

[14] "Financial Marketers Coalition" identified themselves in their doc-less intervention as "financial market participants participating in the various ISO/RTO markets, including those operated by CAISO, SPP, NYISO and ISO-NE. Many of the Coalition members participate in these ISO/RTOs' FTR markets."

[15] *NextEra Energy Seabrook, LLC et al.*, 183 FERC ¶ 61,196 (June 15, 2023) ("*Seabrook Dispute Allegheny Order*").

[16] *NECEC Transmission LLC and Avangrid, Inc. v. NextEra Energy Resources, LLC et al. and ISO New England Inc.*, 176 FERC ¶ 61,148 at P 20 (Sep. 7, 2021) ("*Sep 7 Order*").

[17] *NextEra Energy Seabrook, LLC and NECEC Transmission LLC and Avangrid, Inc. v. NextEra Energy Resources, LLC and NextEra Energy Seabrook, LLC*, 182 FERC ¶ 61,044 (Feb. 1, 2023) *("Seabrook Dispute Order*"), *reh'g denied by operation of law*, *NextEra Energy Seabrook, LLC et al.*, 183 FERC ¶ 62,001 (Apr. 3, 2023) ("*Seabrook Dispute Allegheny Notice*").

of its LGIA rendered the FPA section 206 investigation moot, closed the FPA section 206 investigation.[18] If you have any questions concerning this matter, please contact Eric Runge (617-345-4735; ekrunge@daypitney.com).

- **NextEra / Avangrid/NECEC Dispute - ("Seabrook Complaint") (EL21-6)[19] and ("Seabrook Declaratory Order Petition") (EL21-3)[20]**

As previously reported, the FERC issued a single order addressing these two proceedings on February 1, 2023.[21] In the *Seabrook Dispute Order*, the FERC (i) both denied and granted in part the Seabrook Complaint; (ii) dismissed the Seabrook Declaratory Order Petition; and (iii) directed Seabrook to replace the Seabrook Station breaker pursuant to its obligations under the Seabrook LGIA and Good Utility Practice. Specifically, the FERC denied the Seabrook Complaint in part because it found that Avangrid had "not shown that Seabrook is obligated to replace the breaker due to Seabrook failing to meet certain open access obligations or because Seabrook has failed to comply with Schedule 25 of the ISO-NE Tariff".[22] However, the FERC found that, "under Seabrook's LGIA, Seabrook may not refuse to replace the breaker because it is needed for reliable operation of Seabrook Station and required by Good Utility Practice" and thus, given the specific facts and circumstances in the record, granted the Seabrook Complaint in part.[23] With respect to cost issues, the FERC agreed with Avangrid that, in this case, Seabrook should not recover opportunity costs (e.g. lost profits, lost revenues, and foregone Pay for Performance ("PFP") bonuses) or legal costs.[24] In dismissing the Declaratory Order Petition, the FERC noted that the issues raised in the Petition were addressed in the *Seabrook Dispute Order*, that additional findings were unnecessary, and thus exercised its discretion to not take action on, and to dismiss, the Petition.[25] The breaker replacement is currently expected to take place during the Fall 2024 refueling outage and the commercial operation date for the NECEC Project is December 2024.[26] Seabrook plans to file an agreement governing installation at the earlier of 30 days prior to delivery of the breaker or 120 days prior to the start of the Fall 2024 outage.[27] The FERC noted its expectation that such an agreement would resolve whatever remaining issues exist between the parties to allow replacement of the breaker to move forward during the 2024 outage, or if not, an unexecuted agreement would be filed.[28]

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[18] *Seabrook Dispute Allegheny Order* at P 50.

[19] On Oct. 13, 2020, NECEC and Avangrid Inc. (together, "Avangrid") filed a complaint 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 relief 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 (the "Seabrook Complaint").

[20] On Oct. 5, 2020, NextEra Energy Seabrook, LLC ("Seabrook") filed a Petition for a Declaratory Order seeking clarity on the scope of Seabrook's "FERC-jurisdictional regulatory obligations with respect to the project ("NECEC Elective Upgrade"), and to resolve its dispute with NECEC" (the "Seabrook Declaratory Order Petition" or "Petition"). Please see prior Reports for additional procedural details related to these proceedings.

[21] *NextEra Energy Seabrook, LLC and NECEC Transmission LLC and Avangrid, Inc. v. NextEra Energy Resources, LLC and NextEra Energy Seabrook, LLC*, 182 FERC ¶ 61,044 (Feb. 1, 2023) *("Seabrook Dispute Order*"), *reh'g denied by operation of law*, *NextEra Energy Seabrook, LLC et al.*, 183 FERC ¶ 62,001 (Apr. 3, 2023) ("*Seabrook Dispute Allegheny Notice*").

[22] *Id*. at P 74.

[23] *Id*.

[24] *Id.* at P 100. The FERC noted that Avangrid has agreed to pay for the direct costs of the engineering, procurement and construction of the Seabrook breaker replacement. The FERC further noted that it did not address arguments over consequential damages in light of the fact that both Seabrook and Avangrid both asserted that consequential damages were no longer a live issue.

[25] *Id.* at P 112.

[26] A&R E&P Agreement Between NextEra Energy Seabrook and NECEC Transmission at 2, NextEra Energy Seabrook, LLC, Docket No. ER22-2807-000 (filed Sep. 7, 2022).

[27] Amended E&P Agreement, Art. VI, Docket No. ER22-2807-000 (filed Sept. 7, 2022).

[28] *Id.* at P 88.

***Denied By Operation of Law: NextEra Request for Rehearing, Avangrid Request for Clarification.*** As previously reported, NextEra requested rehearing of the *Seabrook Dispute Order* on the basis that, among other things, the FERC lacked authority to require Seabrook to replace its generation breaker and to rule that Seabrook cannot recover all its costs; Avangrid similarly sought clarification of the basis for FERC's jurisdiction. On April 3, 2023, the FERC issued a "Notice of Denial of Rehearing by Operation of Law and Providing for Further Consideration".[29] The *Seabrook Dispute Allegheny Notice* confirmed that the 60-day period during which a petition for review of the *Seabrook Dispute Order* can be filed with an appropriate federal court was triggered when the FERC did not act on NextEra's request for rehearing of the *Seabrook Dispute Order* within the required 30-day period. The Notice also indicated that the FERC would address, as is its right, the rehearing request in a future order, and may modify or set aside its order, in whole or in part, "in such manner as it shall deem proper." The FERC also did not act on Avangrid's request for clarification which, like NextEra's request for rehearing, can be deemed denied by operation of law. The *Seabrook Dispute Order* was appealed to the DC Circuit (*see* Section XVI below for further developments in that appeal).

***Seabrook Dispute Allegheny Order***. On June 15, 2023, the FERC issued an order[30] addressing Seabrook's request for rehearing. In the *Seabrook Dispute Allegheny Order*, the FERC modified the discussion in the *Seabrook Dispute Order* and continued to reach the same result.[31] Specifically, the FERC continued to find that, pursuant to the terms of the Seabrook LGIA (an Agreement over which the FERC has jurisdiction), Seabrook must replace the breaker (at Avangrid's expense) because it is needed for reliable operation of Seabrook Station and required by Good Utility Practice.[32] The FERC also continued to find that Seabrook is not entitled to reimbursement of the potential opportunity and legal costs associated with the breaker replacement (foregone revenues associated with the breaker replacement here "reflect the ordinary cost of doing business"). The FERC read the ISO-NE Tariff to limit Avangrid's cost responsibility to the direct costs of any required upgrades (in this case, the circuit breaker replacement). Under the applicable Tariff provisions, the FERC did not find legal costs or station power costs breaker replacement costs.[33] As summarized in Section XVI below, NextEra petitioned the DC Circuit on April 4, 2023 for review of the *Seabrook Dispute Order*. If you have any questions concerning these matters, 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,[34] 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*).[35] However, the FERC's orders were challenged, and in *Emera Maine,*[36] the U.S. Court of

[29] *NextEra Energy Seabrook, LLC et al.*, 183 FERC ¶ 62,001 (Apr. 3, 2023) ("*Seabrook Dispute Allegheny Notice*").

[30] *Id.*

[31] *Seabrook Dispute Allegheny Order* at p 2.

[32] *Id.* at P 17.

[33] *Id.* at PP 37-39

[34] 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*")).

[35] *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*").

[36] *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

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)[37] and third (EL14-86)[38] 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.[39] The *Initial Decision* also lowered the ROE ceilings. Parties to these proceedings filed briefs on exception to the FERC, which has not yet issued an opinion on the ALJ's *Initial Decision*.

- ***Base ROE Complaint IV (EL16-64)***. The fourth and final ROE proceeding[40] also went to hearing before an Administrative Law Judge ("ALJ"), Judge Glazer, who issued his initial decision on March 27, 2017.[41] 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.[42] 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.[43] The FERC indicated its intention that the methodology be its policy going forward, including in

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(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).

[37] 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%.

[38] 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.

[39] *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*").

[40] 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.

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

[42] *Id.* at P 2.; Finding of Fact (B).

[43] *Coakley v. Bangor Hydro-Elec. Co.*, 165 FERC ¶ 61,030 (Oct. 18, 2018) ("*Order Directing Briefs"* or "*Coakley*").

the four currently pending New England proceedings (*see*, however, *Opinion 569-A*[44] (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.[45]

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

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

The FERC provided preliminary analysis of how it would apply the proposed methodology in the Base ROE I Complaint, suggesting that it would affirm its holding that an 11.14% Base ROE is unjust and unreasonable. The FERC suggested that it would adopt a 10.41% Base ROE and cap any preexisting incentive-based total ROE at 13.08%.[46] The new ROE would be effective as of the date of *Opinion 531-A*, or October 16, 2014. Accordingly, the issue to be addressed in the Base ROE Complaint II proceeding is whether the ROE established on remand in the first complaint proceeding remained just and reasonable based on financial data for the six-month period September 2013 through February 2014 addressed by the evidence presented by the participants in the second proceeding. Similarly, briefing in the third and fourth complaints will have to address whether whatever ROE is in effect as a result of the immediately preceding complaint proceeding continues to be just and reasonable.

The FERC directed participants in the four proceedings to submit briefs regarding the proposed approaches to the FPA section 206 inquiry and how to apply them to the complaints (separate briefs for each proceeding). Additional financial data or evidence concerning economic conditions in any proceeding must relate to periods before the conclusion of the hearings in the relevant complaint proceeding. Following a FERC notice granting a request by the TOs and Customers[47] 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,

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[44] *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*.

[45] *Id.* at P 19.

[46] *Id.* at P 59.

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

initial briefs were filed by EMCOS, Complainant-Aligned Parties, TOs, Edison Electric Institute ("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*[48] 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 CIP-IROL (Schedule 17) Section 205 Cost Recovery Filing (ER23-1826)**

On May 4, 2023, Cross-Sound Cable ("CSC") requested FERC acceptance of its revised rate schedule to allow recovery eligible medium-impact Interconnection Reliability Operating Limits (IROL) critical infrastructure protection (CIP) costs (IROL-CIP Costs) under Schedule 17 of the ISO-NE Tariff, effective July 4, 2023. CSC seeks to recover $723,601 of incremental medium impact CIP-IROL Costs incurred between June 1, 2021 and December 31, 2022. Comments on CSC's request were due on May 25; none were filed. Doc-less interventions were filed by NEPOOL, National Grid and NESCOE. 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).

- **BHD Regulatory Asset - Establishment & Recovery Through Rates (ER23-1598)**

On April 7, 2023, Versant Power requested authorization to (i) establish a regulatory asset for the Bangor Hydro District ("BHD") totaling $15,622,081 in capitalized regulatory overhead costs (identified in a recent FERC audit as incorrectly allocated as construction costs) as of January 1, 2024, and amortize this asset over a period of 16 years on a straight-line basis beginning January 1, 2024, subject to FERC approval; and (ii) recover as an expense in transmission rates under the ISO-NE OATT a return of the unamortized balance of the regulatory asset effective January 1, 2026 and continuing for 16 years. Comments on Versant's request were due on or before April 28, 2023. On May 3, the MPUC moved to intervene out-of-time and protest. In its protest, the MPUC requested that Versant be required to refund retail customers for the improper collection of "Allocation of Overhead Costs to Construction Work in Progress" and to provide additional detail regarding the amounts included. On May 5, 2023, Versant answered the MPUC protest.

***Deficiency Letter***. On June 5, 2023, the FERC issued a deficiency letter directing Versant to provide additional information related to inputs to Filing Exhibits 1 and 2, which support the amount of the proposed regulatory asset. Specifically, Versant was directed to provide "all records that Versant provided to Commission audit staff in Docket No. FA20-9-000 related to the proposed regulatory asset and explain how these records support the instant filing". Versant's responses to the Deficiency Letter will constitute and must be filed as an amendment to its filing (re-setting the filing date and deadline for FERC action). Versant's response, which is due on or before ***July 5, 2023***, will be publicly noticed upon receipt.

[48] *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).

If you have any questions concerning this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **FCA17 Results Filing (ER23-1435)**

The results of the seventeenth FCA ("FCA17") held March 6, 2023 for the June 1, 2026 - May 31, 2027 Capacity Commitment Period ("CCP") remain pending before the FERC. In its March 21, 2023 filing, ISO-NE reported the following highlights:

- ♦ FCA17 Capacity Zones were the Northern New England ("NNE") Capacity Zone (the Maine, New Hampshire and Vermont Load Zones), the Maine Capacity Zone (the Maine Load Zone) and the Rest-of-Pool ("ROP") Capacity Zone (the Southeastern Massachusetts, Rhode Island, Northeastern Massachusetts/Boston, Connecticut and Western/Central Massachusetts Load Zones). NNE was modeled as an export-constrained Capacity Zone. The Maine Load Zone was modeled as a separate nested export-constrained Capacity Zone within NNE.
- ♦ FCA17 commenced with a starting price of $12.76/kW-mo. and concluded for all Capacity Zones after four rounds.
- ♦ Capacity Clearing Prices were as follows (prices expressed per kw-mo.): All Capacity Zones - $2.59; imports over the NY AC Ties (390 MW); and imports over the New Brunswick external interface (177 MW) - $2.55.[49]
- ♦ There were no active demand bids for the substitution auction and, accordingly, the substitution auction was not conducted.
- ♦ No resources cleared as Conditional Qualified New Generating Capacity Resources.
- ♦ No Long Lead Time Generating Facilities secured a Queue Position to participate as a New Generating Capacity Resource.
- ♦ No De-List Bids were rejected for reliability reasons.

ISO-NE asked the FERC to accept the FCA17 rates and results, effective July 19, 2023. Comments on this filing were due on or before May 5, 2023. NEPOOL, Calpine, Constellation, Dominion, National Grid, NESCOE, EPSA, No Coal No Gas, and Public Citizen filed doc-less interventions. No Coal No Gas submitted comments on May 3. Individual comments were filed by numerous members of the public (generally critical of process that permits continued assignment of Capacity Supply Obligations ("CSOs") to fossil-fueled resources). On May 11, No Coal No Gas submitted a report on its comment initiative opposing the FCA17 Results Filing (identifying the 424 individuals and 5 organizations that submitted comments in ER23-1435; 163 comments directly, 289 indirectly). Subsequently, on May 22, 2023, ISO-NE filed an answer to the individual comments protesting the result of the FCA17 and urged the FERC to reject the protests as challenges to the FCM market design, and thereby outside the scope of this proceeding. No Coal No Gas answered ISO-NE's May 22 answer on June 9, 2023. This matter is pending before the FERC. If you have any questions concerning this matter, please contact Rosendo Garza (860-275-0660; rgarza@daypitney.com) or Sebastian Lombardi (860-275-0663; slombardi@daypitney.com).

- **Add'l Cost Recovery Due to Dec 24 General Threshold Energy Mitigation: Dynegy (ER23-1261)**

On May 5, 2023, the FERC granted in part, and denied in part, the March 6, 2023 request by Dynegy Marketing and Trade, LLC ("Dynegy"), pursuant to § 15 of Appendix A to Market Rule 1, for recovery of $903,400 in unrecovered costs (upward price mitigation and downward price mitigation) incurred because Dynegy's Resources were subject to General Threshold Energy Mitigation on December 24, 2022 during Winter Storm Elliott.[50] Specifically, the FERC granted Dynegy recovery of its costs related to *downward* price mitigation and to the regulatory costs incurred in connection with the cost recovery filing, subject to a

[49] The HQ Highgate external interface and Phase I/II HQ Excess external interface were priced at $2.59, with no imports receiving a Capacity Supply Obligation over either interface.

[50] *Dynegy Mitigation Order (see note 2 supra).*

compliance filing detailing the actual regulatory costs within 60 days. However, the FERC, while sympathetic to the arguments made by Dynegy and NEPGA related, denied *upward* price mitigation-related cost recovery, concluding that interpreting the Tariff to allow recovery of costs due to upward mitigation would read out the requirement that the section 205 cost recovery filing state why "actual costs exceeded Reference Levels."[51] As summarized in Section I above, the FERC found in the *Dynegy Mitigation Order* that ISO-NE's existing Tariff provisions related to the mechanics of its market power mitigation and the consideration of any proposed fuel price adjustment, may be unjust and unreasonable, and initiated a section 206 proceeding (Docket No. EL23-62), directing ISO-NE to show cause as to why its Tariff is remains just and reasonable and not unduly discriminatory or preferential or propose revisions to its Tariff.

If you have any questions concerning this matter, please contact Rosendo Garza (860-275-0660; rgarza@daypitney.com) or Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **Mystic COS Agreement Updates to Reflect Constellation Spin Transaction[52] (ER22-1192)**

As previously reported, on May 2, 2022, the FERC accepted and suspended in part Constellation Mystic Power, LLC's ("Mystic's") changes to its Amended and Restated Cost-of-Service Agreement ("COSA") to reflect Mystic's current upstream ownership.[53] The changes were accepted effective as of June 1, 2022, but subject to refund and to the outcome of paper hearing (or settlement procedures) on the issues of capital structure and cost of debt raises issues. Mystic filed an offer of settlement on September 8, 2022 to resolve all issues set for hearing and settlement proceedings and the FERC accepted that offer of settlement on November 2, 2022,[54] directing Mystic to make a compliance filing with revised tariff records in eTariff format reflecting the FERC's action in the November 2 order. Mystic submitted that compliance filing on December 2, 2022 (ER22-1192-003). No comments were received by the December 23, 2022 comment date, and there was no activity in this proceeding since the last Report. This compliance filing remains pending before the FERC. FERC action on the compliance filing will conclude this proceeding. 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).

- **VTransco Deferral of Retiree Lump Sum Payment Cost Recovery (ER21-2627)**

On March 17, 2023, Vermont Transco LLC ("VTransco") submitted an informational filing for lump sum payment elections taken in 2022. As previously reported, the FERC authorized VTransco to defer for future recovery costs associated with lump sum payments to employees who retire in 2021 and 2022.[55] VTransco reported that 24 plan participants elected lump sum payments in 2022, with the lump sum payments totaling approximately $14.38 million. As a result, $2.15 million was recorded as a regulatory asset on VTransco's balance sheet and will be amortized pursuant to the FERC-approved methodology and recovered from Vermont distribution utilities under the 1991 Vermont Transmission Agreement. If you have any questions concerning this matter, please contact Pat Gerity (pmgerity@daypitney.com; 860-275-0533).

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

***Mystic I Remand***. As previously reported, the DC Circuit issued a decision on August 23, 2022[56] that, among other things: (i) granted State Petitioners' petitions for review on the cost allocation issue; (ii) vacated the clawback portions excluding Everett costs and the challenged delay provision of the orders under review;

[51] *Id.* at P 31.

[52] In the Spin Transaction, Constellation's and Mystic's corporate parent changed from Exelon Corporation to a newly-created holding company, Constellation Energy Corporation ("Constellation Corporation"). Mystic continues to be an indirect wholly-owned subsidiary of Constellation Energy Generation, LLC, which in turn is a direct, wholly-owned subsidiary of Constellation Corporation.

[53] *Constellation Mystic Power, LLC*, 179 FERC ¶ 61,081 (May 2, 2022) ("*May 2, 2022 Order*").

[54] *Constellation Mystic Power, LLC*, 181 FERC ¶ 61,099 (Nov. 2, 2022).

[55] *Vermont Transco LLC*, Docket No. ER21-2627 (Sep. 22, 2021) (unpublished letter order).

[56] *Constellation Mystic Power, LLC v. FERC*, 45 F.4th 1028 (D.C. Cir. 2022) ("*Mystic I Remand Order*").

and (iii) remanded the cases to the FERC to address NESCOE's request for clarification about revenue credits and for clarification of the apparent contradictions in the FERC's *December 2020 Rehearing Order*.

***Public Systems' Request for Disclosure of Audit Information.*** On May 19, 2023, Public Systems[57] requested that the FERC direct ISO-NE to release additional information concerning ISO-NE's audit of performance under Mystic COSA ("Audit Information Request"). Public Systems assert that ISO-NE has released almost no information concerning the audits or the bases for their conclusions that Mystic's performance is consistent with its obligations under the COSA. Answers to Public Systems' Audit Information Request were filed by ***Mystic*** (opposing the Audit Information Request), ***ISO-NE*** (which proposed, in addition to the summary of COSA-related audits that ISO-NE posted shortly after Public Systems filed the Request, to make available redacted versions of the FSA audit reports, prepare a narrative of its meetings with Mystic and CLNG regarding the fuel supply plan, and make a member of Levitan & Associates' audit team available to answer questions on three occasions over the remainder of the COSA's term) and ***CT Parties*** (urging the FERC to grant the Audit Information Request).

***(-024) Mystic Request for Rehearing of Mystic I Order on Remand***. On April 27, 2023, Mystic requested rehearing and/or clarification of the March 28, 2023 *Mystic I Order on Remand*.[58] Mystic asserted that (a) the FERC should have considered and rejected NESCOE's arguments about "truing up" and challenging the Revenue Credit; (b) the Tank Congestion Charge and the calculation of the Forward Sales Margin credited to Mystic and its ratepayers should not be included in the true-up process; and (c) if the FERC does not grant rehearing on (a) or (b), in the alternative, it should clarify that the scope of review during the true-up for Revenue Credits and the Forward Sale Margin Shared with Mystic is not a prudence review and does not require disclosure of granular, unmasked transaction data. On May 12, ENECOS answered Mystic and urged the FERC to require that Mystic submit full data on its Revenue Credit and sliding-scale revenue sharing calculations in the Information Exchange and Challenge procedure under Schedule 3A to the COSA. On May 15, ISO-NE filed limited comments to provide the FERC with further information and to note that should the Commission allow interested parties to review Mystic's revenue credits during the true-up process, the review should be facilitated by Mystic. ISO-NE stated that the data involved in the calculation of Mystic's revenue credits are confidential under ISO-NE's Information Policy but Mystic is provided with the necessary data to calculate the revenue credits. On May 25, 2023, Mystic moved to lodge ISO-NE's May 25, 2023 Audit Controls Memorandum to provide the FERC with a more complete description of the various controls and audits that apply to the Mystic COSA.

***Request for Rehearing Denied by Operation of Law.*** On May 30, 2023, the FERC issued a "Notice of Denial of Rehearings by Operation of Law and Providing for Further Consideration".[59] The Notice confirmed that the 60-day period during which a petition for review of the *Mystic I Order on Remand* can be filed with an appropriate federal court was triggered when the FERC did not act on Mystic's request for clarification and/or rehearing of the *Mystic I Order on Remand*. The Notice also indicated that the FERC may address, as is its right, the request in a future order, and may modify or set aside its order, in whole or in part, "in such manner as it shall deem proper."

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[57] "Public Systems" for these purposes are: MMWEC, CMEEC, NHEC, VPPSA, the Eastern New England Consumer-Owned Systems ("ENECOS"), and Energy New England, LLC ("ENE").

[58] *Constellation Mystic Power, LLC*, 182 FERC ¶ 61,200 (Mar. 28, 2023) ("*Mystic I Order on Remand*"), *reh'g denied by operation of law,* 183 FERC ¶ 62,115 (May 30, 2023). In the *Mystic I Order on Remand*, the FERC (1) found the initial allocation of 91% of Everett's fixed operating costs to Mystic remains just and reasonable and required that the revenue sharing mechanism be reinstated in the COSA; (2) held its ruling on the clawback issue in abeyance pending resolution in the settlement proceeding; (3) found that the existing language of the COSA mitigates the incentive to unduly delay capital projects; and (4) clarified that all interested parties can review and challenge Mystic's revenue credits and tank congestion charges during a subsequent true-up process. The FERC directed Mystic to submit a 30-day compliance filing, on or before April 27, 2023, revising the COSA to reinstate the revenue sharing mechanism (*see* -023).

[59] *Constellation Mystic Power, LLC*, 183 FERC ¶ 62,115 (May 30, 2023) ("*Mystic I Order on Remand Allegheny Notice*").

***(-023) 30-Day Compliance Filing (Revised COSA).*** As directed in the *Mystic I Order on Remand*, Mystic filed, on April 27, 2023, an amended COSA to reinstate the previous revenue sharing mechanism. An effective date of June 1, 2022 was requested. Comments on the 30-Day Compliance Filing were due on or before May 18, 2023; none were filed. The 30-Day Compliance Filing is pending before the FERC.

***(-022) First CapEx Info. Filing Settlement Agreement Interim Rate Implementation***. As previously reported, on March 27, 2023, Acting Chief ALJ Satten granted Mystic's request to implement the settlement rates on an interim basis, effective as of June 1, 2022. The interim rates will remain in effect pending FERC action on the First CapEx Settlement Agreement (-021).[60]

***(-021) First CapEx Info. Filing Settlement Agreement***. On March 15, 2023, Mystic filed a Settlement Agreement to resolve all issues raised by the formal challenges to its First CapEx Info. Filing[61] and set for hearing in the April 28, 2023 Mystic *First CapEx Info. Filing Order* ("Settlement Agreement").[62] The Settling Parties asked that the FERC act on the Settlement Agreement as soon as possible, but no later than September 1, 2023. Initial comments on the Settlement Agreement were due by April 4, 2023 and filed by ENECOS, CT PURA, FERC Trial Staff, MA AG, NESCOE, and National Grid. Reply comments were filed on April 14, 2023 by Mystic and State Settling Parties.[63] Since the last Report, Settlement Judge McBarnette issued her Settlement Report,[64] and Acting Chief ALJ Satten terminated settlement judge procedures, subject to final action by the Commission. The Settlement Agreement is pending before the Commission.

***(-018) Second CapEx Info Filing***. Still pending is Mystic's September 15, 2022 "Second CapEx Info Filing" to provide support for the capital expenditures and related costs that Mystic projects will be collected as an expense between January 1, 2023 to December 31, 2023 ("2023 CapEx Projects"). Formal challenges to the Second CapEx Info Filing were submitted by NESCOE and ENECOS. Comments on NESCOE's and ENECOS' challenges were due on or before November 16, 2022 and November 17, 2022, respectively. Mystic responded separately to NESCOE's and ENECOS' challenges. MMWEC/NHEC filed comments supporting ENECOS' formal challenge, emphasizing its support for formal challenge to the pass through of charges incurred by Everett for pipeline transportation reservations. On December 6, 2022, ENECOS answered Mystic's November 17, 2022 answer. Later, on December 22, 2022, Mystic filed a response to ENECOS' December 6 answer, and requested that the FERC reject the Formal Challenges, and accept the Second Filing as expeditiously as possible.

On February 17, 2023, reporting that it intends to file a settlement agreement in the *First CapEx Info. Filing* proceeding that would also impact certain pending Formal Challenges filed in response to the *Second CapEx Info. Filing*, Mystic requested that the FERC hold off on acting on the pending Formal Challenges in this proceeding until

60 *Constellation Mystic Power, LLC*, 182 FERC ¶ 63,026 (Mar. 27, 2023) (Chief ALJ order granting motion to implement settlement rate on an interim basis).

61 As previously reported, Mystic submitted, on Sep. 15, 2021, as required by orders in this proceeding and Sections I.B.1.i. and II.6. of Schedule 3A of the COSA ("Protocols"), its informational filing to provide support for the capital expenditures and related costs that Mystic projected would be collected as an expense between June 1, 2022 and Dec. 31, 2022 ("First CapEx Projects Info. Filing"). Formal challenges to the First CapEx Projects Info. Filing were submitted by the Eastern New England Customer-Owned Systems ("ENECOS") and NESCOE.

62 *Constellation Mystic Power, LLC*, 179 FERC ¶ 61,011 (Apr. 28, 2022) ("*Mystic First CapEx Info. Filing Order*") (granting in part, and denying in part, ENECOS' and NESCOE's formal challenges, subject to refund, and establishing hearing and settlement judge procedures).

63 The "State Settling Parties" are, collectively, the Connecticut Department of Energy and Environmental Protection ("CT DEEP"), the Connecticut Public Utilities Regulatory Authority ("CT PURA"), and CT OCC (the "CT Parties"); the Attorney General of the Commonwealth of Massachusetts ("MA AG"); and the New England States Committee on Electricity ("NESCOE").

64 *Constellation Mystic Power, LLC*, 183 FERC ¶ 63,026 (June 2, 2023). The Settlement Report included the Mar. 15 Settlement, Initial Comments, and all pleadings, orders, and other documents of record in this proceeding.

after the FERC acts on the Settlement Agreement (summarized in (-021) above) ("Motion for Abeyance"). On March 6, 2023, ENECOS filed a protest to Mystic's Motion for Abeyance. That request is pending before the FERC.

***(-014) Revised ROE (Sixth) Compliance Filing***. Also still pending is Mystic's December 20, 2021 filing in response to the requirements of the *Mystic ROE Allegheny Order*.[65] 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 remains pending before the FERC.

***Limited Waiver of Certain Mystic COSA True-Up Deadlines (ER23-1159)***. On March 20, 2023, the FERC granted Mystic's request for waiver of certain deadlines required by Schedule 3A of the Mystic COSA.[66] to provide Settling Parties sufficient time to implement the terms of the Settlement Agreement as part of the Mystic COSA annual true-up process.

***30-Day Compliance Filing per Order on ENECOS Mystic COSA Complaint (ER23-1735)***. On April 27, 2023, Mystic filed, as directed by the FERC's March 28, 2023 *Order on ENECOS Mystic COSA Complaint*,[67] changes to the Mystic COSA to include pipeline-related crediting as an explicit provision in the COSA. Mystic also provided additional information/COSA changes to (i) describe the crediting process; (ii) differentiate, through both an explanation in its compliance filing and creation of two new line items in Schedule 3A, the credits and charges included as part of the Fixed Pipeline Costs; (iii) address how and whether the pipeline-related crediting procedure interacts or should interact with the true-up procedure already included in the COSA and revise the true-up as necessary; and (iv) differentiate in the COSA the Pipeline Transportation Costs as Fixed O&M/Return on Investment Costs from the Pipeline Transportation Agreement Costs. Comments on the 30-day compliance filing were due on or before May 18, 2023; none were filed. Doc-less motions to intervene were filed by ISO-NE and Monitoring Analytics, LLC. This 30-day compliance filing is pending before the FERC.

If you have questions on any aspect of these proceedings, please contact Joe Fagan (202-218-3901; jfagan@daypitney.com) or Margaret Czepiel (202-218-3906; mczepiel@daypitney.com).

- **Transmission Rate Annual (2022-23) Update/Informational Filing (ER09-1532)**

On July 29, 2022, the PTO AC submitted its 2023 annual filing identifying adjustments to Regional Transmission Service charges, Local Service charges, and Schedule 12C Costs under Section II of the Tariff. The filing reflected the charges to be assessed under annual transmission and settlement formula rates, reflecting actual 2021 cost data, plus forecasted revenue requirements associated with projected PTF, Local Service and Schedule 12C capital additions for 2022 and 2023, as well as the Annual True-up including associated interest. As prescribed in the Interim Protocols,[68] the formula rates that will be in effect for 2023 include a billing true up of seven months of 2021 (June-December). The PTO AC stated that the annual updates result in a Pool "postage stamp" RNS Rate of $140.94 /kW-year effective January 1, 2023, a decrease of $1.84 /kW-year from

[65] 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.

[66] *Constellation Mystic Power, LLC*, 182 FERC ¶ 61,181 (Mar. 20, 2023).

[67] *Belmont Municipal Light Dept., et al. v. Constellation Mystic Power, LLC and ISO New England, Inc.*, 182 FERC ¶ 61,199 (Mar. 28, 2023) ("*Order on ENECOS Mystic COSA Complaint*", which denied in part, and accepted in part, ENECOS' Complaint against Mystic and ISO-NE challenging the pass-through of firm pipeline transportation costs under the 2nd Amended and Restated Mystic COSA).

[68] The Interim Formula Rate Protocols ("Interim Protocols") became effective June 15, 2021, and will be replaced by permanent Formula Rate Protocols that will become effective June 15, 2023. *See* Settlement Agreement resolving all issues in Docket No. EL16-19 ("Settlement") approved by the FERC on Dec. 28, 2020, in *ISO New England et al.*, 173 FERC ¶ 61,270 (2020) ("Settlement Order").

the charges that went into effect on January 1, 2022. In addition, the filing included updates to the revenue requirements for Scheduling, System Control and Dispatch Services (the Schedule 1 formula rate), which result in a Schedule 1 charge of $1.75 kW-year (effective June 1, 2022 through May 31, 2023), a $0.12/kW-year decrease from the Schedule 1 charge that last went into effect on June 1, 2022. This filing was not noticed for public comment.

The July 29 filing was reviewed with the Transmission Committee at its August 16, 2022 summer meeting and at an August 22, 2022 technical session for Interested Parties. The July 29 filing triggered the commencement of the Information Exchange Period and a Review Period under the Interim Protocols. Interested Parties had until September 15, 2022 to submit information and document requests, and the PTOs were required to make a good faith effort to respond to all requests within 15 days, but by no later than October 15, 2022. During the Review Period, Interested Parties had until November 15, 2022 to submit Informal Challenges to the PTOs, and the PTOs were required to make a good faith effort to respond to any Informal Challenges by no later than December 15, 2022. Interested Parties had until January 31, 2023 to file a Formal Challenge with the FERC.

***RENEW Formal Challenge.*** On January 31, 2023, RENEW filed a formal challenge ("Challenge"). RENEW asserted that (i) the TOs failed to provide adequate rate input information in the Annual Informational Filing and in the Information Exchange Period under the Interim Formula Rate Protocols regarding inclusion or exclusion of "O&M costs" on Network Upgrades that the TOs directly assign to Interconnection Customers (and thereby failing to demonstrate that such O&M costs are not being double counted in transmission rates); and (ii) the TO's Interpretation of "Interested Party" to exclude RENEW violated the Interim Formula Rate Protocols. RENEW thus asked that the FERC (a) require the TOs to show the calculation of the annual O&M charges with sources of data inputs and show how such O&M charges are not being double recovered in transmission rates, and (b) determine that an entity such as RENEW is an Interested Party under the Interim Formula Rate Protocols and that its Information Requests seeking rate inputs and support for the O&M charges on Network Upgrades are within the scope of the Interim Formula Rate Protocols process. Comments on RENEW's Challenge were due on or before March 16, 2023. Comments and protests were filed by: Avangrid, Eversource, National Grid, Public Systems, RI Energy, Unitil, Versant Power, VTransco/GMP. On March 31, RENEW answered the comments and protests to its Challenge. Subsequently, on April 14, Eversource answered RENEW's March 31 answer. There was no activity since the last Report. This matter is pending before the FERC.

If there are questions on this matter, please contact Eric Runge (617-345-4735; ekrunge@daypitney.com).

- **ISO Securities: Authorization for Future Drawdowns (ES23-41)**

On May 26, 2023, the FERC authorized continued ISO-NE drawdowns under its $20 million Revolving Credit Line and $4 million line of credit supporting the Payment Default Shortfall Fund,[69] each of which are with TD Bank and are for a term of three years ending June 30, 2024.[70] The authorization is effective from May 30, 2023 through May 29, 2023 (the maximum allowable period under FERC regulations, though the authorization for new credit lines will have to be requested again next year). Unless the *2023 Order* is

[69] *ISO New England Inc.*, 183 FERC ¶ 62,113 (May 26, 2022) ("*2023 Order*") (continuing authorization through May 29, 2025).

[70] *See ISO New England Inc.*, 139 FERC ¶ 62,248 (June 22, 2012) (initially authorizing borrowings through June 30, 2014); *ISO New England Inc.*, 147 FERC ¶ 62,091 (May 6, 2014) (continuing authorization through June 30, 2015); *ISO New England Inc.*, 151 FERC ¶ 62,185 (June 15, 2015) (continuing authorization through June 30, 2017); *ISO New England Inc.*, 159 FERC ¶ 62,143 (May 9, 2017) (continuing authorization through June 30, 2019); *ISO New England Inc.*, 163 FERC ¶ 62,144 (June 1, 2018) (continuing authorization through May 31, 2020); *ISO New England Inc.*, 172 FERC ¶ 62,017 (July 13, 2020) ("*2020 Order*") (continuing authorization through July 12, 2022); *ISO New England Inc.*, 175 FERC ¶ 62,084 (May 12, 2021) ("2021 Order") (continuing authorization through May 31, 2023).

challenged, this proceeding will be concluded. If you have any questions concerning this matter, please contact Paul Belval (860-275-0381; pnbelval@daypitney.com).

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

- **IEP Parameter Updates (ER23-1588)**

On April 7, 2023, ISO-NE and NEPOOL filed proposed revisions to Appendix K to Market Rule 1 to update certain parameters within the Inventoried Energy Program ("IEP Parameter Updates"). Specifically, the IEP Parameter Updates (i) move from a fixed rate to an indexed rate, which provides for automatic adjustments to account for changes in gas markets prior to each winter period, (ii) include modifications to natural gas contracting requirements to align the IEP more closely with common industry and commercial practices and the nature of firm pipeline service available in New England; and (iii) included changes to provide clarity and improve the administration of the IEP. A June 6, 2023 effective date was requested. The IEP Parameter Updates were supported by the Participants Committee at its April 6, 2023 meeting. Comments on the IEP Parameter Updates were due by April 28, 2023. Comments supporting the Updates were filed by Indicated Suppliers.[71] Consumer Advocates[72] and Sierra Club/CLF/UCS protested the Updates (challenging the costs and basis for the IEP as updated). Doc-less motions to intervene only were filed by Calpine, Constellation, Eversource, National Grid, Public Systems,[73] the MA DPU, and Public Citizen (following the Deficiency Letter response). On May 12, Senator Blumenthal (D-CT) filed a response to the IEP Parameter Updates encouraging the FERC to thoroughly review the justification and indexing formulas when assessing if the proposal is just and reasonable. On May 15, both NEPOOL and ISO-NE filed answers to the protests, noting that the costs and basis for updates are reasonable and were supported by NEPOOL Participants through the stakeholder process. On May 26, Consumer Advocates and Sierra Club/CLF/UCS filed answers to ISO-NE and NEPOOL's May 15 answers.

***Deficiency Letter***; ***Response (-001)***. On May 25, 2023, the FERC issued a deficiency letter requesting ISO-NE provide "any quantitative studies, liquidity analysis, work papers, and any other information used to support the choice of financial product and July 17 to July 31 measurement period." ISO-NE filed its response to the Deficiency Letter on June 9, 2023, re-setting the filing date and deadline for FERC action. Comments on the Deficiency Letter response are due on or before ***June 30, 2023***.

If you have any questions concerning this proceeding, please contact Rosendo Garza (860-275-0660; rgarza@daypitney.com).

- **SATOA Revisions (ER23-739; ER23-743)**

On December 29, 2022, ISO-NE, NEPOOL and the PTO AC filed revisions to the Tariff and the TOA, in two parts, to enable electric storage facilities to be planned and operated as transmission-only assets ("SATOA") to address system needs identified in the OATT's regional system planning process ("SATOA Revisions"). The SATOA Revisions were supported by the Participants Committee at its October 6, 2022 meeting (Agenda Item #7). ISO-NE requested a FERC order by March 29, 2023 and indicated that it intends to implement the SATOA Revisions effective July 1, 2024. ISO-NE committed to submit a filing specifying the precise effective date prior to implementation. For eTariff reasons, Part I included the ISO-NE Tariff revisions (ER23-739); Part II, the TOA revisions (ER23-743). Comments on the SATOA Revisions were due on or before January 19, 2023.

On January 19, 2023, comments and protests were filed by: Advanced Energy United ("AEU"), FirstLight, National Grid, NEPGA, NESCOE, UCS, and VELCO. Doc-less interventions only were filed by Avangrid, Vistra, MA DPU, LSP Transmission Holdings, RENEW, RI Energy, ACPA, and EPSA. On February 3, 2023, NEPOOL answered

[71] "Indicated Suppliers" are CPV Towantic LLC, Eastern Generation LLC, JERA Americas Inc., and Vistra Corp.

[72] "Consumer Advocates" are the MA AG, CT OCC, NH OCA, and the Maine OPA.

[73] "Public Systems" for purposes of this proceeding are CMEEC, MMWEC, NHEC, and VPPSA.

VELCO's comments and ISO-NE answered VELCO's comments and National Grid's limited protest. NEPGA answered VELCO's comments and National Grid's limited protest on February 7. In turn, on February 16, National Grid answered NEPGA's and ISO-NE's answers. ISO-NE answered National Grid's February 16 answer.

***Deficiency Letter***; ***Response (-001)***. On May 15, 2023, FERC staff issued a deficiency letter requiring additional information to be submitted on or before June 14, 2023. ISO-NE filed its response to the Deficiency Letter in this proceeding on June 14, 2023, re-setting the filing date and deadline for FERC action. Comments on the Deficiency Letter response are due on or before ***July 5, 2023***.

If you have any questions concerning this proceeding, please contact Rosendo Garza (860-275-0660; rgarza@daypitney.com).

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

In a lengthy compliance Order[74] issued March 1, 2023, the FERC approved in part, and rejected in part, ISO-NE, NEPOOL and the PTO AC's ("Filing Parties") *Order 2222* compliance filing[75] ("*Order 2222 Compliance Order*").[76]

In the *Order 2222 Compliance Order*, the FERC directed a number of revisions and additional compliance and informational filings to be filed within 30, 60 or 180 days of the *Order 2222 Compliance Order*:

- ***30-Day Compliance Requirements (-003)***. ISO-NE was directed to submit two filings by March 31, 2023. The first, a compliance filing to explain how current Tariff capacity market mitigation rules would apply to Distributed Energy Capacity Resources ("DECR") participating in FCA18. The second, an informational filing that provides an update on implementation timeline milestones associated with DECR participation in FCA18 and the other markets. Those compliance filings were submitted on March 31, 2023. Comments on the DECR compliance filing (ER22-983-003) were due on or before April 21, 2023; none were filed. The March 31 informational filing was not noticed for public comment. The DECR compliance filing is pending before the FERC.

- ***60-Day Compliance Filing (-004)***. In a 60-day compliance filing, the FERC ordered ISO-NE:
  - ♦ to revise the Tariff to: (1) have RERRA make the determination of whether to allow customers of small utilities to participate in ISO-NE's markets through aggregation; (2) require that each DER Aggregator maintain and submit aggregate settlement data for the DERA; (3) designate the DER Aggregator as the entity responsible for providing any required metering information to ISO-NE, and if necessary, establish protocols for sharing meter data that minimize costs and other burdens and address concerns raised with respect to privacy and cybersecurity; (4) designate the DER Aggregator as the entity

[74] Commissioners Danly and Clements each provided separate concurrences with, and Commissioner Christie provided a separate dissent from, the Compliance Order. Commissioners Danly and Christie, despite their opposing positions on the Compliance Order, both reiterated their reasons for dissenting from *Order 2222* and concern for FERC overreach and difficulty with complying with *Order 2222*. In her separate concurrence, Commissioner Clements urged the ISO on compliance to "modify its proposal to address undue barriers and make participation more workable" and "to pursue steps that genuinely open [the New England Markets] to DERs like behind-the-meter resources."

[75] As previously reported, the Filing Parties submitted on Feb. 2, 2022 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.

[76] *ISO New England Inc. and New England Power Pool Participants Comm.*, 182 FERC ¶ 61,137 (Mar. 1, 2023).

responsible for providing any required metering information to ISO-NE; and (5) add specificity regarding existing resource non-performance penalties that would apply to a DERA when a Host Utility overrides ISO-NE dispatch instructions.

- ♦ ISO-NE was also directed to: (1) identify the existing rules requiring a Market Participant that provides energy withdrawal service to be a load serving entity that is billed for energy withdrawal ("LSE Requirement") and explain whether the LSE Requirement is required of all resources seeking to provide wholesale energy withdrawal service in the energy market; (2) explain why its proposed metering and telemetry requirements were just and reasonable and did not pose an unnecessary and undue barrier to individual DERs joining a DERA; (3) establish protocols for sharing metering data that minimize costs and other burdens and address privacy and cybersecurity concerns; and (4) address how ISO-NE will resolve disputes that are within its authority and subject to its Tariff, regardless of whether there is an available dispute resolution process established by the RERRA.

The 60-day compliance changes were filed on May 9, 2023, except for the requirement related to the submission of metering data, which is the subject of an ISO-NE rehearing request. Comments on the 60-day compliance filing were due on May 30, 2023 and were filed by NEPOOL (supplementing the record) and jointly by AEU/PowerOptions/SEIA (who jointly protested what they assert is a failure to make any adjustments to facilitate participation by DERs located behind a customer meter, and failing to justify the metering and telemetry provisions as directed by the FERC). On June 14, 2023, ISO-NE answered the May 30 protest of AEU *et al*. The 60-day compliance changes are pending before the FERC.

- ***180-Day Compliance Filing***. On or before **August 28, 2023**, the FERC directed ISO-NE to file a further compliance filing explaining how the current Tariff capacity market mitigation rules would apply to DECRs participating in FCA19 and beyond.

***Requests for Rehearing and/or Clarification (-002).*** On March 31, 2023, ISO-NE and New England Public Utilities[77] requested rehearing and/or clarification of the *Order 2222 Compliance Order*. ***ISO-NE*** urged the FERC to reconsider allowing DECRs to participate in FCA18 and designating the DER Aggregator as the entity responsible for transmitting DERA metering data. ***New England Public Utilities*** urged the FERC to adopt the DER metering and settlement approach proposed by the Filing Parties (*Order 2222* Changes) and clarify (1) that PTOs and distribution utilities are not prohibited from requiring metering and settlement data from DERs to satisfy their obligations to perform wholesale settlement and retail customer billing and (2) that it would not be unjust and unreasonable for utilities to recover costs related to investment and expenses incurred to modify its metering, billing, settlement, cyber security and other systems, to accommodate submetering of Behind-the-Meter DER participating in the wholesale market as part of a DERA. On April 14, 2023, ***MA AG*** answered New England Public Utilities' request for rehearing and clarification and requested that the FERC address the recovery of costs necessary to implement Behind-the-Meter DER submetering and the allocation of costs to DER aggregators and program participants. On April 17, ***AEU*** answered ISO-NE's request for rehearing (urging the FERC to not reconsider its decision designating the DER Aggregator as the entity responsible for transmitting DERA metering data); ISO-NE answered the AEU answer on May 2, 2023. Answers to ISO-NE's March 31 request for rehearing were filed by May 5 by the ***MPUC*** (urging the FERC to consider ISO-NE's request to allow PTOs and distribution utilities to meter and transmit DERA data) and May 22 by NECPUC (who also supported ISO-NE's request regarding the entity responsible for transmitting DERA metering data to ISO-NE).

[77] "New England Public Utilities" are: National Grid USA on behalf of Massachusetts Electric Co., Nantucket Electric Co., and New England Power Co. ("NGUSA"); Avangrid Networks, Inc. on behalf of CMP and UI ("Avangrid Networks"); and Eversource on behalf of The Connecticut Light and Power Co. ("CL&P"), Public Service Co. of New Hampshire ("PSNH"), and NSTAR Electric Co. ("NSTAR").

***Order 2222 Compliance Allegheny Notice***. On May 1, 2023, the FERC issued a "Notice of Denial of Rehearing by Operation of Law and Providing for Further Consideration".[78] That Notice confirmed that the 60-day period during which a petition for review of the *Order 2222 Compliance Order* can be filed with an appropriate federal court was triggered when the FERC did not act on the requests for rehearing and/or clarification of the *Order 2222 Compliance Order*. The Notice also indicated that the FERC would address, as is its right, the rehearing request in a future order, and may modify or set aside its order, in whole or in part, "in such manner as it shall deem proper."

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).

## IV. OATT Amendments / TOAs / Coordination Agreements

- ***Order 676-J* Compliance Filings Part II (ER23-1771; ER23-1774; ER23-1782; ER23-1785)**

On May 1, 2023, in accordance with Order 676-J,[79] the following second *Order 676-J* compliance filings to incorporate, or seek waiver of, the remainder of the WEQ Version 003.3 Standards, were submitted:

- Order 676-J Compliance Filing Part II (ISO-NE and NEPOOL-Tariff Schedule 24) (ER23-1771);
- Order 676-J Compliance Filing Part II (CSC-Schedule 18-Attachment Z) (ER23-1774);
- Order 676-J Compliance Filing Part II (Versant-MPD OATT) (ER23-1782); and
- Order 676-J Compliance Filing Part II (TOs'-Schedules 20A-Common and 21-Common) (ER23-1785).

Comments on the compliance filings were due on or before ***May 22, 2023***; none were filed. These compliance filings are pending before the FERC. If there are questions on any of these filings, please contact Eric Runge (617-345-4735; ekrunge@daypitney.com).

- **CNRIS Time-Out Rules Removal (ER23-1581)**

On June 5, 2023, the FERC accepted revisions to the OATT to remove the Capacity Network Resource Interconnection Service ("CNRIS") time-out rules from Section 4.4 of Schedules 22 and 25 and from Section 1.5.5 of Schedule 23 for Queue Positions that have not timed-out (in whole or part) by FCA17.[80] As previously reported, the time-out rules will not apply to Interconnection Requests for CNRIS deemed valid after May 31, 2020 (because these resources have not yet timed out). Resources that did not acquire a CSO in FCA17 (or in earlier FCAs) timed-out and will need to submit a new Interconnection Request to re-establish CNRIS, but, going forward for FCAs 18 and after, Interconnection Requests for CNRIS will no longer time-out if they do not acquire a CSO in the FCA. The CNRIS changes were accepted effective as of June 6, 2023. Unless the June 5 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).

[78] *ISO New England Inc. and New England Power Pool Participants Comm.*, 183 FERC ¶ 62,050 (May 1, 2023) ("*Order 2222 Compliance Allegheny Notice*").

[79] *Standards for Business Practices and Communication Protocols for Public Utilities*, Order No. 676-J, 175 FERC ¶ 61,139 (May 20, 2021) ("*Order 676-J*").

[80] *ISO New England Inc.*, 183 FERC ¶ 61,160 (June 5, 2023) ("*CNRIS Order*").

- ***Phase I/II HVDC-TF Order 881* Compliance Filing: HVDC TOA (ER22-2467) and Sched. 20-A Common Attachment M (ER22-2468)**

On June 15, 2023, the FERC conditionally accepted[81] the two-part Phase I/II HVDC-TF *Order 881* (Managing Transmission Line Ratings) compliance filing filed by: ISO-NE, the Asset Owners,[82] and the Schedule 20A Service Providers.[83] As previously reported, the compliance filing proposed changes to the ***HVDC TOA*** (ER22-2467) to address the *Order 881* requirements related to transmission ratings and rating procedures and to ***Schedule 20A-Common*** (ER22-2468) to ensure compliance with *Order 881* with respect to transmission rating transparency and transmission service (together, the "Phase I/II HVDC-TF *Order 881* Compliance Filing"). The Phase I/II HVDC-TF *Order 881* Compliance Filing was accepted effective as of *July 12, 2025*, subject to a compliance filing, due on or before ***November 12, 2024***, that explains the timelines for calculating or submitting ambient-adjusted ratings ("AARs"). Challenges, if any, to the *Phase I/II HVDC-TF Order 881 Compliance Order* are due on or before ***July 17, 2023***. If you have any questions concerning this matter, please contact Eric Runge (617-345-4735; ekrunge@daypitney.com).

- ***Order 881* Compliance Filing: New England (ER22-2357)**

Also on June 15, 2023, the FERC conditionally accepted the proposed revisions to the OATT in response to the requirements of *Order 881*[84] ("OATT *Order 881* Compliance Changes"). As previously reported, the Filing Parties[85] proposed the addition of a new Attachment Q to the OATT, and to revise OATT Schedules 18 (MTF; MTF Service) and 21 (Local Service - Common). The OATT *Order 881* Compliance Changes were accepted effective as of *July 12, 2025*, subject to two compliance filings – on due on or before ***August 14, 2023*** (60-day compliance filing); the other, ***November 12, 2024*** (the AAR explanation filing). The 60-day compliance filing must (i) revise the Tariff to specify that transmission service at ISO-NE's seams use AARs as the basis for evaluation for near-term transmission service requests (or explain why ISO-NE should not be required to do so); (ii) revise the Tariff to include the examples listed in the FERC's *pro forma* Attachment M (or explain why ISO-NE should not be required to do so); (iii) remove proposed revisions to Schedule 18 excepting the Cross-Sound Cable from the requirements of *Order 881* (or explain why such changes should not be required); and (iv) revise the Tariff to require ISO-NE in a database that it maintains (rather than dividing responsibility between ISO-NE and transmission owners) to host all transmission line ratings, ratings methodologies, and exceptions or alternate ratings (or explain why they should not be required to do so). The AAR explanation filing must explain the timelines for calculating or submitting AARs. Challenges, if any, to the *OATT Order 881 Compliance Order* are due on or before ***July 17, 2023***. If you have any questions concerning this matter, please contact Eric Runge (617-345-4735; ekrunge@daypitney.com).

## V. Financial Assurance/Billing Policy Amendments

**No Activities to Report**

[81] *ISO New England Inc.*, 183 FERC ¶ 61,179 (June 15, 2023) ("*Phase I/II HVDC-TF Order 881 Compliance Order*").

[82] The "Asset Owners" are, collectively, New England Hydro-Transmission Electric Company, New England Hydro-Transmission Corporation, New England Electric Transmission Corporation, and Vermont Electric Transmission Company ("VETCO").

[83] The "Schedule 20A Service Providers" are: Central Maine Power Co. ("CMP"); The Conn. Light and Power Co. and Public Service Co. of NH ("Eversource"); Green Mountain Power Corp. ("GMP"); New England Power Co. ("NEP"); NSTAR Electric Co.; The United Illuminating Co. ("UI"); Vermont Electric Cooperative, Inc. ("VEC"); and Versant Power.

[84] *Managing Transmission Line Ratings*, Order No. 881, 177 FERC ¶ 61,179 (Dec. 16, 2021); *Managing Transmission Line Ratings*, Order No. 881-A, 179 FERC ¶ 61,125 (May 19, 2022) (together, "*Order 881*").

[85] As previously reported, the "Filing Parties" were ISO-NE, NEPOOL, the PTO AC, and CSC.

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

- **Schedule 21-VP: Real Power Loss Factor Charge (ER23-2142)**

On June 15, 2023, Versant Power filed a revised Schedule 21-VP to reflect a change in the Real Power Loss factor for Local Point-to-Point Service from 1.99 % to 1.764 %, as reflected in a recently-completed study of real power losses on its transmission and distribution systems included with this filing. The study found that, for the study period, real power losses on Versant Power's BHD transmission system were 1.764%, and Versant proposes to change that factor set forth in Section 11.2 accordingly. Versant requested that the revised Schedule 21-VP reflecting this change be accepted for filing effective *September 1, 2023*. Comments on the revised Schedule 21-VP are due on or before ***July 6, 2023***. If you have any questions concerning this matter, please contact Pat Gerity (pmgerity@daypitney.com; 860-275-0533).

- **Schedule 21-VP: Versant/Black Bear LSAs (ER23-2035)**

On June 1, 2023, Versant Power filed seven fully executed, non-conforming Local Service Agreements ("LSAs") by and among Versant Power, ISO-NE and Black Bear Hydro Partners, LLC or Black Bear SO, LLC (together with Black Bear Hydro Partners, "Black Bear"). The service agreements are based on the Form of Local Service Agreement contained in Schedule 21-Common under the ISO-NE OATT, but are being filed because they are non-conforming insofar as they reflect different rates from those set forth in Schedule 21-VP. Versant requested that the LSAs be accepted for filing effective January 1, 2021 (the day after the prior LSAs expired, though filed within 40 days of full execution). Comments on the LSAs were due on or before June 22; 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).

- **Schedule 21-NEP: NEP/Dichotomy Collins Hydro SGIA (ER23-888)**

On June 12, 2023, the FERC accepted a non-conforming Small Generation Interconnection Agreement ("SGIA") between NEP and Dichotomy Collins Hydro LLC ("Dichotomy") to cover the continued interconnection of Dichotomy's 1.3 MW hydroelectric (run-of-river) generating facility in Wilbraham, Massachusetts.[86] The SGIA was accepted effective as of *December 19, 2022*, as requested. Unless the June 12 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).

## VII. NEPOOL Agreement/Participants Agreement Amendments

*No Activities to Report*

## VIII. Regional Reports

- **RTO/ISO Common Performance Metrics (AD19-16)**

On April 24, 2023, ISO-NE submitted its FERC Form-922 (RTO/ISO Common Performance Metrics) for the 2019-2022 period. Form 922 helps the FERC track the performance of the RTO/ISOs via information responses related to 29 metrics organized into 3 groups: (1) Administrative and Descriptive Metrics; (2) Energy Market Metrics; and, where applicable, (3) Capacity Market Metrics. ISO-NE's submittal was not noticed for public comment and no comments on the report were submitted. Reporting on this matter is now concluded.

[86] *New England Power Co.*, Docket No. ER23-888-001 (June 12, 2023) (unpublished letter order).

- ***Opinion* 531 Refund Reports (EL11-66)**

  The following refund reports filed in response to *Opinions No. 531-A*[87] *and 531-B*[88] remain pending:

  - The TOs' November 2, 2015 regional refund report;
  - The TOs'[89] local refund reports; and
  - Fitchburg Gas & Electric's ("FG&E") June 29, 2015 local refund report.

  If there are questions on these reports, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **Capital Projects Report - 2023 Q1 (ER23-1875)**

  On May 12, 2023, ISO-NE filed its Capital Projects Report and Unamortized Cost Schedule covering the first quarter ("Q1") of calendar year 2023 (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 included the following new projects: (i) Web to Cloud Migration ($2.76 million); (ii) Inventoried Energy Program ($877,900); (iii) 2023 Issue Resolution Project ($875,200); (iv) Process Information Modeler ($855,200); (v) Replacement of Regulation Clearing Price Monitor ($545,800); (vi) Settlement Technology Improvements Project ($542,500); (vii) Integrated Market Simulator Phase III ($258,600); and (viii) Financial Assurance Management Infrastructure Conversion ($258,500). ISO-NE reported significant change for (i) nGEM Software Development Phase III (a decrease of $500,000 for a total project cost of $1 million); (2) Forecast Enhancements (a decrease of $130,000 for a total project cost of $1.57 million); and (3) Forward Capacity Tracking System Infrastructure Conversion Part III (a decrease of $100,000 for a total project cost of $3 million). Comments on this filing are were due on or before June 6, 2023. NEPOOL intervened and filed comments supporting the 2023 Q1 Report. Doc-less interventions were filed by Eversource and National Grid. The FERC accepted the Q1 Report on June 23, 2023,[90] effective April 1, 2023, as requested. Unless the June 23 order is challenged, this proceeding will be concluded. If you have any questions concerning this matter, please contact Paul Belval (860-275-0381; pnbelval@daypitney.com).

- **Interconnection Study Metrics Processing Time Exceedance Report Q1 2023 (ER19-1951)**

  On May 15, 2023, ISO-NE filed, as required,[91] public and confidential[92] versions of its Interconnection Study Metrics Processing Time Exceedance Report (the "Exceedance Report") for the First Quarter of 2023 ("2023 Q1"). ISO-NE reported that four of the six of the 2023 Q1 ***Interconnection Feasibility Study ("IFS") reports*** delivered to Interconnection Customers were delivered later than the best efforts completion timeline.[93] In addition, 12 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 130 days (roughly 60 days sooner than in 2022 Q4). Each of the three ***System Impact Study ("SIS")***

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

[88] *Martha Coakley, Mass. Att'y Gen.*, Opinion No. 531-B, 150 FERC ¶ 61,165 (Mar. 3, 2015) ("*Opinion 531-B*").

[89] TOs filing local refund reports include: CMP, National Grid, UI, Versant Power (f/k/a Emera Maine), NHT, VTransco, Eversource, and NSTAR.

[90] *ISO New England Inc.*, Docket No. ER23-1875-000 (June 23, 2023) (unpublished letter order).

[91] 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.

[92] 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.

[93] 90 days from the Interconnection Customer's execution of the study agreement.

***reports*** delivered to Interconnection Customers were delivered later than the best efforts completion timeline of 270 days. In addition, 19 SIS Reports that are not yet completed have exceeded the 270-day completion expectation. 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 784 days (an increase of 340 days from 2022 Q4). In Q1 2023, no Facility Study reports were delivered to an Interconnection Customer and one Facility Study in process has exceeded the 90-day completion expectations for a 20% level of cost estimate. Section 4 of the Report identified steps ISO-NE has identified to remedy issues and prevent future delays, including modifications to the standard scope of Feasibility Studies, mitigating the impact of backlogs, clustering, moving to earlier in the process certain Interconnection Customer data reviews, changes to cost estimate development, and efforts to secure new resources to work on interconnection-related tasks. This report was not noticed for public comment.

- **IMM 2022 Annual Markets Report (ZZ23-4)**

On June 5, 2023, the IMM filed its 2022 Annual Markets Report, which covers the 2022 calendar year period.[94] The report addresses the development, operation, and performance of the New England Markets and presents an assessment of each market based on market data, performance criteria, and independent studies, providing the information required under Section 17.2.4 of Appendix A to Market Rule 1. On the basis of its review of market outcomes and related information, the IMM concluded, as it has for many years in a row, that the New England Market operated competitively in 2022. The IMM reported that Day-Ahead and Real-Time Energy prices reflected changes in underlying primary fuel prices, electricity demand and the region's supply mix. The region saw record high energy prices in 2022 -- the annual average day-ahead price of $86/MWh was almost 90% higher than 2021, and was the highest since the inception of Standard Market Design in 2003. Energy prices continued to be driven by the market price of natural gas, which at $9.32/MMBtu was more than double 2021's price, and was the highest average price since 2008.

While there were no major reliability issues in 2022, New England experienced its second capacity scarcity condition in five years (due to lower imported energy and generator outages at the tail end of Winter Storm Elliott).

and there were no periods in the Energy Market when a shortage of energy and reserves resulted in very high energy prices or reserve scarcity pricing. The IMM reported that gas and energy prices rebounded from the record low levels seen in 2020. Electricity demand increased year-over-year due to colder weather and increased economic activity. The IMM forecasts that weather-normalized demand will begin to increase from 2022 because of the diminishing impacts of energy efficiency and solar generation and the growth in electrification of transportation and heating. Wholesale costs were at their highest level since 2018 and considerably higher than 2020, driven by higher energy costs. For the eighth consecutive year, the forward capacity auction procured surplus capacity. Other highlights included:

- 2022 total wholesale costs ($16.7 billion) were $5.5 billion higher than 2021, driven by higher energy costs; with the exception of capacity costs (down $0.22 billion), each component of the wholesale cost of electricity again increased in 2022.
- 2022 Energy costs, 70% of wholesale costs (up from 55% in 2012), totaled $11.7 billion, up 92% from 2021 (Day-Ahead LMPs averaged $85.56/MWh; Real-Time LMPs, $115.23/MW).
- Capacity costs ($2 billion) decreased 10%. When compared against 2021 capacity costs, lower auction clearing prices more than offset supplemental payments under the Mystic COSA ($166 million in 2022) that began in summer 2022.
- The trend of decreasing load may have reached an inflection point. In 2022, Energy Efficiency ("EE") reduced weather-normalized annual average load by an estimated 2,538 MW (by 16%), which was a

[94] Please note that Annual Markets Reports filings are not noticed for public comment by the FERC.

2% decrease (40 MW) compared to 2021. BTM solar generation reduced weather-normalized load by 426 MW (by approx. 3%) which was a 15% increase (57 MW) compared to 2021, and is expected to continue this upward trend in future years.

- In 2022, net interchange (or net imports) averaged 1,914 MWs per hour, an 11% (or 231 MW) decrease compared to 2021, and the lowest amount over the past five years. Net imports met just 14% of New England's electric demand, compared to up to 19% during the 2018-2020 period.

In light of its review, the IMM, on pp. 13-17 of the Report, made a number of recommendations for Market Rule changes and identified areas for additional analysis in 2023. These recommendations will be discussed in more detail at a future Participants Committee meeting.

- **IMM Quarterly Markets Reports: Winter 2023 (ZZ23-4)**

On May 30, 2023, the IMM filed with the FERC its Winter 2023 report of "market data regularly collected by [the IMM] in the course of carrying out its functions under … Appendix A and analysis of such market data," as required pursuant to Section 12.2.2 of Appendix A to Market Rule 1. These filings are not noticed for public comment by the FERC. The Winter 2023 Report was discussed with the Markets Committee at the June 6, 2023 Markets Committee meeting.

- **ISO-NE FERC Form 3Q (2023/Q1) (not docketed)**

On May 26, 2023, ISO-NE submitted its 2023/Q1 FERC Form 3Q (quarterly financial report of electric utilities, licensees, and natural gas companies). FERC Form 3-Q is a quarterly regulatory requirement which supplements the annual FERC Form 1 financial reporting requirement. These filings are not noticed for comment.

- **ISO-NE 2022 FERC Form 714 (not docketed)**

On June 14, 2023, ISO-NE submitted its Annual Electric Balancing Authority Area and Planning Area Report for calendar year 2022. Through its Form 714 filing, ISO-NE reports, among other things, generation in the New England Control Area, actual and scheduled inter-balancing authority area power transfers, and net energy for load, summer-winter generation peaks and system lambda. The FERC uses the data to obtain a broad picture of interconnected balancing authority area operations including comprehensive information of balancing authority area generation, actual and scheduled inter-balancing authority area power transfers, and load; and to prepare status reports on the electric utility industry including review of inter-balancing authority area bulk power trade information. Planning area data will be used to monitor forecasted demands by electric utility entities with fundamental demand responsibility, and to develop hourly demand characteristics. These filings are not noticed for public comment.

## IX. Membership Filings

- **June 2023 Membership Filing (ER23-2025)**

On May 31, 2023, NEPOOL requested that the FERC accept: (i) the memberships of Con Edison Transmission Inc. [Related Person to Consolidated Edison Company of New York, Inc. (Supplier Sector)]; Generate NB Fuel Cells, LLC (Related Person to Generate Colchester Fuel Cells, LLC (AR Sector, RG Sub-Sector); Jonathan Lamson (Governance Only End User); and Tomorrow Energy Corp (Supplier Sector); and (ii) termination of the Participant status of: Northern States Power Company (Supplier Sector); and Granite Reliable Power, LLC [Related Person to NextEra Energy Resources (Generation Sector)]. Comments on the June membership filing were due on or before June 21, 2023; none were filed. The June membership filing is pending before the FERC.

- **May 2023 Membership Filing (ER23-1768)**

On April 28, 2023, NEPOOL requested that the FERC accept: (i) the memberships of Carbon Solutions Group (GIS-Only Participant); PPL TransLink Inc. [Related Person to RI Energy (Transmission Sector)]; and

Second Foundation US Trading, LLC (Supplier Sector); (ii) the termination of the Participant status of EnPowered USA LLC; Invenia Technical Computing Corp.; Uniper Global Commodities NA LLC; and WATTIFI INC.; and (iii) the name changes of RWE Clean Energy Wholesale Services, Inc. (f/k/a Consolidated Edison Energy, Inc.); RWE Clean Energy Asset Holdings, Inc. (f/k/a Consolidated Edison Development, Inc.); RWE Clean Energy Solutions, Inc. (f/k/a Consolidated Edison Solutions, Inc.); and SYSO Inc. (f/k/a SYSO LLC). Comments on the May membership filing were due on or before May 19, 2023; none were filed. The May membership filing is pending before the FERC.

- **Involuntary Termination of Membership of NTE Connecticut, LLC (ER23-1689)**

On June 13, 2023, the FERC accepted the termination of (i) the NEPOOL Participant status of NTE Connecticut, LLC ("NTE CT") and (ii) the Market Participant Service Agreement between ISO-NE and NTE CT, each as a result of the failure by NTE CT to pay when and as due the amounts invoiced to it under the Billing Policy.[95] The involuntary termination of NTE CT's NEPOOL and Market Participant status become effective as of June 22, 2023, as requested.

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

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

- **NERC Report on Evaluation of Physical Reliability Standard (CIP-014) (RD23-2)**

As directed by the FERC's December 15, 2022 order,[96] NERC, on April 14, 2023, provided an updated evaluation of CIP-014 (its "Physical Security Reliability Standard"). NERC concluded that CIP-014 applicability criteria is meeting its objective to "appropriately focus[] limited industry resources on risks to the reliable operation of the BPS associated with physical security incidents at the most critical facilities" and the objective is broad enough to capture the subset of applicable facilities that TOs should identify as "critical" pursuant to the risks assessment mandated by Requirement R1. NERC did not find evidence that an expansion of the applicability criteria would identify additional substations that would qualify as "critical" substations under the CIP-014 Requirement R1 risk assessment, declined to recommend expansion of the CIP-014 applicability criteria, but committed to continued evaluation of the adequacy of the applicability criteria in meeting the objective of CIP-014. Comments on NERC's report were due on or before May 15, 2023 and were filed by, among others: ISO-NE, Trade Associations, and WIRES.

***Notice of Joint Technical Conference***. On May 30, 2023, the FERC issued a notice that FERC and NERC staff will convene an in-person technical conference on ***August 10, 2023*** at NERC's headquarters in Atlanta, GA. The purpose of this conference is to discuss physical security of the Bulk-Power System ("BPS"), including the adequacy of existing physical security controls, challenges, and solutions. The conference will be open for the public to attend, and there is no fee for attendance. Supplemental notice(s) will be issued prior to the technical conference with further details regarding the agenda and organization. Information on this technical conference will also be posted on the Calendar of Events on the FERC's website (www.ferc.gov) prior to the event.

- **Revised Reliability Standards: EOP-011-3 and EOP-012-1 (RD23-1)**

On February 16, 2023, the FERC approved NERC's changes to Reliability Standards EOP-011-3 (Emergency Operations) and EOP-012-1 (Extreme Cold Weather Preparedness and Operations) (the "*Cold Weather Standards*").[97] As previously reported, the changes to the *Cold Weather Standards*, which address certain key

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[95] *ISO New England Inc. and New England Power Pool*, Docket No ER23-1689-000 (June 13, 2023) (unpublished letter order).

[96] *N. Amer. Elec. Rel. Corp.*, 181 FERC ¶ 61,230 (Dec. 15, 2022).

[97] *N. Amer. Elec. Rel. Corp.*, 182 FERC ¶ 61,094 (Feb. 16, 2023), *reh'g denied by operation of law* ("*Cold Weather Standards Order*").

recommendations from the *Feb 2021 Cold Weather Outages Joint Report,*[98] establish a more comprehensive framework of requirements addressing generator preparedness for cold weather operations. The *Cold Weather Standards* also address the use of manual load shed during Emergency conditions, requiring Transmission Operators to take steps to minimize the use of manual load shed that could further exacerbate Emergency conditions and threaten system reliability.

In accepting the *Cold Weather Standards*, the FERC directed a number of changes and follow-up items. For example, the FERC directed NERC to modify EOP-012-1:

- to ensure that it captures all bulk electric system generation resources needed for reliable operation and excludes only those generation resources not relied upon during freezing conditions by clarifying "the language of the applicability section to align with NERC's explanation of the entities that should already be preparing to comply with the Standard, and should not need additional implementation time";[99]
- Requirements R1 and R7, to address concerns related to the ambiguity of generator-defined declarations of technical, commercial, or operational constraints that exempt a generator owner from implementing the appropriate freeze protection measures by including "objective criteria on permissible technical, commercial, and operational constraints, to identify the appropriate entity that would receive the generator owners' constraint declarations under [] Requirements R1 and R7, to describe how that entity would confirm that the generator owners comply with the objective criteria, and to describe the consequences of providing a constraint declaration," ensuring that "declarations cannot be used to opt out of mandatory compliance with the Standard or obligations set forth in a corrective action plan";[100]
- to clarify R1 to ensure that generators that are technically incapable of operating for 12 continuous hours (e.g., solar facilities during winter months with less than 12 hours of sunlight) are not excluded from complying with the Standard;[101]
- to increase the length of R2's continuous operations requirement (one hour being too short);[102]
- to include in R7 deadlines for implementation completion of corrective action plans, as recommended in the *November 2021 Report*;[103]
- to shorten the implementation plan for existing generating units, staggering the implementation for existing unit(s) in a generator owner's fleet;[104] and
- to work with FERC staff to submit a plan no later than February 16, 2024 explaining how it will collect and assess data prior to and after the implementation of the following elements of EOP-012-1: (1) generator owner declared constraints and explanations thereof; and (2) the adequacy of the Extreme Cold Weather Temperature definition.[105]

The FERC deferred its decision on whether to approve or modify NERC's proposed implementation date for EOP-011-3 (and proposed retirement of EOP-011-2) until NERC submits its revised applicability section for EOP-012. The FERC stated that "allowing EOP-011-2 requirements to remain mandatory and enforceable until such

[98] FERC, NERC, Regional Entity Staff Report: The February 2021 Cold Weather Outages in Texas and the South Central United States (Nov. 2021), https://www.ferc.gov/media/february-2021-cold-weather-outages-texasand-south-central-united-states-ferc-nerc-and ("*Feb 2021 Cold Weather Outages Joint Report*").

[99] *Id.* at P 4.

[100] *Id.* at P 6.

[101] *Id.* at P 7.

[102] *Id.* at P 8.

[103] *Id.* at P 9.

[104] *Id.* at P 10.

[105] *Id.* at P 11.

time as the revised applicability is effective for EOP-012 will ensure all bulk electric system generating units are required to maintain cold weather preparedness plans."[106]

***Request for Rehearing Denied by Operation of Law***. On March 20, 2023, EPSA, NEPGA and the PJM Power Providers Group ("P3") filed a joint request for rehearing. The petitioners allege that, by approving the *Cold Weather Standards* without addressing how generators can recover the costs associated with complying with EOP-012-1, the FERC "breached its duty to ensure that proposed reliability standards are 'just' and 'reasonable' … and failed to engage in reasoned decision-making." On April 20, 2023, the FERC issued a "Notice of Denial of Rehearing by Operation of Law and Providing for Further Consideration".[107] That Notice confirmed that the 60-day period during which a petition for review of the *Cold Weather Standards Order* can be filed with an appropriate federal court was triggered when the FERC did not act on the requests for rehearing and/or clarification of the *Cold Weather Standards Order*. The Notice also indicated that the FERC would address, as is its right, the rehearing request in a future order, and may modify or set aside its order, in whole or in part, "in such manner as it shall deem proper."

- **Inverter-Based Resource Registration (RD22-4)**

On November 17, 2022, to address FERC concerns regarding the reliability impacts of inverter-based resources ("IBRs")[108] on the Bulk-Power System ("BPS"), the FERC issued an order[109] directing NERC to submit a work plan on or before February 15, 2023 describing how it plans to identify and register owners and operators of IBRs that are connected to the BPS, but that are not currently required to register with NERC under the bulk electric system ("BES") definition ("unregistered IBRs"), and that "have an aggregate, material impact on the reliable operation of the [BPS]". FERC stated that the work plan should explain how NERC will modify its processes to address unregistered IBRs within 12 months of approval of the work plan. The work plan must also include implementation milestones ensuring that owners and operators meeting the new registration criteria are identified within 24 months of the approval date of the work plan, and that they are registered and required to comply with applicable Reliability Standards within 36 months of the approval date of the work plan. The FERC will notice the work plan for public comment. Once approved, NERC must file progress reports every 90 days thereafter detailing the progress towards identifying and registering owners and operators of unregistered IBRs.

On February 16, 2023, NERC filed its IBR Work Plan, which outlined NERC's proposed approach to identify and register owners and operators of IBRs within 36 months of FERC approval of the Work Plan. Comments on the IBR Work Plan were due on or before March 20, 2023. Comments were filed by ACPA, APPA, NRECA, Arizona Public Service Co., and Pine Gate Renewables. The FERC accepted the Work Plan, and its associated implementation timeline (as amended), in an order issued May 18, 2023.[110]

- **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. NERC submitted its most recent informational filing regarding one active CIP standard

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106 *Id.* at P 5.

107 *N. Am. Elec. Rel. Corp.*, 183 FERC ¶ 62,034 (Apr. 20, 2023) ("*Cold Weather Standards Allegheny Notice*").

108 IBRs include all generating facilities that connect to the BPS using power electronic devices that change direct current ("DC") power produced by a resource to alternating current ("AC") power compatible with distribution and transmission systems. IBRs connected to the distribution system are not addressed in the *IBR Registration Order*.

109 *Registration of Inverter-based Resources*, 181 FERC 61,124 (Nov. 17, 2022) ("*IBR Registration Order*").

110 *N. Am. Elec. Rel. Corp.*, 183 FERC ¶ 61,116 (May 18, 2023) ("*IBR Work Plan Order*").

development project (Project 2016-02 – Modifications to CIP Standards ("Project 2016-02"))[111] on June 15, 2023. Project 2016-02 focuses on modifications to the CIP Reliability Standards to incorporate applicable protections for virtualized environments. In the June 15 report, NERC reported that, because ballot body approval was again not achieved for two related Reliability Standards, the schedule for Project 2016-02 has been further revised and now calls for final balloting of revised standards in October 2023, NERC Board of Trustees Adoption in December 2023 and filing of the revised standards with the FERC in January 2024.

- **NOPR: IBR Reliability Standards (RM22-12)**

On November 17, 2022, the FERC issued a notice[112] proposing to direct NERC (i) to develop new or modified Reliability Standards that address the following reliability gaps related to inverter-based resources ("IBR"): data sharing; model validation; planning and operational studies; and performance requirements; and (ii) to submit a 90-day compliance filing that includes a detailed, comprehensive standards development and implementation plan to ensure all new or modified Reliability Standards necessary to address the IBR-related reliability gaps identified in the final rule are submitted to the FERC within 36 months of FERC approval of the plan. Initial comments were due February 6, 2023[113] and were filed by nearly 20 parties, including, among others, ISO-NE, the IRC, SPP, CAISO, Advanced Energy United, ACPA/SEIA, EEI, and EPRI. Reply comments were due on March 6, 2023 and were filed by ISO-NE, APPA, and CA DWP. This matter is pending before the FERC.

- **Order 896: Transmission System Planning Performance Requirements for Extreme Weather (RM22-10)**

On June 15, 2023, the FERC issued a final rule[114] directing NERC to develop a new or modified Reliability Standard no later than ***December 15, 2024***[115] to address reliability concerns pertaining to transmission system planning for extreme heat and cold weather events that impact the Reliable Operation of the BPS. Specifically, FERC directed NERC to develop a new or modified Reliability Standard that requires the following: (i) development of benchmark planning cases based on prior extreme heat and cold weather events and/or future meteorological projections; (ii) planning for extreme heat and cold events using steady state and transient stability analyses that cover a range of extreme weather scenarios, including the expected resource mix's availability during extreme weather conditions and the broad area impacts of extreme weather; and (iii) corrective action plans that include mitigation activities for specified instances where performance requirements during extreme heat and cold events are not met. *Order 896* will become effective September 21, 2023.

- ***Order 887*: Internal Network Security Monitoring for High and Medium Impact BES Cyber Systems (RM22-3)**

One year after the FERC issued its *Internal Network Security Monitoring NOPR,*[116] the FERC issued *Order 887*.[117] *Order 887* directs NERC to develop and submit, on or before ***July 10, 2024***[118] for FERC approval, new or

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[111] 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.

[112] *Reliability Standards to Address Inverter-Based Resources*, 181 FERC ¶ 61,125 (Nov. 17, 2022) ("*IBR NOPR*").

[113] The *IBR NOPR* was published in the *Fed. Reg.* on Dec. 6, 2022 (Vol. 87, No. 233) pp. 74,541-74,563.

[114] *Transmission System Planning Performance Requirements for Extreme Weather*, Order No. 896, 183 FERC ¶ 61,191 (June 15, 2023) ("*Order 896*").

[115] *Order 896* was published in the *Fed. Reg.* on June 23, 2023 (Vol. 88, No. 120) pp. 41,262-41,287.

[116] *Internal Network Security Monitoring for High and Medium Impact Bulk Electric System Cyber Systems*, 178 FERC ¶ 61,038 (Jan. 20, 2022) ("*Internal Network Security Monitoring NOPR*").

[117] *Internal Network Security Monitoring for High and Medium Impact Bulk Electric System Cyber Systems*, Order No. 887, 182 FERC ¶ 61,021 (Jan. 19, 2023) ("*Order 887*").

[118] *Order 887* was published in the *Fed. Reg.* on Feb. 9, 2023 (Vol. 88, No. 27) pp. 8,354-8,368.

modified Reliability Standards that require internal network security monitoring ("INSM")[119] within a trusted Critical Infrastructure Protection ("CIP") networked environment for all high impact bulk electric system ("BES") Cyber Systems with and without external routable connectivity and medium impact BES Cyber Systems with external routable connectivity. In addition, the FERC directed NERC to perform a study of all low impact BES Cyber Systems with and without external routable connectivity and medium impact BES Cyber Systems without external routable connectivity, and to submit its study report to the FERC on or before January 19, 2024. *Order 887* will became effective April 10, 2023.

- **Report of Comparisons of 2022 Budgeted to Actual Costs for NERC and the Regional Entities (RR23-2)**

On May 31, 2023, NERC filed its annual comparisons of actual to budgeted costs for 2022 for NERC and the six Regional Entities operating in 2022,[120] including NPCC. The Report includes comparisons of actual funding received and costs incurred, with explanations of significant actual cost-to-budget variances, audited financial statements, and tables showing metrics concerning NERC and Regional Entity administrative costs in their 2020 budgets and actual results. Comments on this filing were due on or before June 21, 2023; none were filed. This matter is pending before the FERC.

- **2023 NERC/NPCC Business Plans and Budgets (RR22-4)**

As previously reported, the FERC accepted, subject to a 60-day compliance filing, NERC's proposed Business Plan and Budget, as well as the Business Plans and Budgets for the Regional Entities, including NPCC, for 2023.[121] In accepting NERC's Business Plan/Budget Filing, the FERC agreed with EEI that additional transparency into certain Electricity Information Sharing and Analysis Center ("E-ISAC") costs would better allow the FERC to fulfill its oversight duties, and thus directed NERC to submit a compliance filing providing additional information related to E-ISAC costs, the E-ISAC vendor affiliate program, and the E-ISAC and natural gas stakeholder partnership. That compliance filing was due, and was filed, on January 3, 2023. Comments on the January 3 compliance filing were due on or before January 24, 2023; none were filed. The 60-day compliance filing remains pending before the FERC.

## XI. Misc. - of Regional Interest

- **203 Application: Three Corners Solar/Three Corners Prime Tenant (EC23-90)**

On May 26, 2023, Three Corners Solar, LLC ("Lessor") and Three Corners Prime Tenant, LLC ("Lessee") requested FERC authorization for the disposition and consolidation of jurisdictional facilities and the lease of an existing generation facility that will result from the commencement of a master lease agreement between Lessor and Lessee ("Lease") pursuant to which Lessee will lease, operate, and control an approximately 112 MWac solar photovoltaic ("PV") electric generation facility owned by Lessor in Kennebec County, Maine (the "Transaction"). Comments on this 203 application were due on or before June 16, 2023; 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).

- **203 Application: Energy Harbor / Vistra (EC23-74)**

On April 17, 2023, Energy Harbor Corp., on behalf of Energy Harbor, LLC and Energy Harbor Nuclear Generation LLC (collectively, the "Energy Harbor Public Utilities"), and Vistra Corp. ("Vistra"), requested FERC authorization for a proposed transaction pursuant to which the Energy Harbor Public Utilities and certain Vistra

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119 INSM is a subset of network security monitoring that is applied within a "trust zone," such as an Electronic Security Perimeter ("ESP"), and is designed to address situations where vendors or individuals with authorized access are considered secure and trustworthy but could still introduce a cybersecurity risk to a high or medium impact BES Cyber System.

120 Midwest Rel. Org. ("MRO"), Northeast Power Coordinating Council, Inc. ("NPCC"), ReliabilityFirst Corp. ("ReliabilityFirst"), SERC Rel. Corp. ("SERC"), Texas Rel. Entity, Inc. ("Texas RE"), and Western Elec. Coordinating Council ("WECC").

121 *N. Am. Elec. Rel. Corp.*, 181 FERC ¶ 61,095 (Nov. 2, 2022) ("*2023 Budgets Order*").

subsidiaries that are public utilities will become indirectly owned by a newly-formed subsidiary holding company of Vistra – Vistra Vision. Comments on this 203 application were due on or before June 23, 2023. Protests and comments were filed by Northeast Ohio Public Energy Council ("NOPEC"), Office of the Ohio Consumers' Counsel, and Monitoring Analytics, LLC (the PJM Independent Market Monitor). Public Citizen filed a doc-less intervention. Another round of pleadings can be expected to be filed. If you have any questions concerning this matter, please contact Pat Gerity (pmgerity@daypitney.com; 860-275-0533).

- **203 Application: Weaver Wind / Greenbacker (EC23-68)**

On May 12, 2023, the FERC issued an order authorizing the proposed transaction pursuant to which Jade Energy LLC, a wholly-owned subsidiary of Greenbacker Renewable Energy Company, will acquire all the membership interests in Weaver Wind, LLC and Weaver Wind Maine Master Tenant, LLC ("Weaver Wind") (upon consummation, making Weaver Wind a Related Person to Howard Wind and Hecate Energy).[122] Pursuant to the May 12 order, Jade Energy 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).

- **203 Application: Talen Energy Supply Reorganization (EC23-42)**

On March 30, 2023, the FERC issued an order authorizing a change in control transaction whereby 10% or more of the voting securities of a new parent of Talen Energy Supply, LLC ("TES") and its affiliated debtors will be distributed to some or all of Indicated Noteholders pursuant to a joint plan of reorganization of the TES Debtors subject to confirmation by the Bankruptcy Court.[123] In a May 22, 2023 notice, TES notified the FERC that the authorized transaction was consummated on May 17, 2023. Reporting on this matter is now concluded. If you have any questions concerning this matter, please contact Pat Gerity (pmgerity@daypitney.com; 860-275-0533).

- **IA Cancellation: NEP/TransCanada (ER23-2182)**

On June 14, 2023, the New England Power Company ("NEP") submitted a Notice of Cancellation of the Interconnection Agreement ("IA") between NEP and TransCanada Hydro Northeast Inc. ("TransCanada") that has been superseded by a new SGIA between NEP and Great River Hydro, TransCanada's successor in interest. NEP requested an August 14, 2023 effective date for the Notice of Cancellation. Comments on this filing are due on or before July 5, 2023. If you have any questions concerning this matter, please contact Pat Gerity (pmgerity@daypitney.com; 860-275-0533).

- **D&E Agreement Cancellation: NSTAR/Medway Grid (ER23-2117)**

On June 12, 2023, NSTAR filed a notice of cancellation of the Engineering, Design and Procurement Agreement ("D&E Agreement") with Medway Grid, LLC ("Medway Grid"). The D&E Agreement set forth the terms and conditions under which NSTAR was to undertake certain design and engineering activities on the Interconnection Facilities for Medway Grid's proposed Large Generation Facility prior to the execution of an LGIA. Specifically, the Agreement addressed Qualified Transmission Upgrades ("QTUs") identified by ISO-NE in its FCA15 Post-Auction Overlapping Impact Restudy ("Restudy") for QP844. However, ISO-NE has subsequently performed a review of the Restudy results and has determined that the QTUs are not required for the interconnection of Medway Grid's facility. NSTAR, accordingly, filed a Notice of Termination to reflect the termination of the Agreement. All billing, refunds, and invoices have been finalized and no further work is being done under the Agreement. NSTAR requested a Jun 13, 2023 effective date. Comments on this filing are due on or before ***July 3,***

[122] *Weaver Wind, LLC and Weaver Wind Maine Master Tenant, LLC*, 183 FERC ¶ 62,077 (May 12,2023).

[123] *Talen Energy Supply, LLC*, 182 FERC ¶ 62,183 (Mar. 30, 2023).

***2023***. If you have any questions concerning this matter, please contact Pat Gerity (pmgerity@daypitney.com; 860-275-0533).

- **Changes to Depreciation Rates in MPD OATT Formula Rate (ER23-2085)**

On June 7, 2023, Versant Power filed a revised Attachment J to its OATT for Maine Public District (the "MPD OATT") to (i) revise its Transmission Plant depreciation rates to reflect a recent depreciation study; and (ii) harmonize the General Plant depreciation rates set forth the MPD OATT with those recently approved by the MPUC for distribution ratemaking purposes. Versant requested a June 1, 2024 effective date (which is the first date of the next rate year under the MPD OATT formula rate), but action on the filing by August 7, 2023. Comments on this filing are due on or before ***June 28, 2023***. If you have any questions concerning this matter, please contact Pat Gerity (pmgerity@daypitney.com; 860-275-0533).

- **LGIA: National Grid/Millennium Power (ER23-2065)**

On June 2, 2023, National Grid filed an LGIA (designated as IA-NEP-59) with Millennium Power to provide for continued interconnection service to Millennium's facility. The Millennium LGIA follows the terms of the ISO-NE *pro forma* LGIA with only minor revisions primarily to reflect that it is a two-party agreement. National Grid requested a May 3, 2023 effective date (as agreed to by the parties). Comments on this filing were due on or before June 23, 2023; 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).

- **NEP/ISO-NE/RIE Revised LSAs (ER23-1831; ER23-1830)**

On May 4, 2023, ISO-NE and NEP submitted (i) a fourth LSA among themselves and The Narragansett Electric Company d/b/a Rhode Island Energy ("RIE") ("TSA-NEP-86") and (ii) an eighth revised Service Agreement No. 23 with RIE ("SA 23") to eliminate provisions of those LSAs that are no longer applicable due to PPL Corporation's ("PPL") acquisition of RIE's ownership interests, and subsequent operational control of RIE's transmission facilities. The LSAs, as revised, will function solely to ensure that certain provisions related to the Contract Termination Charges ("CTCs") defined and set forth in the settlement agreements entered into by NEP, RIE, and certain other parties in order to accommodate the introduction of retail competition programs in Rhode Island remain in effect until such time as the CTCs are fully recovered. Comments were due on May 25, 2023; none were filed. RIE filed a doc-less intervention. This matter is pending before the FERC. If you have any remaining questions concerning this matter, please contact Pat Gerity (pmgerity@daypitney.com; 860-275-0533).

- **Facilities Operating Agreement: Generate NB Fuel Cell/Farmington River Power Co, Stanley Black & Decker, EIP Investment (ER23-1979)**

On May 26, 2023, Generate NB Fuel Cells, LLC ("Generate") submitted a modified Facilities Operating Agreement ("FOA"), by and among the Farmington River Power Company ("FRPC"), Stanley Black & Decker, Inc. ("SBD"), and EIP Investment, LLC ("EIP") for a planned 20 MW fuel cell project on SBD's manufacturing campus located in New Britain (the "Project"). The FOA was assigned, in part, to Generate pursuant to a Partial Bill of Sale, Assignment and Assumption Agreement dated October 20, 2022 between Generate and EIP ("Assignment Agreement"). The FOA, as modified by the Assignment Agreement, sets forth the terms and conditions under which Generate may use, operate, modify, or augment transmission and interconnection facilities owned by FRPC in order to safely, efficiently, and reliably transmit electricity from the Project to the transmission grid and authorizes Generate to construct additional facilities and modify existing facilities as needed to connect Generate NB Fuel Cells' planned fuel cell installation to the grid. An effective date of May 27, 2023 was requested. Comments on this filing were due on or before June 16, 2023; 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).

- **LGIA: RIE/ISO-NE/Various Entities (ER23-1767, ER23-1748, ER23-1741)**

On April 28, 2023, ISO-NE and Rhode Island Energy ("RIE") filed three revised LGIAs to reflect RIE as the new Interconnecting Transmission Owner pursuant to a FERC-approved transaction. A January 1, 2023 effective date was requested for each of the following LGIAs:

  - **ER23-1767**: First Revised LGIA (as supplemented May 31 and June 15, 2023) that governs the interconnection of Manchester Street, LLC's 516 MW facility located in Providence, RI.
  - **ER23-1748:** First Revised LGIA (as supplemented June 8, 2023) that governs the interconnection of Ocean State Power LLC's 656.157 MW facility located in Burrillville, RI.
  - **ER23-1741:** Second Revised LGIA that governs the interconnection of Rhode Island LFG Genco, LLC's 38 MW facility located in Johnston, RI.

Comments on these filings are due on or before May 19, 2023; none were filed. National Grid filed a doc-less intervention in each proceeding. Since the last Report, the FERC accepted, on June 21, 2023, the LGIAs filed in ER23-1767 and ER23-1748, effective as of January 1, 2023, as requested.[124] The LGIA filed in ER23-1741 remains pending before the FERC. If you have any questions concerning this matter, please contact Pat Gerity (pmgerity@daypitney.com; 860-275-0533).

- **D&E Agreement: NSTAR/Vineyard Wind (ER23-1665)**

On June 13, 2023, the FERC accepted an amendment to the previously-approved Design & Engineering ("D&E") Agreement between NSTAR and Vineyard Wind LLC for civil and below-grade and above-grade electrical substation work at NSTAR's Bourne 345 kV substation.[125] The amendment extended the term of the Agreement for additional work and changes the scope of work of the D&E Agreement (i) to address the risks and impacts to milestone revisions; (ii) to address the impact of higher rating of certain Direct Assigned Facilities; and (iii) to conduct harmonic study and data collection. The D&E Agreement was accepted effective April 21, 2023, as requested. Unless the June 13 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: NSTAR/Commonwealth Wind (ER23-1607)**

On June 1, 2023, NSTAR the FERC accepted a D&E Agreement setting forth the terms and conditions under which NSTAR will perform necessary engineering and design services for the interconnection of Commonwealth Wind, LLC's large generating facility to the Administered Transmission System.[126] The D&E Agreement was accepted effective as of June 11, 2023. Unless the June 1 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).

- **RFA Termination: NSTAR/Ocean State Power (ER23-1606)**

On May 31, 2023, the FERC accepted NSTAR's notice of termination of the Related Facilities Agreement ("RFA") between Eversource Energy, on behalf of NSTAR, and Ocean State Wind.[127] The notice of termination was accepted effective April 11, 2023, as requested. Unless the May 31 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).

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[124] *ISO New England Inc.*, Docket No. ER23-1767-000 (June 21, 2023) (unpublished letter order); *ISO New England Inc.*, Docket No. ER23-1748-000 (June 21, 2023) (unpublished letter order).

[125] *NSTAR Electric Co*., Docket No. ER23-1665-000 (June 13, 2023) (unpublished letter order).

[126] *NSTAR Electric Co.*, Docket No. ER23-1607-000 (June 1, 2023) (unpublished letter order).

[127] *NSTAR Electric Co.*, Docket No. ER23-1606-000 (May 31, 2023) (unpublished letter order). As previously reported, NSTAR determined that, pursuant to capital project upgrades on its own system for its own purposes, the Related Facilities were no longer necessary.

- **Study Work Agreement Cancellation: CL&P/NYISO (ER23-1483)**

On May 22, 2023, the FERC accepted the Notice of Termination of the previously-accepted Study Work Agreement between CL&P and NYISO.[128] The Notice was accepted effective as of March 29, 2023, as requested. Unless the May 22 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: PSNH/National Grid (ER23-1481)**

On May 22, 2023, the FERC accepted the D&E Agreement that sets forth the terms and conditions under which PSNH will perform necessary engineering, procurement and design services in connection with National Grid's asset separation project with Great River Hydro, effective March 29, 2023.[129] Unless the May 22 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).

- **LGIA: CL&P/Generate NB Fuel Cells/ISO-NE (ER23-1479)**

On May 22, 2023, the FERC accepted CL&P and ISO-NE's revised non-conforming Large Generation Interconnection Agreement ("LGIA") with Generate NB Fuel Cells, LLC ("Generate NB") to govern the interconnection of Generate NB's 20 MW fuel cell project in New Britain, Connecticut (Stanley Black & Decker campus), effective February 23, 2023.[130] The original non-conforming LGIA was accepted by FERC on July 11, 2022.[131] The revised LGIA includes, among others, changes reflecting the sale of the fuel cell project by EIP Investment to Generate NB. Unless the May 22 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).

- **LSAs: RI Energy/ISO-NE/BIPCO (ER23-1003; ER23-1000)**

On January 31, 2023, ISO-NE and RI Energy filed two Local Service Agreements ("LSAs"), as replacements to two current New England Power TSAs (TSA-NEP-83 and TSA-NEP-86), to allow RI Energy to fully recover the Block Island Transmission System ("BITS") surcharge now that it is both Transmission Owner and Customer under these arrangements. On March 31, 2023, the FERC conditionally accepted the LSA replacing TSA-NEP-86 (ER23-1003), effective January 1, 2023, [132] and directed RI Energy, on or before May 1, 2023, to add language to the LSA to make explicit that the BITS Surcharge shall be subject to the Protocols for Schedule 21-RIE. That compliance filing was submitted on May 1, 2023 as directed. Also on March 31, 2023, FERC also issued a deficiency letter asking for additional information regarding whether the LSA replacing TSA-NEP-83 (ER23-1000) is subject to the Schedule 21-RIE Protocols. The response to the deficiency letter was also filed, as directed, on May 1, 2023. Comments on both May 1 filings were due on or before ***May 22, 2023.*** On May 22, RI Division of Public Utilities and Carriers ("RI Division") filed a protest requesting that the FERC reject RIE's May 1 compliance filing and direct it to amend the TSA to incorporate the formula rate protocols contained in ISO-NE OATT Attachment F, Appendix C (ER23-1003). No comments on RIE's May 1 deficiency letter response were filed (ER23-1000-001). Both LSAs are pending before the FERC. If you have any questions, please contact Eric Runge (617-345-4735; ekrunge@daypitney.com).

- **Versant Power MPD OATT *Order 881* Compliance Filing (ER22-2358)**

On July 12, 2022, in response to the requirements of *Order 881*, Versant Power filed a proposed new Attachment T to the Versant Power Open Access Transmission Tariff for the Maine Public District ("MPD OATT"). Attachment T, Versant reported, incorporates all the contents of the *pro forma* OATT's new

[128] *The Conn. Light and Power Co.*, Docket No. ER23-1483-000 (May 22, 2023) (unpublished letter order).

[129] *Public Service Co. of NH*, Docket No. ER23-1481 (May 22, 2023) (unpublished letter order).

[130] *ISO New England Inc., and The Conn. Light and Power Co.*, Docket No. ER23-1479 (May 22, 2023) (unpublished letter order).

[131] *ISO New England Inc., and The Conn. Light and Power Co.*, Docket No. ER22-1862 (July 11, 2022) (unpublished letter order).

[132] *ISO New England Inc.*, Docket No. ER23-1003-000 (Mar. 31, 2023) (unpublished letter order).

Attachment M. An effective date of July 12, 2025 was requested in an errata filing submitted on August 1, 2022. On August 2, 2022, MPUC submitted comments asserting that Versant's Compliance Filing, without further detail, is insufficient to meet the requirements of *Order 881* and should either (i) be rejected outright, ordering Versant to re-file with sufficient detail, or (ii) subject to a deficiency letter requiring further information with respect to the Compliance Filing. MPUC withdrew those comments on August 31, 2022 in exchange for certain understandings with Versant Power (including MPUC's attendance, as a non-voting participant, at any NMISA working group discussions on *Order 881* implementation planning and Versant Power's submission of informational compliance filings to keep the FERC apprised of versant's progress in developing its AAR implementation plan). On September 6, 2022, Versant Power supplemented its compliance filing to confirm the MPUC's understandings, as delineated in its Notice of Withdrawal. 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).

- **VEC-HQUS Use Rights Transfer Agreement (NJ23-12)**

On June 7, 2023, VEC filed for acceptance an Agreement for the Transfer of Use Rights on the Phase I/II HVDC Transmission Facilities ("Transfer Agreement") between itself and HQUS. An effective date of May 27, 2023 was requested. Comments on this filing are due on or before ***June 28, 2023.*** If you have any questions concerning this matter, please contact Pat Gerity (pmgerity@daypitney.com; 860-275-0533).

## XII. Misc. - Administrative & Rulemaking Proceedings[133]

- **Interregional Transfer Capability Transmission Planning & Cost Allocation Requirements (AD23-3)**

On December 5-6, 2022, the FERC held a workshop to discuss whether and how the FERC could establish a minimum requirement for Interregional Transfer Capability for public utility transmission providers in transmission planning and cost allocation processes. Specifically, topics included: how to determine the need for and benefit of setting a minimum requirement for Interregional Transfer Capability; what to consider in establishing a potential Interregional Transfer Capability requirement, including who would be responsible for determining a minimum Interregional Transfer Capability requirement and what would be the objective and drivers of such a requirement; what process could be used in establishing a minimum Interregional Transfer Capability requirement to determine key data inputs, modeling techniques, and relevant metrics; and how costs for transmission facilities intended to increase Interregional Transfer Capability should be allocated and how to ensure a minimum amount of Interregional Transfer Capability is achieved and maintained. On February 28, 2023, the FERC invited all those interested to file post-workshop comments to address issues raised during the workshop and the questions listed in the workshop's Supplemental Notices issued on November 30 and December 2, 2022. Comments were due on or before May 15, 2023. Post-workshop comments were filed by, among others: Advanced Energy United, Invenergy, Vistra/NRG, ACPA, ACRE, APPA, ELCON, NRECA, Public Interest Orgs, Eastern Interconnection Planning Collaborative, and the US DOE. Reply comments are due on or before ***June 28, 2023***.

- **Interregional HVDC Merchant Transmission (AD22-13)**

As previously reported, Invenergy Transmission ("Invenergy") filed a petition, on July 19, 2022, requesting that the FERC hold a technical conference to explore ways to potentially make available and compensate certain grid reliability and resilience benefits associated with interregional high voltage direct current ("HVDC") merchant transmission. Initial comments to be considered by the FERC in its determination of any action to be taken were due on or before August 26, 2022. Comments were filed by 13 parties and included, among others, CSC, ENGIE, Invenergy, Phase I/II Asset Owners and IRH, Joint Consumer Advocates, MISO, ACORE, ACPA, SEIA, and Neptune and Hudson. Invenergy answered the comments filed by MISO.

[133] Reporting on the following Administrative proceeding has been suspended since the last Report and will be continued if and when there is new activity to report: Reliability Technical Conference (Nov 10, 2022) (AD22-10).

On November 10, 2022, Invenergy again urged the FERC to "hold a technical conference to examine and to improve the policy and processes relating to the interconnection of interregional MHVDC systems". In December, ENGIE, Grid United and SEIA filed comments supporting Invenergy's November 10 request. On February 6, 2023, the FERC issued a notice of Invenergy's November 10, 2022 request, providing any person interested in commenting a March 8, 2023 comment deadline. Comments were filed by the following parties: Advanced Energy United, NRDC, IRC, SPP, NARUC, Amer. Council on Renewable Energy, Assoc. Industries of MO, Clean Energy Buyers Assoc., Converge Strategies, ELCON, Grid United, IL Manufac. Assoc., MN PSC, Natl. Elec. Manufac. Assoc., ND PSC, Public Citizen, Niskanen Center, Prysmian Group, P. Stockton, R Street Institute, Rail Electrification Council, Renew Missouri Advocates, SOO Green HVDC Link ProjectCo, and World Resources Institute. This matter is pending before the FERC.

- **Joint FERC-DOE Supply Chain Risk Management Technical Conference (Dec 7, 2022) (AD22-12)**

On December 12, 2022, the FERC and the DOE convened a joint technical conference held its annual Commissioner-led technical conference to discuss supply chain security challenges related to the BPS, ongoing supply chain-related activities, and potential measures to secure the supply chain for the grid's hardware, software, computer, and networking equipment. Speaker materials are posted in eLibrary and a recording of the conference will be available on the FERC website for roughly one more month. On December 19, 2022, the FERC invited all those interested to file, by February 17, 2023, post-technical conference comments addressing issues raised during the technical conference. Comments were filed by AEP, APPA, EEI, the North American Transmission Forum. In addition, on February 13, 2023, the FERC posted a transcript of the December 12 technical conference in eLibrary. This matter is pending before the FERC.

- **New England Gas-Electric Forums (AD22-9)**

***The Second New England Gas-Electric Forum (June 20, 2023 in Portland, ME)***. As will be further discussed and summarized at the 2023 Summer Meeting, the FERC held on June 20, 2023, in Portland Maine, a second New England Winter Gas-Electric Forum to discuss possible solutions to the electricity and natural gas challenges facing the New England region. Pre-Forum Comments and Position Statements were filed by: ISO-NE (Ltr, Opening Presentation, Extreme Weather Risks), Constellation (Allen), Eversource (Daly, Divatia), NEPGA (Dolan), NextEra (Gardner), NHOCA, Vistra, NERC/NPCC, Excelerate, Orsted (DiOrio), National Grid (Holodak), Enbridge, Kinder Morgan, Berkshire Environmental Action Team, and Repsol. The FERC will invite parties wishing to submit comments regarding the topics discussed at the Second Forum to do so. A deadline for submitting those comments has not yet been established.

***The First New England Gas-Electric Forum (September 8, 2022 in Burlington, VT)***. The purpose of the Forum was to discuss and achieve a greater understanding among stakeholders in defining the electric and natural gas system challenges in the New England Region. Topics discussed included the historical context of New England winter gas-electric challenges, concerns and considerations for upcoming winters such as reliability of gas and electric systems and fuel procurement issues, and whether additional information or modeling exercises are needed to inform the development of solutions to these challenges. On September 21, 2022, the FERC invited parties wishing to submit comments regarding the topics discussed at the Forum to do so on or before November 7, 2022. Post-Forum Comments were submitted by: ISO-NE, Acadia, AEU, AIM, Calpine, Constellation, Excelerate, FirstLight, LS Power, NECOS, NEPGA, NESCOE, Public Systems, Repsol, TOs, VELCO, Vistra, Potomac Economics, CT DEEP, AEMA, APGA, EPSA, INGA, NE LDCs, NGSA, New England Council, NEPPA, NH BIA, PIOs, RENEW/ACPA, Berkshire Action Team, Greater Concord Chamber of Comm., Mass. Alliance for Econ. Dev., Mass. Business Roundtable, Mass. Coalition for Sustainable Energy, Mass. United Assoc. of Journeymen, Middlesex County Chamber of Commerce, Public Citizen, Western Mass. Economic Dev. Council, and Individual Citizens (M. Axner, E. Blank, S. Botkin, D. Heimann, J. Krieger, B. Little, I. McDonald, J. Neville, W. Persons, R. Spector). On November 22, National Grid filed reply comments.

- **Transmission Planning and Cost Management Technical Conference (AD22-8)**

On October 6, 2022, the FERC convened a Commissioner-led technical conference regarding transmission planning and cost management for transmission facilities developed through local or regional transmission planning processes. The 5 panels throughout the day addressed: (1) the processes by which transmission providers develop local transmission planning criteria, identify local transmission needs using those criteria, and evaluate and choose local transmission facilities to address those needs; (2) whether local transmission facility costs are adequately scrutinized; (3) the processes by which transmission providers evaluate, select, and develop regional transmission facilities for reliability; (4) whether regional transmission facilities for reliability costs are adequately scrutinized; and (5) cross-cutting themes and potential best practices for both local transmission facilities and regional reliability transmission planning and cost management, in addition to innovative approaches that could be explored further, including the possibility of establishing a role for an Independent Transmission Monitor, and mechanisms to support enhanced transparency. Advance materials were submitted by representatives on behalf of: ISO-NE, CA PUC, KY PSC, NC Utils. Comm. Public Staff, NV PUC, RI PUC, AEU, AEP, Ameren, AMP/APPA, Ari Peskoe, L. Azar, Clean Energy Buyers Assoc., Coalition of MISO Customers, Harvard Electricity Law Initiative, ITC Holdings, LPPC, IA Consumer Advocate, J. Macey, NESCOE, Northern California Power Agency, Northwest & Intermountain Power Producers Coalition, OH Consumers' Counsel, OH PUC, Old Dominion Elec. Coop., PJM, G. Poulus, SPP, Potomac Economics, Southern California Edison, Southern Environmental Law Center, and TAPS/FMPA and WIRES.

On September 30 and October 4, the FERC issued supplemental notices that included a final agenda, including further details regarding the agenda and speakers, for this technical conference. On November 1, 2022, a transcript of the technical conference was posted in the FERC's eLibrary. On December 23, 2022, the FERC issued a notice inviting post-technical conference comments on questions listed in that notice. Those comments were due by March 23, 2023 and were filed by: ISO-NE, AEU, Avangrid, Cypress Creek Renewables, Eversource, LS Power, MA AG, NE Public Systems, NESCOE, NextEra, NRDC, NRG, Maine PUC, American Council on Renewable Energy ("ACRE"), APPA, EEI, Harvard Elec. Law Inst., LPPC, NASUCA, NRECA, and R Street Institute. Since the last Report, WIRES, AEP, and EEI filed reply comments. On June 8, 2023, CA Utilities[134] moved to lodge CA PUC Final Resolution E-5252 (which proposed a new Ca PUC jurisdictional transmission review program called the Transmission Project Review Process). This matter is pending before the FERC.

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

A seventh meeting[135] of the FERC-established Joint Federal-State Task Force on Electric Transmission ("Transmission Task Force" or "JFSTF")[136] will be held Sunday, July 18, 2023 in Austin, TX. The FERC will issue the agenda no later than July 2, 2023.

[134] "CA Utilities" are Pacific Gas and Electric Co. ("PG&E"), Southern California Edison Co. ("SCE"), and San Diego Gas & Elec. Co. ("SDG&E").

[135] Summaries of the first – sixth meetings of the Transmission Task Force can be found in previous Reports.

[136] *Joint Federal-State Task Force on Electric Transmission*, 175 FERC ¶ 61,224 (June 18, 2021). 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 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." New England is represented by Commissioners Riley Allen (VT PUC) and Marissa Gillett (Chair, CT PURA). *See* Order on Nominations, *Joint Federal-State Task Force on Elec. Trans.*, 180 FERC ¶ 61,030 (July 15, 2022).

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

***ISO/RTO Reports***. On April 21, 2022, the FERC issued an order[137] directing each independent system operator ("ISO") and regional transmission organization ("RTO"), including ISO-NE, to submit on or before October 18, 2022 a report that describes: (1) current system needs given changing resource mixes and load profiles; (2) how it expects its system needs to change over the next five and 10 years; (3) whether and how it plans to reform its energy and ancillary services ("EAS") markets to meet expected system needs over the next five and 10 years; and (4) information about any other reforms, including capacity market reforms and any other resource adequacy reforms that would help it meet changes in system needs. The *Order Directing Reports* followed a series of staff-led technical conferences, convened in 2021 and summarized in previous Reports, addressing ISO/RTO resource adequacy[138] and energy and ancillary services markets.[139]

***ISO-NE Report***. On October 18, 2022, ISO-NE (as well as the other ISO/RTOs) filed its report in response to the *Order Directing Reports.* Comments in response to the RTO/ISO reports were due, following an EEI request, on or before January 18, 2023. Comments were filed by, among others: AEU, API, Constellation, New England Public Systems,[140] Shell, Clean Energy Assocs, Clean Energy Buyers Association, EEI, EPSA, Public Interest Orgs, and R Street Institute.

The FERC is reviewing the RTO/ISO reports and comments related thereto to determine whether further action is appropriate.

- **NOPR: Duty of Candor (RM22-20)**

On July 28, 2022, the FERC issued a NOPR[141] proposing to add a new section to its regulations to require that any entity communicating with the FERC or other specified organizations (e.g. ISO/RTOs, FERC-approved market monitors, NERC and its Regional Entities, or transmission providers) related to a matter subject to FERC jurisdiction submit accurate and factual information and not submit false or misleading information, or omit material information ("Duty of Candor Requirements"). An entity would be shielded from violation of the new regulation if it has exercised due diligence to prevent such occurrences. The FERC's current regulations prohibit, in defined circumstances, inaccurate communications to the FERC and other organizations upon which the FERC relies to carry out its statutory obligations. However, because those requirements cover only certain communications and impose a patchwork of different standards of care for such communications, the FERC believes that a broadly applicable duty of candor will improve its ability to effectively oversee jurisdictional

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137 *Modernizing Wholesale Electricity Market Design*, 179 FERC ¶ 61,029 (Apr. 21, 2022) ("*Order Directing Reports*").

138 The FERC held two staff-led technical conferences addressing resource adequacy, one on Mar. 23, 2021 (with post-conference comments focused on PJM-specific issues) and the other on May 25, 2021 (focused on the wholesale markets administered by ISO-NE). Following the Mar. 23 conference, more than 45 sets of initial comments were filed, including by: AEU, Calpine, Cogentrix, Dominion, Exelon, FirstLight, LS Power, NESCOE, NEPGA, NRG, PSEG, Shell, Vistra, CT DEEP, EEI, EPSA, and NRECA/APPA. Reply comments were filed by ACPA, AEP, EPSA, Exelon, Joint Consumer Advocates, LS Power, Old Dominion Electric Cooperative ("ODEC"), P3, Public Interest Organizations ("PIOs"), and the Retail Electric Supply Association ("RESA"). Following the May 25 conference, comments were filed by: AEU, Calpine, CT Parties, Dominion, Eversource, MMWEC, NESCOE, NEPGA, NextEra, NRG, Public Interest Orgs, Vistra, AEMA, EPSA, RENEW.

139 The FERC held two staff-led technical conferences addressing ISO/RTO EAS markets, one on Sept. 14, 2021; the second on Oct. 12, 2021. Transcripts of both technical conferences are posted in eLibrary. In advance of the EAS 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 EAS markets reforms as well as reforms then under consideration. Initial comments on the topics discussed during the EAS technical conferences 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, EEI, Energy Trading Institute, EPRI, EPSA, Middle River Power, National Hydropower Assoc., NYSERDA, PJM Providers Group, and Public Citizen. Reply comments were filed by EPRI, NERC and its Regional Entities and Vistra.

140 "New England Public Systems" are CMMEC, MMWEC, NHEC, and VPPSA.

141 *Duty of Candor*, 180 FERC ¶ 61,052 (July 28, 2022) ("*Duty of Candor NOPR*").

markets. It further indicated that its proposed due 'diligence standard' and other limitations are intended to minimize the additional burdens to industry that come with the new Duty of Candor Requirements.

On September 1, 2022, Joint Associations[142] requested an additional month to submit comments.[143] On September 14, 2022, the FERC granted that request. Accordingly, initial comments were due November 11, 2022 and over 30 sets of comments were filed, including by: ISO-NE, ISO-NE IMM, ISO-NE EMM, PJM IMM, ABA, AGA, APGA, APPA, EEI, Energy Trade Associations, INGA, NGSA, Nodal Exchange, NRECA, State Agencies, US Chamber of Commerce, DE Riverkeeper Network, New Civil Liberties Alliance, and Nodal Exchange. The US Chamber of Commerce filed reply comments on December 12, 2022. There was no activity in the proceeding since the last Report. This matter is pending before the FERC.

- ***Order 893*: Incentives for Advanced Cybersecurity Investment (RM22-19)**

On April 21, 2023, the FERC issued *Order 893*,[144] which revises the FERC's regulations to encourage investments by utilities in Advanced Cybersecurity Technology and participation by utilities in cybersecurity threat information sharing programs, as directed by the Infrastructure Investment and Jobs Act of 2021. *Order 893* (1) identifies the utilities permitted to request incentive-based rate treatment for cybersecurity investments; (2) establishes the criteria that the FERC will use to determine whether a cybersecurity investment is eligible to receive an incentive-based rate treatment; (3) discusses the approaches that a utility may use to demonstrate that a cybersecurity investment satisfies the eligibility criteria; (4) explains the type of incentive-based rate treatment available for qualifying cybersecurity investments; (5) sets limits on the duration of the incentive-based rate treatment; (6) describes what utilities must include in their applications for incentive-based rate treatment for cybersecurity investments; and (7) establishes the annual reporting requirements for utilities that receive incentive-based rate treatment for their cybersecurity investments. *Order 893* will become effective July 3, 2023.[145]

***Denied By Operation of Law: NRECA Request for Clarification and/or Rehearing.*** On May 22, 2023, the National Rural Electric Cooperative ("NRECA") requested clarification and/or rehearing of *Order 893.* Specifically, NRECA asked that the FERC clarify (i) the period during which a utility will be eligible for the "early compliance" cybersecurity incentive and the revised regulations and (ii) its statements concerning the right of utilities that make sales of energy, capacity, or ancillary services at market-based rates to also make sales at cost-based rates that include incentive-based rate treatment for eligible cybersecurity investments. On June 22, 2023, the FERC issued a "Notice of Denial of Rehearing by Operation of Law and Providing for Further Consideration".[146] The *Order 896 Allegheny Notice* confirmed that the 60-day period during which a petition for review of *Order 896* can be filed with an appropriate federal court was triggered when the FERC did not act on NRECA's request for rehearing of *Order 896* within the required 30-day period. The Notice also indicated that the FERC would address, as is its right, the rehearing request in a future order, and may modify or set aside its order, in whole or in part, "in such manner as it shall deem proper."

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[142] "Joint Associations" included the following trade associations on behalf of their respective members: the American Gas Association ("AGA"), American Public Gas Association ("APGA"), Interstate Natural Gas Association of America ("INGA"), Edison Electric Institute ("EEI"), Electric Power Supply Association ("EPSA"), Energy Trading Institute ("ETI"), Natural Gas Supply Association ("NGA"), and Process Gas Consumers Group ("PGCG").

[143] The *Duty of Candor NOPR* was published in the *Fed. Reg.* on Aug. 12, 2022 (Vol. 87, No. 155) pp. 49,784-49,793.

[144] *Incentives for Advanced Cybersecurity Investment*, Order No. 893, 183 FERC ¶ 61,033 (Apr. 21, 2023) ("*Order 893*"), *reh'g denied by operation of law*, 183 FERC ¶ 62,154 (June 22, 2023).

[145] *Order 893* was published in the Fed. Reg. on May 3, 2023 (Vol. 88, No. 85) pp. 28,348-28,125.

[146] *Incentives for Advanced Cybersecurity Investment*, 183 FERC ¶ 62,154 (June 22, 2023) ("*Order 893 Allegheny Notice*").

- ***Order 897*: Extreme Weather Vulnerability Assessments (RM22-16; AD21-13)**

On June 15, 2023, the FERC adopted a reporting requirement[147] that directs transmission providers to file a one-time informational report describing their current or planned policies and processes for conducting extreme weather vulnerability assessments[148] (whether and how transmission providers establish a scope for their extreme weather vulnerability assessments, develop inputs, identify vulnerabilities and determine exposure to extreme weather hazards, estimate the costs of impacts, and develop mitigation measures to address extreme weather risks). Each transmission provider must file the one-time informational report required by *Order 897* on or before [120 days after date of publication in the *Federal Register*].[149]

- **NOPR: Interconnection Reforms (RM22-14)**

On June 16, 2022, the FERC issued a notice of proposed rulemaking ("NOPR"),[150] more than 400 pages long, that proposed reforms to the *pro forma* Large Generator Interconnection Procedures ("LGIP"), *pro forma* Small Generator Interconnection Procedures ("SGIP"), *pro forma* Large Generator Interconnection Agreement ("LGIA"), and *pro forma* SGIA to address interconnection queue backlogs, improve certainty, and prevent undue discrimination for new technologies.

As previously reported, the proposed reforms fall into three main categories: (1) reforms to implement a first-ready, first-served cluster study process;[151] (2) reforms to increase the speed of interconnection queue

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147 *One-Time Informational Reports on Extreme Weather Vulnerability Assessments; Climate Change, Extreme Weather, and Elec. Sys. Rel.*, Order No. 897, 183 FERC ¶ 61,192 (June 15, 2023) ("*Order 897*").

148 The FERC defines an extreme weather vulnerability assessment as any analysis that identifies where and under what conditions jurisdictional transmission assets and operations are at risk from the impacts of extreme weather events, how those risks will manifest themselves, and what the consequences will be for system operations.

149 *Order 897* has not, as of the date of this Report, been published in the *Federal Register*.

150 *Improvements to Generator Interconnection Procedures and Agreements*, 179 FERC ¶ 61,194 (June 16, 2022) ("*Interconnection* Reforms *NOPR*").

151 To implement the **first-ready, first-served cluster study process**, the FERC proposed to:

- ♦ Require transmission providers offer an alternative option for an informational interconnection study that would not require a project enter the interconnection queue;
- ♦ Make cluster studies the required interconnection study method under the *pro forma* LGIP;
- ♦ Allocate the shared costs of the cluster studies so that 90% of the applicable study costs are allocated to interconnection customers on a pro rate basis based on the requested MWs included in the applicable cluster, and 10% of the applicable study costs are allocated to interconnection customers on a per capita basis based on the number of interconnection requests in the applicable cluster;
- ♦ Require transmission providers to allocate network upgrade costs to interconnection customers within a cluster using a proportional impact method, in which the transmission provider will determine the degree to which each generating facility in the cluster contributes to the need for a specific network upgrade;
- ♦ Allow interconnection customers in an earlier-in-time cluster to share the costs of network upgrades with interconnection customers who will significantly benefit from those upgrades but would not share the cost of the network upgrades solely by virtue of being in a later cluster;
- ♦ Increase study deposits based on the size of the generating facility from $35,000 to $250,000;
- ♦ Require more stringent site control requirements, and proposes to require an interconnection customer to demonstrate 100% site control for a proposed generating facility when they submit the interconnection request;[151]
- ♦ Implement a commercial readiness framework whereby interconnection customers must show demonstrable milestones towards commercial readiness in order to enter the cluster, such as an executed term sheet, reasonable evidence the project was selected in a resource plan, or a provisional LGIA; and
- ♦ Impose withdrawal penalties when the interconnection customer withdraws from the interconnection queue.

processing;[152] and (3) reforms to incorporate technological advancements to the interconnection process.[153] Within each of these categories, the FERC proposes a wide array of reforms, and requested comment.

***Initial Comments***. Initial comments were due October 13, 2022[154] and over 130 sets of comments were filed, including: NEPOOL, ISO-NE, NESCOE, AEU, Anbaric, Avangrid, Cypress Creek Renewables, Dominion, EDF Renewables, ENGIE, Envir. Defense Fund, Longroad, National Grid, NextEra, PPL, RWE, Shell, VELCO, Vistra, ACPA, ACRE, APPA, US DOE, EEI, ELCON, EPRI, EPSA, IRC, NARUC, NERC, NRECA, PIOs, R Street Institute, SEIA, State Agencies, and WIRES.

***Reply Comments***. Following a request by EEI for a 30-day extension of time to submit reply comments, supported by AEU, ACPA, ACRE, and SEI, and granted by the FERC on October 28, 2022, reply comments were due December 14, 2022. More than 50 sets of reply comments were filed, including by ACPA, ACORE, AEU, APPA/LPPC, Avangrid, Dominion, EDF, EEI, Elevate Renewables F7, Enel, ENGIE, Invenergy, the IRC, Longroad Energy, NERC, NESCOE, NextEra, Orsted, SEIA, Shell, Sierra Club, UCS, WIRES. Since the last Report, additional comments were submitted by R Street Institute and AES Clean Energy Development.

The *Interconnection Reforms NOPR* is pending before the FERC. The FERC proposes to require compliance within 180 days of a final rule in this proceeding. Compliance would require transmission providers to file updates to their *pro forma* LGIA, LGIP, SGIA and SGIP, as applicable. If you have any questions concerning the *Interconnection Reforms NOPR*, please contact Margaret Czepiel (202-218-3906; mczepiel@daypitney.com) or Eric Runge (617-345-4735; ekrunge@daypitney.com).

- ***Order 895*: ISO/RTO Credit Information Sharing (RM22-13)**

On June 15, 2023, the FERC amended its regulations to require ISO/RTOs to have tariff provisions that permit credit-related information sharing with other ISO/RTOs to ensure that credit practices in those markets

[152] To **increase the speed of the interconnection queue process**, the FERC proposes to:
- Eliminate the "reasonable efforts" standard for transmission providers completing interconnection studies and instead impose firm study deadlines and establish penalties that would apply when transmission providers fail to meet these deadlines. The penalty imposed would be $500 per day that the study is late and would be distributed to interconnection customers on a pro rata basis;
- Add an entirely *pro forma* affected system study process to address the current lack of uniformity in the study of affected systems, which results in late-stage withdrawals, re-studies and increased costs to remaining interconnection customers;
- Establish two new *pro forma* agreements, a *pro forma* Affected System Study Agreement (new Appendix 15) and a *pro forma* Affected Systems Facilities Construction Agreement (new Appendix 16); and
- Implement an optional resource solicitation study that can be performed by entities required to conduct a resource plan or solicitation. Under this proposed study process, a resource planning agency (such as a state agency or load-serving entity implementing a state mandate) would facilitate a study to group together interconnection requests associated with the qualifying resource solicitation process, and the resources vying for selection in a qualifying state resource solicitation process would be studied together for the purposes of informational interconnection studies.

[153] As **technological advances to the interconnection process**, the FERC proposes to:
- Require transmission providers to allow more than one resource to co-locate on a shared site behind a single point of interconnection and share a single interconnection request;
- Change the way in which transmission providers assess an addition of a generating facility to an interconnection request, requiring that transmission providers evaluate a proposed addition as long as the addition does not change the requested interconnection service level;
- Enable customers with unused interconnection capacity share that surplus capacity with other resources as long as the original interconnection customer executes an LGIA or requests filing of an unexecuted LGIA;
- Require transmission providers, at the request of the interconnection customer to use operating assumptions for interconnection studies that reflect the proposed operation of an electric storage resource or co-located storage resource; and
- Require transmission providers to evaluate grid-enhancing solutions and file an annual informational report on their use of grid-enhancing technologies.

[154] The *Interconnection Reforms NOPR* was published in the *Fed. Reg.* on July 5, 2022 (Vol. 87, No. 127) pp. 39,934-40,032.

result in jurisdictional rates that are just and reasonable.[155] *Order 895* will not permit information sharing to be conditioned on the specific consent of the market participant, would permit the receiving ISO/RTO to use market participant credit-related information received from another ISO/RTO to the same extent and for the same purposes that the receiving ISO/RTO may use credit-related information collected from its own market participants, and would not change the existing discretion an ISO/RTO has to act on credit-related information, regardless of the source of that information. The FERC stated that the ability of ISO/RTOs to share credit-related information among themselves will improve their ability to accurately assess market participants' credit exposure and risks related to their activities across organized wholesale electric markets and should also enable ISOs/RTOs to respond to credit events more quickly and effectively, minimizing the overall credit-related risks of unexpected defaults by market participants in organized wholesale electric markets. *Order 895* will become effective *August 21, 2023*.[156]

- **NOPR: Transmission Siting (RM22-7)**

On December 15, 2022, the FERC issued a NOPR[157] proposing to revise its regulations governing applications for permits to site electric transmission facilities under section 216 of the FPA, as amended by the Infrastructure and Jobs Act. The *Transmission Siting NOPR* is intended to ensure consistency with the Infrastructure and Jobs Act's amendments to FPA section 216, to modernize certain regulatory requirements, and to incorporate other updates and clarifications to provide for the efficient and timely review of permit applications. Following a NARUC request for an extension of time, granted by the FERC on March 3, 2023, comments on the *Transmission Siting NOPR* are due on or before ***May 17, 2023***. Comments were filed by CLF, AL PSC, National Wildlife Federation Action Fund, National Wild Life Federation and State-Affiliated Organizations, AEU, CLF (May 16), NESCOE, ACPA, ACRE, Clean Energy Buyers Assoc., EDF, EEI/WIRES, Joint Consumer Advocates, Public Interest Organizations, SEIA, and US Chamber of Commerce.

- ***Transmission NOPR* (RM21-17)**

Following its ANOPR process,[158] the FERC issued on April 21, 2022 a NOPR[159] that would require public utility transmission providers to:

(i) conduct long-term regional transmission planning on a sufficiently forward-looking basis to meet transmission needs driven by changes in the resource mix and demand;

(ii) more fully consider dynamic line ratings and advanced power flow control devices in regional transmission planning processes;

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[155] *Credit-Related Info. Sharing in Organized Wholesale Elec. Mkts*, Order No. 895, 183 FERC ¶ 61,193 (June 15, 2023) ("*Order 895*").

[156] *Order 895* was published in the Fed. Reg. on June 22, 2023 (Vol. 88, No. 119) pp. 40,696-28,125.

[157] *Applications for Permits to Site Interstate Electric Transmission Facilities*, 181 FERC ¶ 61,205 (Dec. 15, 2022) ("*Transmission Siting NOPR*").

[158] *See 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*"). The FERC convened a tech. conf. on Nov. 15, 2021, to examine in detail the issues and potential reforms described in the *ANOPR*. Speaker materials and a transcript of the tech. conf. are posted in FERC's eLibrary. Pre-technical conference comments were submitted by over 175 parties, including by: NEPOOL, ISO-NE, AEU, Anbaric, Avangrid, BP, CPV, Dominion, EDF, EDP, Enel, EPSA, Eversource, Exelon, LS Power, MA AG, MMWEC, National Grid, NECOS, NESCOE, NextEra, NRDC, Orsted, Shell, UCS, VELCO, Vistra, Potomac Economics, ACORE, 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. *ANOPR* reply comments and post-technical conference comments 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, AEU, APPA, EEI, ELCON, Environmental and Renewable Energy Advocates, EPSA, Harvard ELI, NRECA, Potomac Economics, and SEIA. Supplemental reply comments were filed by WIRES, a group of former military leaders and former Department of Defense officials, and ACPA/AEU/SEIA.

[159] *Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection*, 179 FERC ¶ 61,028 (Apr. 21, 2022) ("*Transmission NOPR*").

(iii) seek the agreement of relevant state entities within the transmission planning region regarding the cost allocation method or methods that will apply to transmission facilities selected in the regional transmission plan for purposes of cost allocation through long-term regional transmission planning;

(iv) adopt enhanced transparency requirements for local transmission planning processes and improve coordination between regional and local transmission planning with the aim of identifying potential opportunities to "right-size" replacement transmission facilities; and

(v) revise their existing interregional transmission coordination procedures to reflect the long-term regional transmission planning reforms proposed in this NOPR.

In addition, the *Transmission NOPR* would not permit public utility transmission providers to take advantage of the construction-work-in-progress ("CWIP") incentive for regional transmission facilities selected for purposes of cost allocation through long-term regional transmission planning and would permit the exercise of federal rights of first refusal ("ROFR") for transmission facilities selected in a regional transmission plan for purposes of cost allocation, conditioned on the incumbent transmission provider with the federal ROFR for such regional transmission facilities establishing joint ownership of the transmission facilities. While the ANOPR sought comment on reforms related to cost allocation for interconnection-related network upgrades, interconnection queue processes, interregional transmission coordination and planning, and oversight of transmission planning and costs, the *Transmission NOPR* does not propose broad or comprehensive reforms directly related to these topics. The FERC indicated that it would continue to review the record developed to date and expects to address possible inadequacies through subsequent proceedings that propose reforms, as warranted, related to these topics.

A number of the elements of the *Transmission NOPR*, if adopted as part of a final rule, would result in some significant changes to how the region's transmission needs are identified, solutions are evaluated and selected, and costs recovered and allocated. A more fulsome high-level summary from NEPOOL Counsel of the *Transmission NOPR* was distributed to, and was reviewed with, the Transmission Committee.

***Comments***. Following a number of requests for extensions of time, comments on the *Transmission NOPR* were due August 17, 2022.[160] Nearly 200 sets of comments were filed, including comments by NEPOOL , ISO-NE, Acadia/CLF, Anbaric, AEU, Avangrid, BP, Dominion, Enel, Engie, Eversource, Invenergy, LSP Power, MOPA, MMWEC/CMEEC/NHEC/VPPSA, National Grid, NECOES, NESCOE, NextEra, NRG, Onward Energy, Orsted, PPL, Shell, Transource, VELCO, Vistra, ISO/RTO Council, NERC, US DOJ/FTC, MA AG, State Agencies, VT PUC/DPS, Potomac Economics, ACPA, ACRE, APPA, EEI, EPSA, Industrial Customer Organizations, LPPC, NASUCA, NRECA, Public Interest Organizations, SEIA, TAPS, WIRES, Harvard Electricity Law Initiative, New England for Offshore Wind, and the R Street Institute.

***Reply Comments***. Reply comments were due September 19, 2022. Nearly 100 sets of reply comments were filed, including by: ISO-NE, AEU, Anbaric, Avangrid, CT DEEP, Cypress Creek, Dominion, ENGIE, Eversource, Invenergy, LS Power, MA AG, NECOS, NESCOE, NextEra, Shell, Transource, UCS, ACPA, ACRE, APPA, EEI, Industrial Customer Organizations, LPPA, NRECA, Public Interest Organizations, R Street, and SEIA. On November 28, 2022, the New Jersey BPU moved to lodge its recently issued Board Order selecting transmission projects to be built pursuant to PJM's State Agreement Approach ("SAA") for the purpose of supporting New Jersey's offshore wind ("OSW") goals, the Brattle Group's SAA Evaluation Report, and PJM's SAA Economic Analysis Report, which it stated demonstrates that competitive transmission solicitations can provide significant value to consumers. In December 2022, the Harvard Electricity Law Initiative, and P. Alaama submitted further comments.

LS Power and NRG filed comments in this proceeding, as well as in (Transmission Planning and Cost Management Joint Federal-State Task Force on Electric Transmission) (AD22-8) and JFSTF proceeding (AD21-15).

[160] A July 27, 2022, request by the Georgia Public Service Commission ("GA PUC") for an additional 30 days of time to submit comments and reply comments was denied on Aug. 9, 2022.

They asserted that the FERC "cannot sufficiently address the transmission planning issues raised in its Transmission NOPR without addressing the intertwined cost management issues raised in AD22-8-000 and during the October 6, 2022 Technical Conference in AD22-8.

This matter remains pending before the FERC. If you have any questions concerning the *Transmission NOPR*, please contact Eric Runge (617-345-4735; ekrunge@daypitney.com) or Margaret Czepiel (202-218-3906; mczepiel@daypitney.com).

- **NOPR: Accounting and Reporting Treatment of Certain Renewable Energy Assets (RM21-11)**

On July 28, 2022, the FERC issued a NOPR[161] proposing reforms to the accounting and reporting treatment of certain renewable energy assets. Specifically, the FERC proposes changes to the Uniform System of Accounts ("USofA") and relevant FERC forms to: (i) include new accounts for wind, solar, and other non-hydro renewable assets; (ii) create a new functional class for energy storage accounts; (iii) codify the accounting treatment of renewable energy credits; and (iv) create new accounts within existing functions for hardware, software, and communication equipment. The FERC also seeks comment on whether the Chief Accountant should issue guidance on the accounting for hydrogen. Comments on the *Renewable Energy Assets USofA and Reporting NOPR* were due November 17, 2022.[162] Comments were filed by: Dominion, ACPA/SEIA, EEI, Liquid Energy Pipeline Assoc., RESA, PG&E/SDG&E, C. Pechman. There was no activity in this proceeding since the last Report. This matter remains pending before the FERC.

## XIII. FERC Enforcement Proceedings

### Electric-Related Enforcement Actions

- **Leapfrog Power (IN23-7)**

On May 22, 2023, the FERC approved a Stipulation and Consent Agreement with Leapfrog Power, Inc. ("Leapfrog")[163] that resolved OE's investigation into whether Leapfrog complied with its obligation to offer, in the CAISO Energy Market, bids for energy from resources that are reasonably expected to be available and capable of performing at the specified bid levels. Specifically, OE concluded that Leapfrog violated § 37.3.1.1 of the CAISO Tariff ("Offer Requirement") during the February to August 2019 period during which a substantial majority of Leapfrog's bids (which exceeded the registered metered load of all of its customers) could not reasonably have been expected to be fulfilled.[164] Under the Settlement, in which Leapfrog neither admits nor denies the alleged violations, Leapfrog agreed to ***disgorge $46,120*** and to ***pay a civil penalty of $73,880*** to the United States Treasury. CAISO was directed to distribute the disgorgement *pro rata* to network load. If you have any questions concerning this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **OhmConnect (IN23-6)**

Also on May 22, 2023, the FERC approved a similar Stipulation and Consent Agreement with OhmConnect, Inc. ("OhmConnect")[165] that resolved OE's investigation into whether OhmConnect complied with its Offer Requirement under the CAISO Tariff. Specifically, OE concluded that OhmConnect violated its Offer Requirement during the January to June 2018 period during which a substantial majority of OhmConnect's bids exceeded the registered metered load of the individual customers whose potential

[161] *Accounting and Reporting Treatment of Certain Renewable Energy Assets*, 180 FERC ¶ 61,050 (July 28, 2022) ("*Renewable Energy Assets USofA and Reporting NOPR*").

[162] The *Renewable Energy Assets USofA and Reporting NOPR* was published in the *Fed. Reg.* on Oct. 3, 2022 (Vol. 87, No. 190) pp. 59,870-59,963.

[163] *Leapfrog Power, Inc.*, 183 FERC ¶ 61,137 (May 22, 2023).

[164] *Id.* at P 9.

[165] *OhmConnect, Inc.*, 183 FERC ¶ 61,136 (May 22, 2023).

demand response was aggregated into OhmConnect's bids.[166] Under the Settlement, in which OhmConnect neither admits nor denies the alleged violations, OhmConnect agreed to ***disgorge $8,906*** and to ***pay a civil penalty of $141,094*** to the United States Treasury. OhmConnect also agreed to submit annual compliance monitoring reports for at least one year. CAISO was again directed to distribute the disgorgement *pro rata* to network load. If you have any questions concerning this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **Entergy Arkansas (IN23-5)**

On June 22, 2023, the FERC approved a Stipulation and Consent Agreement with Entergy Arkansas, LLC ("Entergy AK")[167] that resolved OE's investigation into whether Entergy AK, on four days in 2020, violated Section 40.2.5.e of the MISO Energy and Operating Reserve Markets Tariff and the FERC's Unit Operation and Communications market behavior rules[168] when it submitted erroneous offers for its Hot Springs generation facility ("Hot Springs"). On those days, Hot Springs' Real-Time offers incorrectly communicated that it was in a control mode that would respond to MISO's dispatch instructions. However, during certain hours, Hot Springs did not follow MISO's dispatch instructions or raised Hot Springs' Economic Minimums or lowered Economic Maximums in order to "block" or "pin" the unit (i.e., to restrict MISO's ability to dispatch the unit). Entergy AK did not financially benefit from blocking or pinning the Hot Springs facility through the Real-Time offers at issue. Under the Settlement, in which Entergy AK neither admits nor denies the alleged violations, Entergy AK agreed to ***pay a civil penalty of $52,000*** to the United States Treasury and to submit two annual compliance monitoring reports, with the requirement of a third report at OE's option. 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)**

***Procedural Schedule Suspended***. As previously reported, on May 24, 2022, the Honorable Judge Karen Gren Scholer of the U.S. District Court for the Northern District of Texas ("Northern District") issued an order staying this proceeding. Consistent with that order and out of an abundance of caution, ALJ Joel DeJesus, who will be the presiding judge for hearings in this matter,[169] suspended the procedural schedule until such time as the Court's stay is lifted and the parties provide jointly a proposed amended procedural schedule.

On June 14, 2023, the Commission issued an Order on Presiding Officer Reassignment,[170] which (i) directed the Chief ALJ to reassign this proceeding to another ALJ not previously involved in the proceeding (i.e., designate a new presiding officer) once the *June 14 Order* takes effect; (ii) held that the *June 14 Order* will take effect once the Northern District clarifies or lifts its stay for the limited purpose of allowing the *June 14 Order* to take effect or the stay is lifted or dissolved such that hearing procedures may resume; and (iii) stated that this proceeding otherwise remains suspended until the Northern District's stay is lifted or dissolved such that hearing procedures may resume.

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166 *Id.* at P 5.

167 *Entergy Arkansas, LLC*, 183 FERC ¶ 61,207 (June 22, 2023).

168 18 C.F.R. § 35.41(a) and (b).

169 See *Rover Pipeline, LLC, and Energy Transfer Partners, L.P.*, 178 FERC ¶ 61,028 (Jan. 20, 2022) ("*Rover/ETP Hearings Order*"). The hearings will be 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.

170 *Rover Pipeline, LLC, and Energy Transfer Partners, L.P.,* 183 FERC ¶ 61,190 (June 14, 2023) ("*June 14 Order*").

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

On December 16, 2021, the FERC issued a show cause order[171] 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,[172] 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;[173] (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***.

On March 21, 2022, Respondents answered and denied the allegations in the *Rover/ETP CPCN Show Cause Order*. On April 20, 2022, OE Staff answered Respondents' March 21 answer. On May 13, Respondents submitted a surreply, reinforcing their position that "there is no factual or legal basis to hold either [Respondent] liable for the intentional wrongdoing of others that is alleged in the Staff Report." The FERC denied Respondents' request for rehearing of the FERC's January 21, 2022 designation notice.[174] This matter is pending before the FERC.

- **BP (IN13-15)**

On December 17, 2020, the FERC issued *Opinion 549-A*,[175] a 159-page decision addressing arguments raised on rehearing requested of *Opinion 549.*[176] *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.[177] 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.[178]

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

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

[172] *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").

[173] 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.

[174] *Rover Pipeline, LLC, and Energy Transfer Partners, L.P.,* 179 FERC ¶ 61,090 (May 11, 2022) ("*Designation Notice Rehearing Order*"). The "Designation Notice" provided updated notice of designation of the staff of the FERC's Office of Enforcement ("OE") as non-decisional in deliberations by the FERC in this docket, with the exception of certain staff named in that notice.

[175] *BP America Inc. et al.,* Opinion No. 549-A, 173 FERC ¶ 61,239 (Dec. 17, 2020) ("*BP Penalties Allegheny Order*").

[176] *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*")).

[177] *BP Penalties Allegheny Order* at P 1.

[178] *Id*. at P 319.

Community Services (serving Armstrong and numerous other counties), again under protest and with full reservation of rights pending the outcome of judicial review of *Opinion 549/549-A*.

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

On April 28, 2016, the FERC issued a show cause order[179] 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.[180]

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 and 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.[181] On July 27, 2021, Chief Judge Cintron designated Judge Suzanne Krolikowski as the Presiding ALJ and established an extended Track III Schedule for the proceeding.

Discovery in this case closed on December 2, 2022. On December 16, 2022, Respondents filed for a preliminary injunction in the US District Court for the Southern District of Texas ("Southern District"). In order to allow for briefing and a decision on that motion, the FERC placed this proceeding in abeyance.[182]

On June 14, 2023, the Commission issued an Order on Presiding Officer Reassignment,[183] which (i) directed the Chief ALJ to reassign this proceeding to another ALJ not previously involved in the proceeding (i.e., designate a new presiding officer) once the *TGPNA Presiding Officer Reassignment Order* takes effect; (ii) held that the *TGPNA Presiding Officer Reassignment Order* will take effect once the Southern District clarifies or lifts its stay for the limited purpose of allowing the *TGPNA Presiding Officer Reassignment Order* to take effect or the stay is lifted or dissolved such that hearing procedures may resume; (iii) stated that this proceeding otherwise remains suspended

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

[180] 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.

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

[182] *Total Gas & Power North America, Inc., Total, S.A., Total Gas & Power, Ltd., Aaron Hall, and Therese Tran f/k/a Nguyen*, 181 FERC ¶ 61,252 (Dec. 21, 2022).

[183] *Total Gas & Power North America, Inc., Total, S.A., Total Gas & Power, Ltd., Aaron Hall, and Therese Tran f/k/a Nguyen*, 183 FERC ¶ 61,189 (June 14, 2023) ("*TGPNA Presiding Officer Reassignment Order*").

until the Southern District's stay is lifted or dissolved such that hearing procedures may resume; and (iv) provided procedural guidance to the new presiding officer.

## 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.
  - On March 25, 2022, after procedural developments summarized in previous Reports, the FERC issued to Iroquois a certificate of public convenience and necessity, authorizing it to construct and operate the proposed facilities.[184] The certificate was conditioned on: (i) Iroquois' completion of construction of the proposed facilities and making them available for service within ***three years*** of the date of the; (ii) Iroquois' compliance with all applicable FERC regulations under the NGA; (iii) Iroquois' compliance with the environmental conditions listed in the appendix to the order; and (iv) Iroquois' filing written statements affirming that it has executed firm service agreements for volumes and service terms equivalent to those in its precedent agreements, prior to commencing construction. The March 25, 2022 order also approved, as modified, Iroquois' proposed incremental recourse rate and incremental fuel retention percentages as the initial rates for transportation on the Enhancement by Compression Project.
  - On April 18, 2022, Iroquois accepted the certificate issued in the *Iroquois Certificate Order*.
  - On June 17, 2022, in accordance with the *Iroquois Certificate Order,* Iroquois submitted its Implementation Plan, documenting how it will comply with the FERC's Certificate conditions.
  - The Project is targeted for a 4th quarter 2023 in-service date.

## XV. State Proceedings & Federal Legislative Proceedings

- **Maine - NECEC Transmission LLC et al. v. Bureau of Parks and Lands et al. (BCD-21-416)**

On August 30, 2022, the Maine Supreme Judicial Court concluded that the legislation enacted as a result of the passage of Maine's November 2, 2021 ballot question,[185] and that effectively halted construction of the NECEC Project,[186] was unconstitutional to the extent it required the legislation to be applied retroactively to the certificate of public convenience and necessity ("CPCN") issued for the Project if NECEC

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[184] *Iroquois Gas Transmission Sys., L.P.*, 178 FERC ¶ 61,200 (2022) (*Iroquois Certificate Order*).

[185] The ballot question, approved by 59% of Maine voters, which summarized the citizen's initiative pursued under Maine's constitutional provision for direct initiative of legislation (ME. Const. Art. IV, pt. 3, § 18), read: "Do you want to ban the construction of high-impact electric transmission lines in the Upper Kennebec Region and to require the Legislature to approve all other such projects anywhere in Maine, both retroactively to 2020, and to require the Legislature, retroactively to 2014, to approve by a two-thirds vote such projects using public land?"

[186] The New England Clean Energy Connect ("NECEC") project (the "NECEC Project") is designed to transmit power generated in Québec through Maine and into Massachusetts. The Project includes a new 145.3-mile, high-voltage direct current ("HVDC") transmission line, proposed to run from the Maine-Québec border in Beattie Township, ME to a new converter station in Lewiston, ME and from there to an existing substation by a new 1.2-mile, high-voltage alternating current transmission line.

had acquired vested rights to proceed with Project construction (by undertaking substantial construction consistent with and in good-faith reliance on the CPCN before the Initiative was enacted). The Court remanded to the Business and Consumer Docket the factual question of whether NECEC performed substantial construction in good faith according to a schedule that was not created or expedited for the purpose of generating a vested rights claim (which it suggested appeared to be the case from the limited record developed in connection with the request for preliminary injunctive relief in this matter).

On April 20, 2023, after a week-long trial, a jury ruled 9-0 that developers had completed enough work in good faith before the passage of the ballot question to have a constitutional right to proceed with construction. Based on that verdict, a state judge is expected to conclude that the referendum was unconstitutional. The decision will almost certainly be appealed to the Maine Supreme Judicial Court for a final say.

## 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).

- **Seabrook Dispute Order (23-1094)**
  **Underlying FERC Proceeding: EL21-6, EL 23-3**
  **Petitioner: NextEra Energy Resources, LLC and NextEra Energy Seabrook, LLC**
  **Status: Initial Submissions (other than Certified Index to the Record) Filed; Briefing Scheduled**

On April 4, 2023, NextEra Energy Resources, LLC and NextEra Energy Seabrook, LLC (collectively, "NextEra") petitioned the DC Circuit Court of Appeals for review of the FERC's orders. The Court ordered NextEra to file, by May 8, 2023, a Docketing Statement, a Statement of Intent to Utilize Deferred Joint Appendix, a Statement of Issues, and the Underlying Decision from which the appeal arose. Appearances and other procedural motions, if any, were also due on or before May 8. A Certified Index to the Record and Dispositive Motions, if any, were due on or before May 22, 2023. On April 14, 2023, NECEC Transmission LLC and Avangrid, Inc. (collectively, "Avangrid") filed a motion for leave to intervene in support of the FERC.

Since the last Report, the initial submissions were filed. On May 8, the FERC moved to hold this proceeding in abeyance and suspend the filing of the Certified Index to the Record to allow for its *Seabrook Dispute Allegheny Order* to be taken into consideration ("Abeyance Motion"), which NextEra opposed. After additional back and forth on the Abeyance Motion (and issuance of the *Seabrook Dispute Allegheny Order*), the Court ordered the following briefing schedule: Certified Index to the Record (July 21, 2023); Petitioners' Brief (July 28, 2023); Respondent's Brief (September 28, 2023); Intervenors for Respondent's Joint Brief (October 12, 2023); Petitioners' Reply Brief (October 26, 2023); Joint Appendix (October 30, 2023); and Final Briefs (November 3, 2023). The parties will be informed later of the date of oral argument and the composition of the merits panel. The next expected submission will be the Certified Index to the Record.

- ***2nd Revised Narragansett LSA Orders* (22-1161, 22-1108) (consolidated)**
  **Underlying FERC Proceeding: ER22-707[187]**
  **Petitioner: Green Development**
  **Status: Briefing Completed; Oral Argument Held March 20, 2023; Decision Pending**

Oral argument in this case was held before Judges Henderson, Pillard and Katsas on March 20, 2023. This matter, which as previously reported was initiated on June 15, 2022 by a Green Development petition challenging the FERC's *2nd Revised Narragansett LSA Orders,*[188] is pending before the Court.

- **Mystic II (ROE & *True*-Up)**
  **(21-1198; 21-1222, 21-1223, 21-1224, 22-1001, 22-1008, 22-1026) (consolidated)**
  **Underlying FERC Proceeding: EL18-1639-010, -011,[189] -013[190] -017[191]**
  **Petitioners: Mystic, CT Parties,[192] MA AG, ENECOS**
  **Status: Being Held in Abeyance; Motions to Govern Future Proceedings Due July 24, 2023**

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. As previously reported, the Certified Index to the Record was due, and filed by the FERC, on February 22, 2022. On March 10, 2022, MMWEC and NHEC filed a notice of intent to participate in support of FERC in Case Nos. 21-1198, 22-1008, and 22-1026 and in support of Petitioners in the remaining consolidated cases, and filed a statement of issues. On March 17, 2022, CT Parties moved to intervene, and those interventions were granted on May 4, 2022.

As previously reported, on July 8, 2022, Connecticut Parties and ENECOS jointly moved to hold these proceedings in abeyance until 30 days after the DC Circuit issued an opinion in *MISO Transmission Owners v. FERC*, 16-1325 ("*MISO TOs"*). They requested abeyance on the basis that the consolidated petitions in this proceeding and *MISO TOs* both involve challenges to the FERC's ROE methodology (the FERC set the ROE used in calculating Constellation's rates using the methodology challenged in *MISO TOs*). Although Constellation opposed the

[187] *ISO New England Inc. and New England Power Co. d/b/a National Grid*, 178 FERC ¶ 61,115 (Feb. 18, 2022) ("*2nd Rev Narragansett LSA Order*"). *ISO New England Inc. and New England Power Co. d/b/a National Grid*, 179 FERC ¶ 62,035 (Apr. 18, 2022) (notice of denial of rehearing by operation of law and providing for further consideration). Together, these orders referred to as the "*2nd Revised Narragansett LSA Orders*".

[188] The 2nd Revised Narragansett LSA is a Local Service Agreement among New England Power, Narragansett and ISO-NE. 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.

[189] *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).

[190] *Constellation Mystic Power, LLC,* 178 FERC ¶ 61,116 (Feb. 18, 2022) ("*Mystic ROE Second Allegheny Order*")*; Constellation Mystic Power, LLC,* 178 FERC ¶ 62,028 (Jan. 18, 2022) ("*January 18 Notice*") (Notice of Denial By Operation of Law of Rehearings of Mystic ROE Second Allegheny Order).

[191] *Constellation Mystic Power, LLC*, 179 FERC ¶ 61,011 (Apr. 28, 2022) ("*Mystic First CapEx Info. Filing Order*"); *Constellation Mystic Power, LLC*, 179 FERC ¶ 62,179 (June 27, 2022) ("*June 27 Notice*") (Notice of Denial By Operation of Law of Rehearings of *Mystic First CapEx Info. Filing Order*).

[192] In this appeal, "CT Parties" are the CT PURA CT PURA, Connecticut Department of Energy and Environmental Protection ("CT DEEP"), and the CT OCC.

abeyance request, the Court granted the abeyance request on July 27, 2022, directing the Parties to file motions to govern future proceedings within 30 days of the court's disposition of *MISO TOs*.

As previously reported, the Court has since decided *MISO TOs*. However, the parties continue to agree that this case should remain in abeyance pending further proceedings related to MISO TOs, now on remand at the FERC. On April 24, 2023, Constellation reported that all parties agree and asked the Court that this case should remain in abeyance for an additional 90 days pending FERC action on remand in the MISO TOs case. On April 26, 2023, the Court issued an order that these cases remain in abeyance and that the parties file motions to govern future proceedings by July 24, 2023.

- ***CASPR* (20-1333, 21-1031) (consolidated)****
  **Underlying FERC Proceeding: ER18-619**[193]
  **Petitioners: Sierra Club, NRDC, RENEW Northeast, and CLF**
  **Status: Being Held in Abeyance (until March 1, 2024)**

As previously reported, the Sierra Club, NRDC, RENEW Northeast, and CLF petitioned the DC Circuit Court of Appeals on August 31, 2020 for review of the FERC's order accepting ISO-NE's CASPR revisions and the FERC's subsequent *CASPR Allegheny Order*. Appearances, docketing statements, a statement of issues to be raised, and a statement of intent to utilize deferred joint appendix were filed. A motion by the FERC to dismiss the case was dismissed as moot by the Court, referred to the merits panel (Judges Pillard, Katsas and Walker), and is to be addressed by the parties in their briefs.

Petitioners have moved to hold this matter in abeyance three times. The Court has granted each request. The most recent request was submitted on July 22, 2022 (third abeyance request) and the Court granted a few days later the request to hold this matter in abeyance until March 1, 2024, the date on which the elimination of MOPR is to be implemented, with motions to govern due 30 days thereafter.

- ***Opinion 531-A* Compliance Filing Undo (20-1329)**
  **Underlying FERC Proceeding: ER15-414**[194]
  **Petitioners: TOs' (CMP et al.)**
  **Status: Being Held in Abeyance**

On August 28, 2020, the TOs[195] 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*[196] 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

[193] *ISO New England Inc.*, 162 FERC ¶ 61,205 (Mar. 9, 2018) ("*CASPR Order*").

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

[195] 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.

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

abeyance of this case *because* the Commission intends to issue a future order on Petitioners' request for rehearing of the challenged Order Rejecting Compliance Filing, and because the remand proceeding in which the challenged order was issued remains ongoing.

On May 4, 2021, the Court ordered that this case remain in abeyance pending further order of the Court, directing the FERC to file a status report by September 1, 2021 and at 120-day intervals thereafter. The parties were directed to file motions to govern future proceedings in this case within 30 days of the completion of agency proceedings. The FERC's last status report, indicating that the proceedings before the Commission remain ongoing and that this appeal should continue to remain in abeyance, was filed on April 4, 2023.

### Other Federal Court Activity of Interest

- ***Northern* Access *Project (22-1233)***
  **Underlying FERC Proceeding: *CP15-115*[197]**
  **Petitioners: Sierra Club**
  **Status: Briefing Complete; Oral Argument Not Yet Scheduled**

On September 6, 2022, the Sierra Club petitioned the DC Circuit for review of *Northern Access Project Add'l Extension Order*. Briefing is complete. On June 23, 2023, the Court scheduled oral argument for ***September 18, 2023***. The composition of the merits panel will be provided on or about August 18, 2023.

- ***Order 872* (20-72788,* 21-70113; 20-73375, 21-70113) (consol.) (9th Cir.)**
  **Underlying FERC Proceeding: RM19-15[198]**
  **Petitioners: SEIA et al.**
  **Status: Oral Argument Held March 8, 2022; Awaiting Decision**

On September 17, 2020, SEIA petitioned the 9th Circuit Court of Appeals for review of *Order 872*.[199] Briefing was completed and oral argument held March 8, 2022 before Judges Nguyen, Miller and Bumatay. This matter remains pending before the Court.

- **Algonquin Atlantic Bridge Project Orders (21-1115*, 21-1138, 21-1153, 21-1155 consol.) and (22-1146, 22-1147 consol.)**
  **Underlying FERC Proceeding: CP16-9-012[200]**
  **Petitioners: LS Power, Algonquin, INGA**
  **Status: Cases 22-1146/47 Deconsolidated, Briefing Completed and Oral Held Apr 20, 2023; Remaining Cases (21-1115 et al.) Being Held in Abeyance Pending Disposition of 22-1146/47**

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 fling 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,

[197] *National Fuel Gas Supply Corp. and Empire Pipeline, Inc.*, 179 FERC ¶ 61,226 (June 29, 2022) ("*Northern Access Project Add'l Extension Order*").

[198] *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).

[199] *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.

[200] *Briefing Order*; *April 19 Notice of Denial of Rehearings by Operation of Law.*

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. On May 31, 2022, Petitioners asked the Court to continue to hold this proceeding in abeyance pending the First Circuit's disposition of Algonquin's pending motions to transfer that Court's cases 20-1458 and 22-1201 (which also challenge the FERC's authorization of the "Atlantic Bridge Project").

On June 30, the First Circuit transferred cases 20-1458 and 22-1201 to the DC Circuit. The DC Circuit docketed those cases as 22-1146 and 22-1147, consolidated them with its cases challenging the Atlantic Bridge Project orders (with 21-1115 remaining the lead case), and directed the parties to file a proposed briefing schedule. On July 19, the parties filed a proposal that cases 22-1146 and 22-1147 be severed, proposed a revised briefing format and schedule for those cases, and asked the Court to continue to hold the remaining cases in abeyance (asserting that abeyance may avoid the need for briefing and adjudication of the issues that Algonquin and INGAA would press).

On August 16, 2022, the Court deconsolidated 22-1146 and 22-1147 from 21-1115 et al., which is to remain in abeyance pending a further order of the Court. The Court consolidated Cases 22-1146 and 22-1147 together and directed briefing in the consolidated cases. As previously reported, the FERC filed its Respondent Brief on January 12, 2023 and Algonquin and INGA filed a Joint Brief of Intervenors on January 26, 2023. Petitioners filed their Joint Reply Brief on February 16, 2023. Since the last Report, the Deferred Joint Appendix was filed on March 2, 2023 and Final Briefs were filed on March 9, 2023. Briefing in 22-1146/47 was completed and oral argument held April 20, 2023 before Judges Srinivasan, Millett and Tatel. This matter is pending before the Court.

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## Status Report of Current Regulatory and Legal Proceedings as of June 24, 2023

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



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



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



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

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

No Activities to Report

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# Highlights of the 2022 Assessment of the ISO New England Markets

Presented By:

David B. Patton, Ph.D.

Potomac Economics
External Market Monitor

June 27, 2023

# Introduction

- Potomac Economics serves as the External Market Monitor ("EMM") for the ISO-NE. In this role, we:
  - ✓ Evaluate and report on the competitive performance and operation of the wholesale markets;
  - ✓ Identify and recommend necessary changes to existing and proposed market rules, tariff, and market design elements; and
  - ✓ Evaluate the mitigation by the Internal Market Monitor ("IMM").
- Our annual assessment of the ISO-NE markets complements the IMM's report, and focuses on key market areas summarized in this presentation:
  - ✓ Cross-market comparison of key market outcomes and metrics;
  - ✓ Competitive assessment of the energy market;
  - ✓ Out-of-market commitment and reserve pricing;
  - ✓ Assessment of the Pay-For-Performance event on Dec 24; and
  - ✓ Assessment of the Forward Capacity Market.




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# Summary of Findings

- We find that the markets performed competitively but identify key improvements that will be increasingly important in the coming years.
- High priority recommendations to improve the performance of the markets today and facilitate large-scale entry of intermittent resources include:
  - ✓ **2012-8 & 2019-3:** Introducing co-optimized day-ahead operating reserves to reflect all system needs – and dynamically aligning real-time and day-ahead reserve products with the ISO’s key local reliability needs.
  - ✓ **2018-7:** Modify the pay-for-performance rate to a reasonable level that would vary with the size of the operating reserve shortage.
  - ✓ **2020-2:** Accrediting capacity resources based on marginal reliability value.
  - ✓ **2021-1 & 2022-4**: Postpone future FCAs and replace the FCM with a prompt seasonal capacity market.
- These improvements are important now in order to reliably integrate the large quantities of renewable resources the New England states are requiring.
- We recommend ten other improvements to lower costs and improve market performance, which are lower in priority to those above.




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# Cross-Market Comparison and Competitive Assessment



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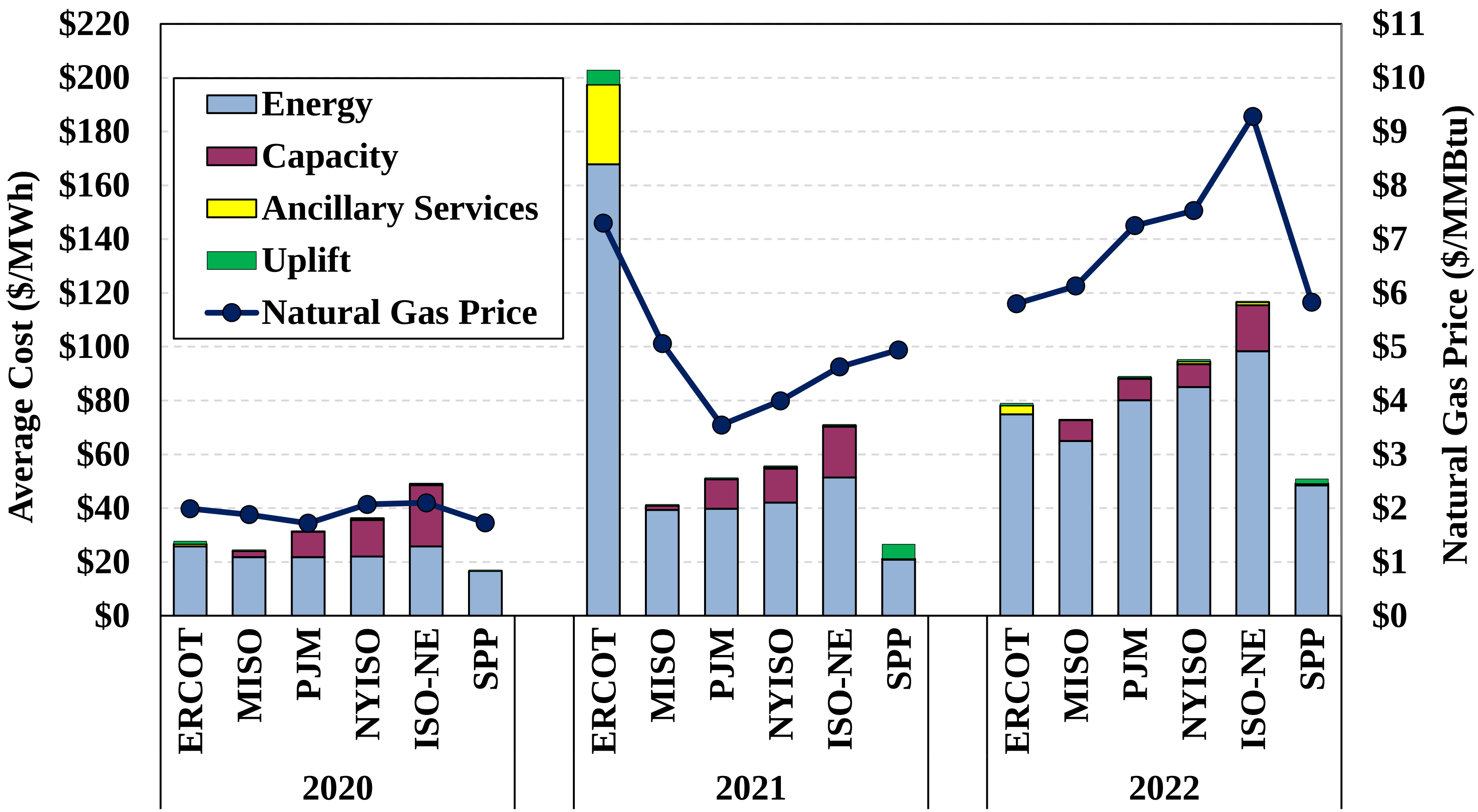
# Cross-Market Comparison of Key Outcomes and Metrics

**Compared to most other RTO markets, ISO-NE has:**

- The highest capacity charges because of over-forecasted demand ahead of the FCAs, which are slow to correct.
  - ✓ Larger surpluses in other areas and poor market design in MISO contributed to lower prices in these areas.
- The highest energy prices in most years due to higher gas prices.
  - ✓ ERCOT is the exception with an “energy-only” market and $9000 shortage pricing – led to higher energy prices in 2021.
- Far less congestion (8%-13% of other RTOs adjusting for size) because of transmission investments over the past decade.
  - ✓ However, transmission service costs more than doubled the average rates in other RTO markets.
- Less liquidity in the day-ahead market and poorer performance – caused by the inefficient allocation of costs to virtual transactions.
- Higher market-wide uplifts costs because the lack of DA reserve markets causes ISO-NE to commit resources out-of-market.

# All-in Prices



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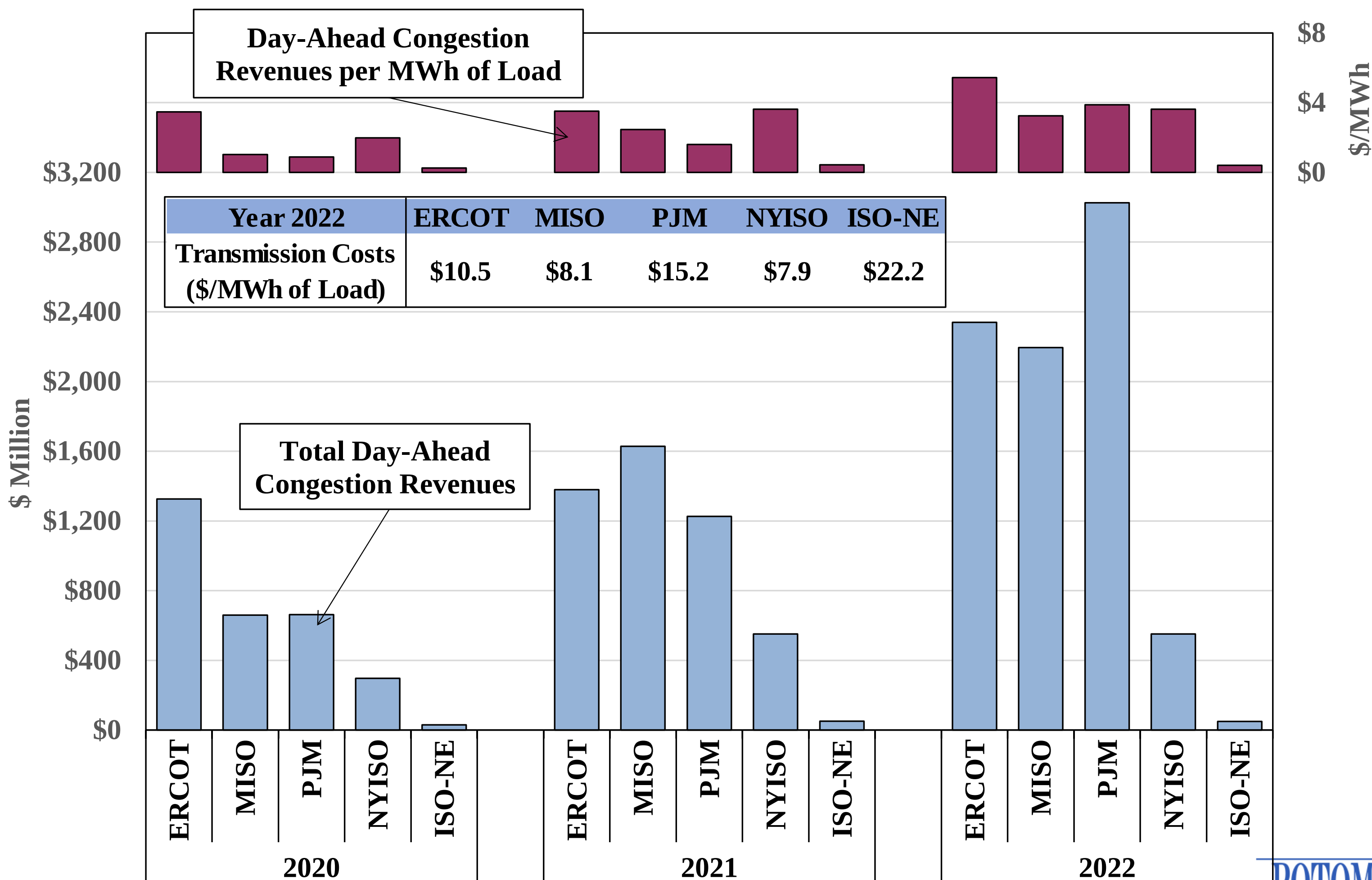
# Transmission Congestion Costs




| Year 2022 | ERCOT | MISO | PJM | NYISO | ISO-NE |
|---|---|---|---|---|---|
| Transmission Costs ($/MWh of Load) | $10.5 | $8.1 | $15.2 | $7.9 | $22.2 |





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# Virtual Transactions

| Market | Year | Virtual Load | | Virtual Supply | | Uplift Charge Rate |
|---|---|---|---|---|---|---|
| | | MW as a % of Load | Avg Profit | MW as a % of Load | Avg Profit | |
| ISO-NE | 2019 | 2.3% | -$1.20 | 4.9% | $1.26 | $0.40 |
| | 2020 | 2.8% | $0.36 | 4.6% | $0.72 | $0.46 |
| | 2021 | 2.8% | -$1.29 | 4.5% | $2.07 | $0.53 |
| | 2022 | 3.1% | -$1.75 | 4.8% | $3.23 | $1.02 |
| NYISO | 2022 | 5.9% | $2.40 | 5.8% | $1.28 | < $0.1 |
| MISO | 2022 | 14.9% | -$0.07 | 15.5% | $0.94 | $0.37 |

# Competitive Assessment of the Energy Market

- In our competitive assessment of the energy market, we find:
  - ✓ Little evidence of structural market power;
  - ✓ No market power abuse or manipulation affecting clearing prices; and
  - ✓ Mitigation has helped prevent the exercise of market power.
- However, we identify several deficiencies in the energy mitigation process that led to mitigation of competitive offers on December 24.
  - ✓ Raised offer prices in most hours and led to Show Cause order by FERC.
- We recommend revisions to the energy mitigation process (Rec #2022-2):
  - ✓ ***Implement hourly conduct and impact tests***: Resources should only be mitigated in hours when they violate both conduct and impact tests.
  - ✓ ***Allow multiple FPAs for calculating reference levels***: Multiple FPAs for different output ranges will avoid inappropriate mitigation.
  - ✓ ***Mitigate only offer segments that fail the conduct test***: No resource is mitigated to a *higher* offer price.





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# OOM Commitments and Operating Reserve Prices



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*See Section III.A*



# Day-Ahead Commitments for 10-Minute Spinning Reserve

- OOM commitments, on average, occurred in ~**3,300** hours per year for the system's 10-minute spinning reserve requirement.
  - ✓ These commitments produced **38%** of day-ahead NCPC.
  - ✓ These commitments lower prices and depress incentives for investment in flexible resources.
- Pricing 10-minute spinning reserves would raise revenue up to **$15** per kW-year for units providing energy and/or spinning reserves.
- This underscores the need for day-ahead operating reserve markets.

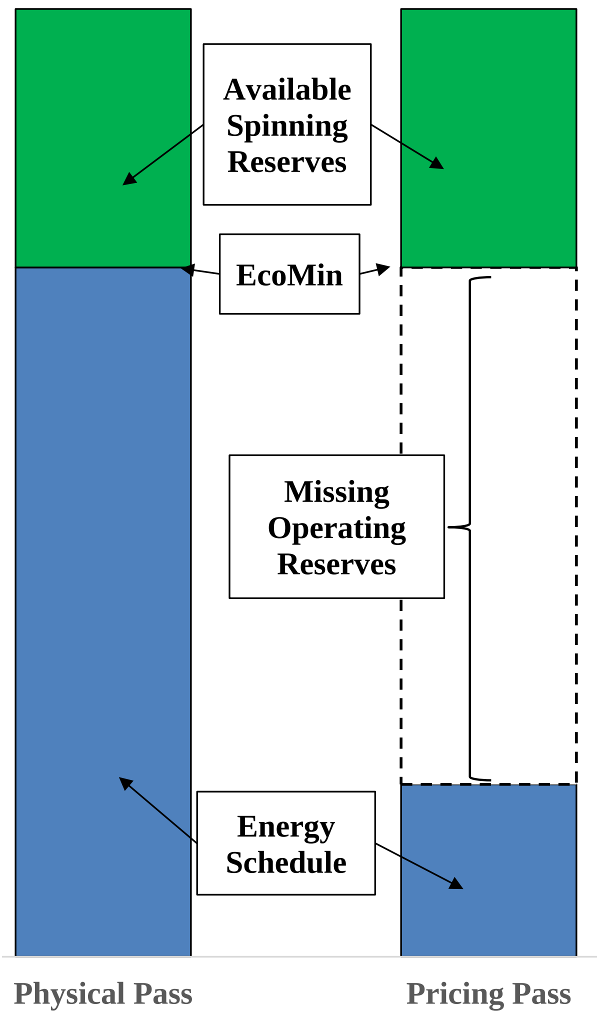
| Year | # Hours | Average Capacity Committed per Hour (MW) | DA NCPC (Million $) | Average Reserve Value ($/MWh) |
|---|---|---|---|---|
| **2020** | 4054 | 571 | $3.8 | $1.68 |
| **2021** | 3389 | 514 | $5.4 | $1.94 |
| **2022** | 2450 | 496 | $5.8 | $1.81 |

# Day-Ahead Commitments for Local Second Contingency Protection

- OOM commitments for second contingency protection in local areas fell notably in 2022 (~360 hours vs. ~1,300 hours in both 2020 and 2021).
  - ✓ Reliability transmission upgrades were a key contributor.
- Nonetheless, most such OOM commitments for local needs in the past three years were for the NH-ME and NE West-to-East interfaces.
  - ✓ These local areas are not defined in ISO-NE's real-time markets and no reserve requirements are priced in its day-ahead market.
  - ✓ Pricing these needs in the day-ahead market would have raised revenue by **$4 to $10** per kW-year for units in these local areas from 2020 to 2022.

| Year | LSCP Region | # LSCP Days | #LSCP Hours | Average LSCP Capacity per Hour (MW) | DA NCPC (Million $) | Average Uplift Rate ($/MWh) | Implied Marginal Reserve Value ($/kW-Year) |
|---|---|---|---|---|---|---|---|
| **2022** | **NH-to-Maine** | 11 | 121 | 244 | $0.2 | $7.31 | $1.32 |
| | **NEMA/Boston** | 2 | 27 | 397 | $0.2 | $23.01 | $0.65 |
| | **Lw. SEMA & East RI** | 1 | 8 | 167 | $0.02 | $15.80 | $0.13 |
| | **NE West-to-East** | 17 | 207 | 357 | $0.4 | $5.66 | $1.70 |

# Pricing of Operating Reserves in the Fast-Start Pricing Logic




- *Pricing Logic* relaxes fast-start units' EcoMin to Zero for pricing purposes.
  - ✓ However, it does not allow reserves to be held below EcoMin.
- The reduction in available reserves often raises energy and reserve prices inefficiently under tight conditions.
- During intervals with binding reserve constraints, on average:
  - ✓ The physical dispatch had 330 MW more available 30-minute reserves than the pricing logic.
  - ✓ $216/MWh TMOR price in pricing logic vs. $92/MWh in physical dispatch.

*See Section III*



# OOM Commitments and Reserve Prices

**Key Recommendations:**

- To address these concerns, we make three key recommendations:
  - ✓ Introduce co-optimized operating reserves in the day-ahead market reflecting all system needs. (Recommendation **#2012-8**)
    - – *DASI* will address this.
  - ✓ Dynamically define a full set of local operating reserve requirements in the day-ahead and real-time markets. (Recommendation **#2019-3**)
    - – Reserve constraints should be flexible and applied when a need is recognized without tariff changes – analogous to activating at transmission constraint in the energy market.
  - ✓ Modify the fast-start pricing logic to utilize the full capability of online resources for reserves (Recommendation **#2022-1**).
    - – This will ensure that the reserve prices more accurately reflect the cost of maintaining operating reserves.

# Assessment of PFP Event on Dec 24



POTOMAC ECONOMICS



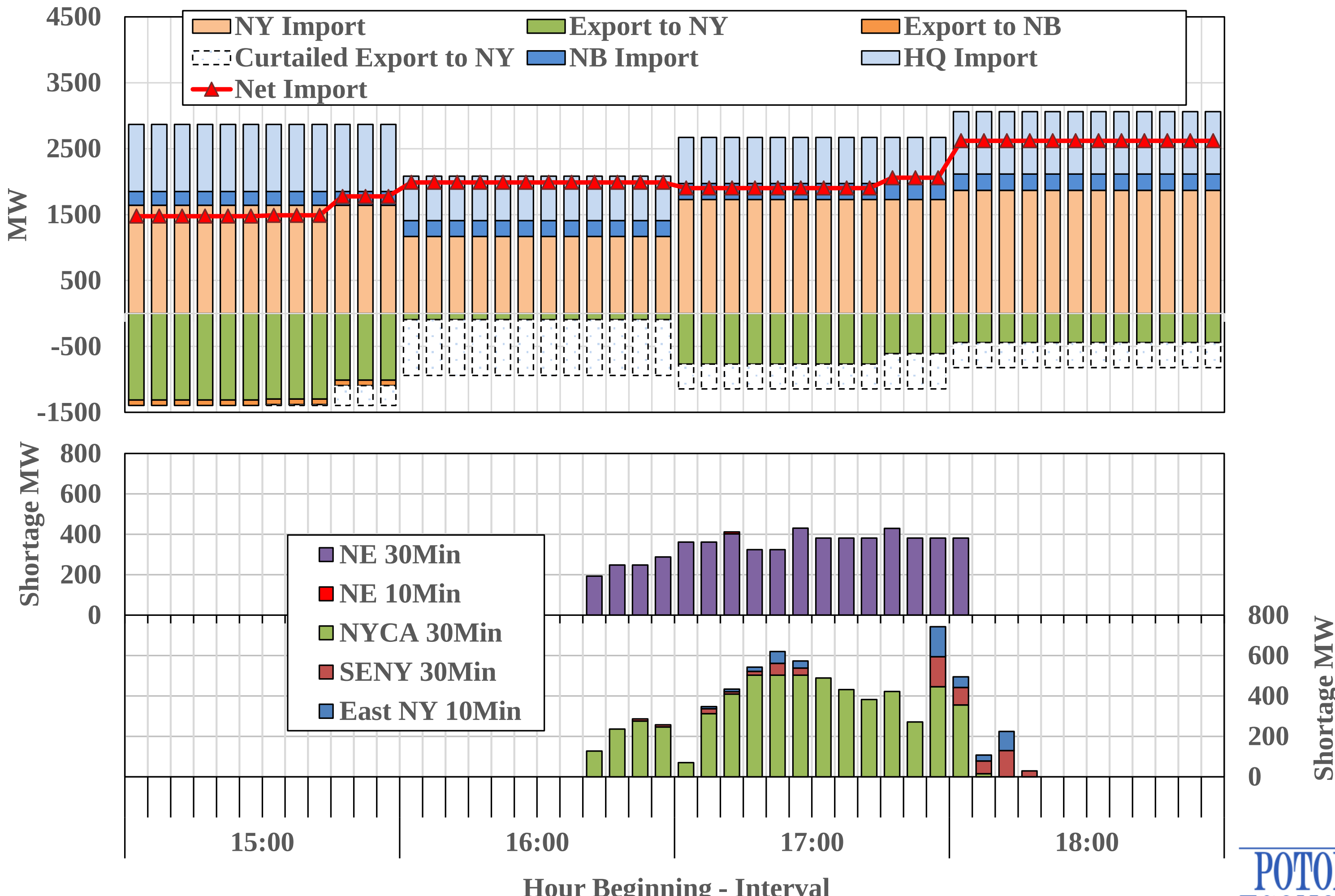
# PFP Event on December 24

- The system was short of 30-minute reserves in 1.3 hours, with an average shortage quantity of 350 MW.
  - ✓ Two key drivers include: (a) 2.1 GW of generation forced outages; and (b) 1.1 GW reduction in imports.
- ISO-NE curtailed ~40 percent of scheduled exports to NYISO to minimize shortages.
  - ✓ Available units not committed day-ahead received excessive penalties
  - ✓ Shortage pricing + PFP settlements exceeded $6000 per MWh
- Concern #1: Inefficient incentives to export.  Imports are paid the PFP rate of $3,500/MWh but exports are not charged the PFP rate.
  - ✓ It was simultaneously profitable to schedule in *both* directions – raises gaming concerns and disrupts import/export incentives.
- Concern #2: PFP rate not consistent with value of reserves – the rate is overstated and does not vary with the magnitude of shortage
  - ✓ Problem will be *much* worse when rate rises to $9337 in 2025.

*See Section IV.B*



# External Transactions During PFP Event



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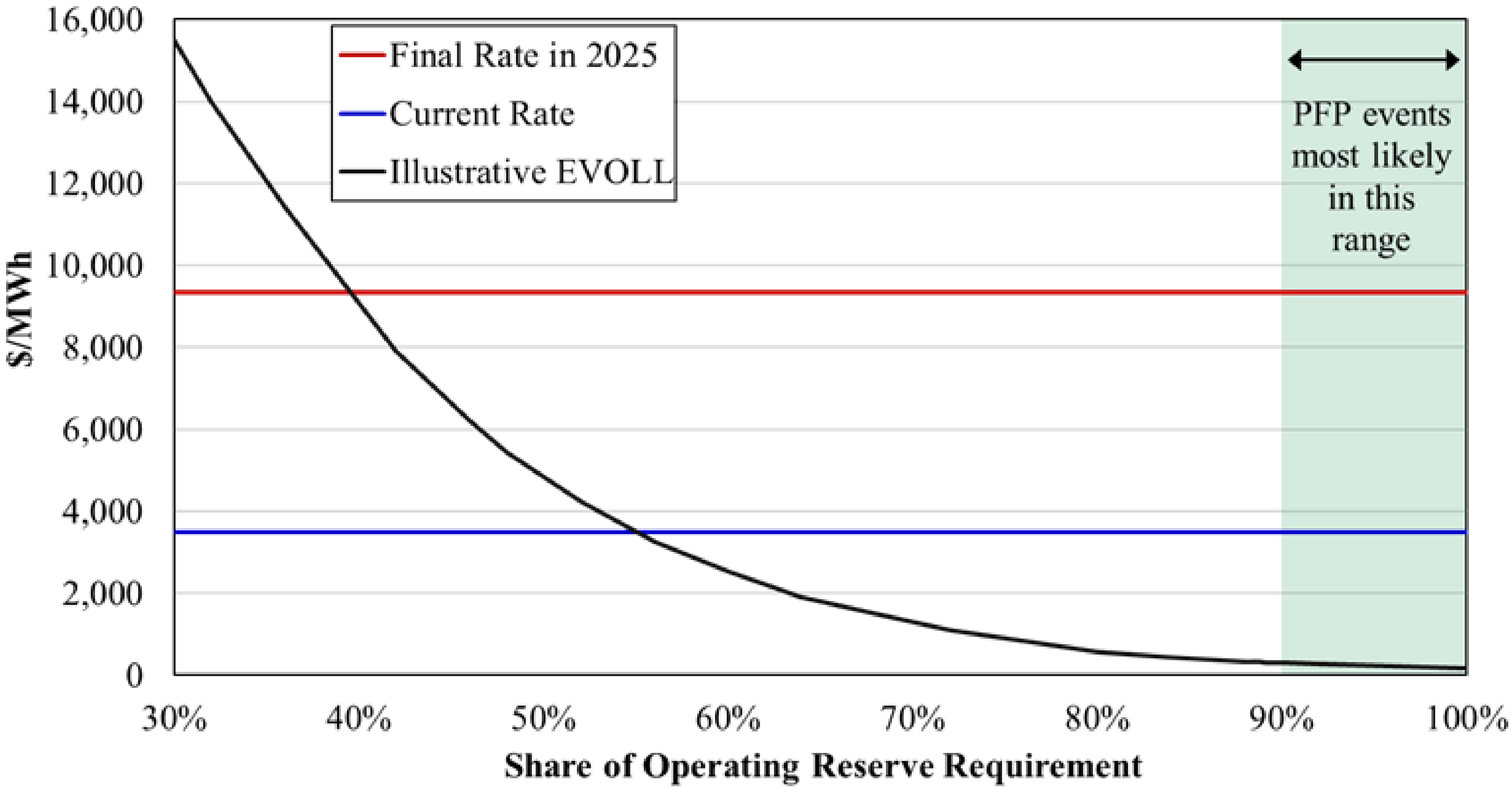
# PFP Rate and the Value of Lost Load





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See Section IV



# PFP Event on December 24

**Key Conclusions and Recommendations:**

- Applying the PFP rate to imports but not exports is a significant flaw.
  - ✓ This undermines the efficiency of scheduling incentives during reserve deficiencies, raises gaming concerns, and may undermine reliability.
- Fixed, escalating PFP rates and shortage pricing together set prices many higher than efficient levels during most shortages, incenting suppliers to:
  - ✓ Self-commit high-cost units inefficiently, and
  - ✓ Retire longer-lead time units inefficiently.
- To address these concerns, we make two key recommendations:
  - ✓ Revise its PFP rules to charge exporters at the PFP rate during Capacity Scarcity Conditions. (Recommendation **#2022-3**)
  - ✓ Modify the PFP rates to levels that are in line with a reasonable estimate of VOLL and that escalate as the reserve shortages grow deeper. (Recommendation **#2018-7**)

# Assessment of Forward Capacity Market



POTOMAC ECONOMICS

# Winter Reliability in the FCA

- Winter reliability has become a critical concern due to:
  - ✓ Growing winter demand
  - ✓ Increased awareness of winter gas limitations
  - ✓ Retirement of fuel-secure resources
- *Resource Adequacy* and *Energy Adequacy* are the same goal – to be able to produce enough energy to keep the lights on when needed
  - ✓ Resource adequacy just made a number of simplifying assumptions
  - ✓ Energy adequacy can be reflected in the resource adequacy model
- The capacity market can signal winter risk driven by energy adequacy and compensate suppliers appropriately
  - ✓ This supports reliability by attracting imports, retaining existing resources, and motivating investment when winter risk is high
  - ✓ It is necessary to realistically represent **all** drivers of winter reliability issues in the model used to set ICR and accreditation





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# Reliance on Stored and Contracted Fuels Historical and Future

- **The next two slides show the following:**
- Historical daily generation by fuel type and imports in the ~12-day cold period in Winter 2017/18:
  - ✓ Gas classified as LNG or Pipeline considering daily LNG imports, assuming pipeline gas is first used for LDC demand
  - ✓ Includes output by 3.9 GW of fuel-secure capacity without CSOs in latest FCA (Mystic 8 and 9, Pilgrim, and coal plants)
- SCC of units with January 2027 CSOs by plant type and by oil tank size, compared to 90/10 net peak load forecast
- Key takeaways:
  - ✓ Pipeline gas for generators is very limited on cold days
  - ✓ The region will rely on stored oil and LNG more than in past winters due to retirements and uncertainty of imports
  - ✓ Oil units may be needed to run for 1 to 2 week periods; inventory levels and replenishment may be pivotal




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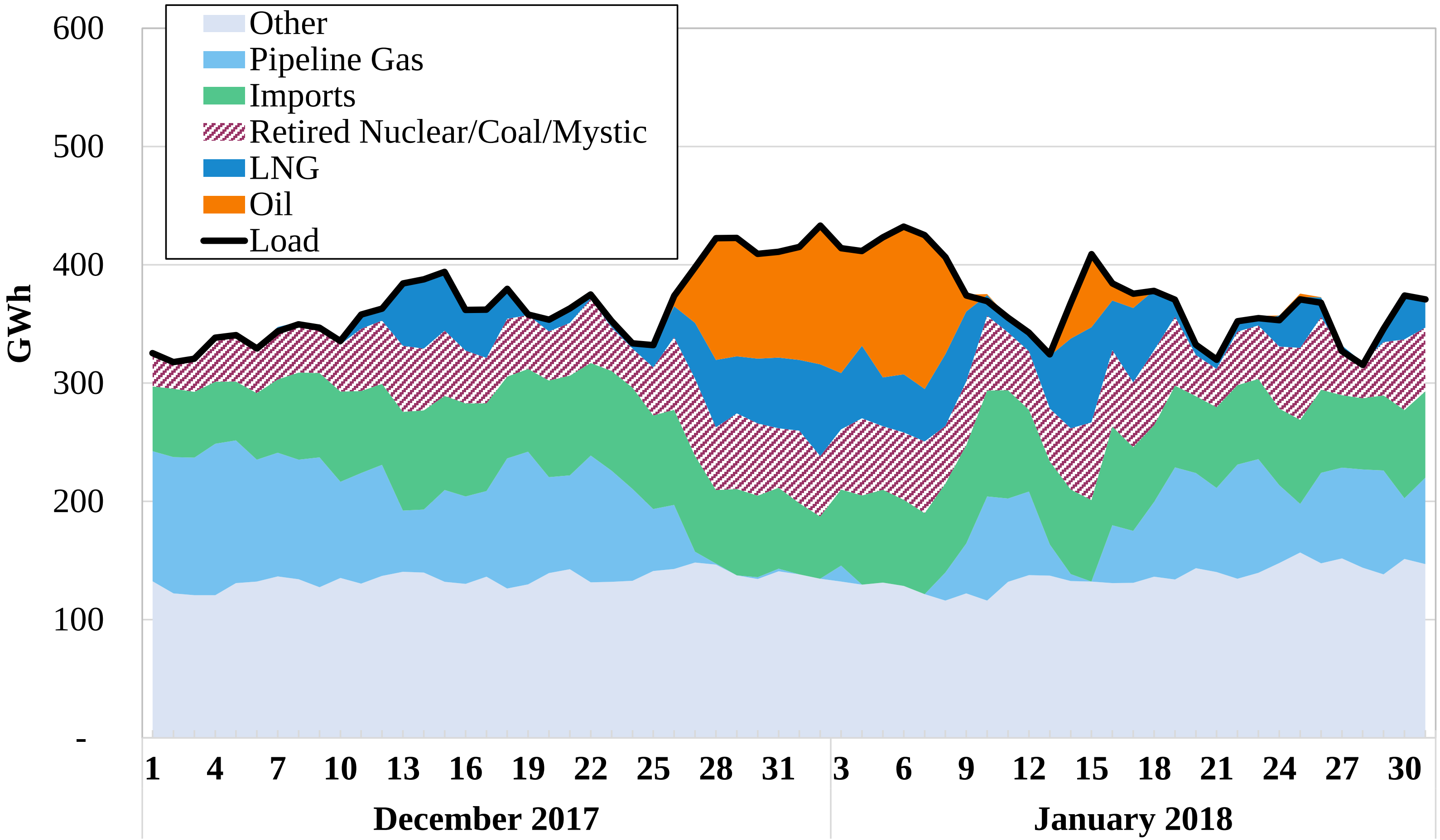
# Reliance on Stored and Contracted Fuels

## 2017/18 Winter





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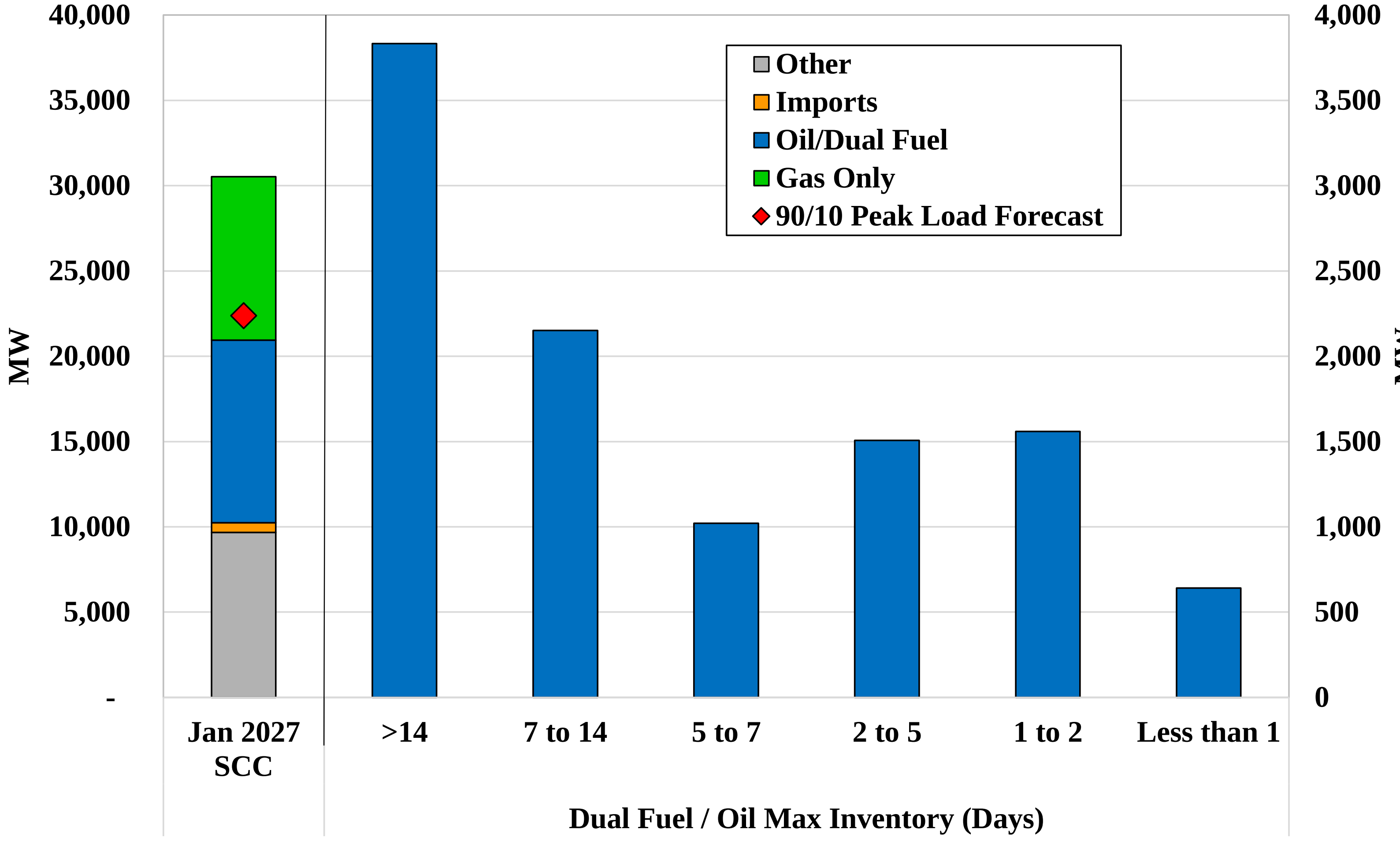
# Reliance on Stored and Contracted Fuels
## SCC of Units with Jan 2027 CSOs and Dual/Oil Inventories



# Currently Proposed Winter Modeling Enhancements

- Drivers of winter reliability are not currently modeled in MARS
- ISO-NE's ongoing Resource Capacity Accreditation project has developed proposals related to:
  - ✓ Improved modeling of winter load profiles in MARS;
  - ✓ Inclusion of limits on systemwide pipeline gas availability in MARS;
  - ✓ Inclusion of limited quantity of LNG available to generators in MARS;
  - ✓ Assumed level of winter tie benefits in MARS (planned); and
  - ✓ Qualification requirements for units with firm gas contracts, LNG contracts, and stored oil inventories
- The current proposal does *NOT* include detailed modeling of oil and dual fuel unit inventories
  - ✓ Units with at least 40 hours max inventory capacity considered to have unlimited fuel





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# Resource/Energy Adequacy Modeling for Winter Reliability

- We analyzed the impact of oil and LNG inventory limits on winter reliability using a simplified hourly resource adequacy model
- The following figure shows an example of daily generation and inventories over a modeled winter with a severe cold period
  - ✓ The example shown uses a load profile based on the 2017/18 winter, scaled to match CELT forecast of energy and 90/10 peak for 2026/27
  - ✓ System is assumed to be at criteria
  - ✓ Pipeline gas modeled based on historical relationship to daily peak load
  - ✓ LNG modeled as fixed amount of energy available over season assuming 7.5 heat rate (example on next slide assumes 5 BCF)
  - ✓ Oil inventories for units with CSOs are modeled assuming they begin season with full inventories, replenish spent fuel in 7 days
  - ✓ LNG and oil are deployed in an order that reflects the opportunity costs of units with low inventory, which helps conserve scarce fuels
  - ✓ Imports assumed to be only 650 MW on coldest days





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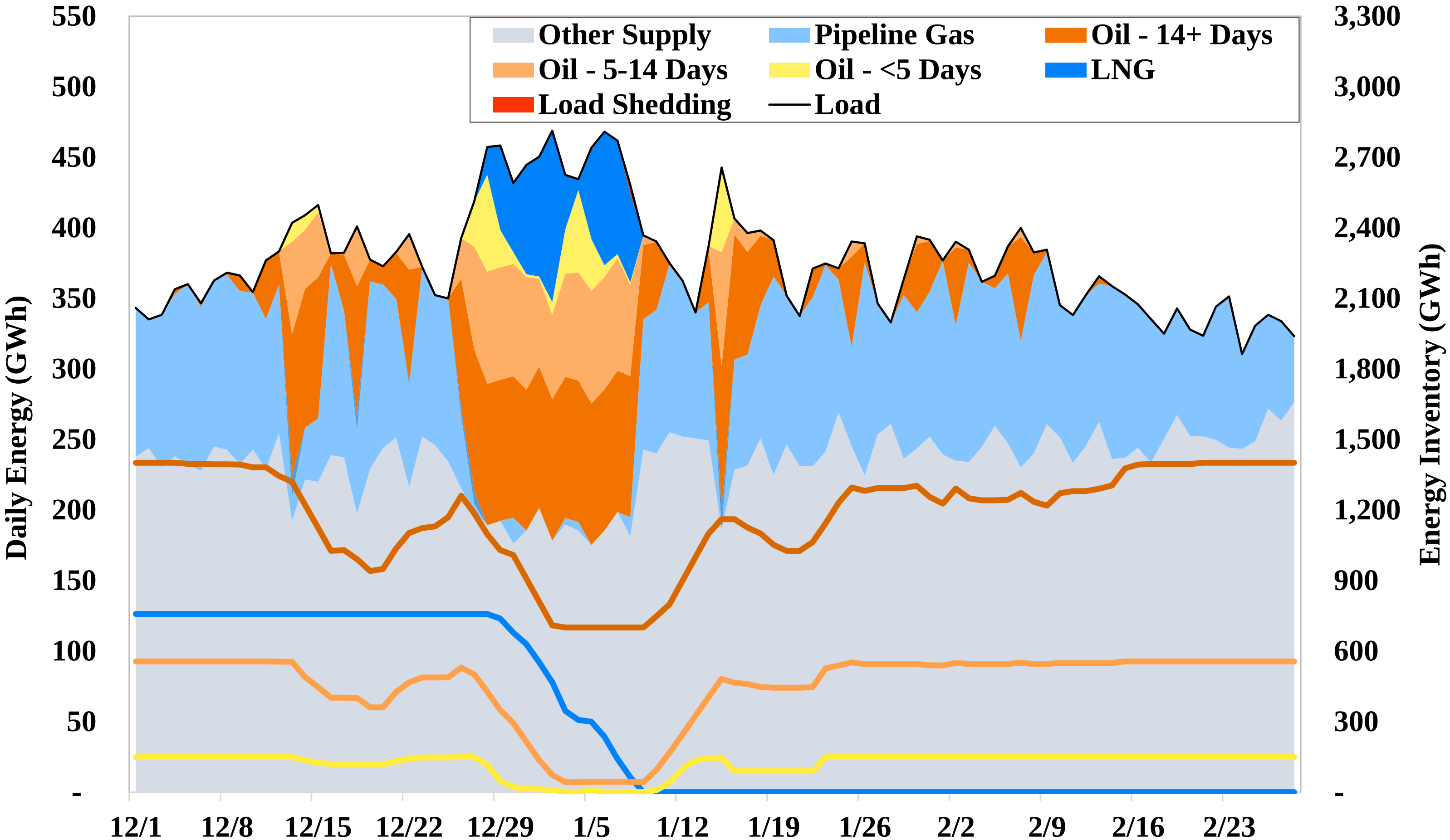
# Illustration of Fuel Usage in RA Model
## Severe Winter with 90/10 Peak Forecast, 5 BCF LNG





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# Impact of Modeling Oil Inventories
## Installed Capacity Requirements and Surplus

- Using the RA Model described on the previous slide, we calculate requirements needed to satisfy a target level of EUE
- The following chart shows the impact of oil inventory modeling on capacity or LNG needed to satisfy requirements in the RA Model
  - ✓ It shows the amount of "firm capacity" (MW) or LNG (MWh) needed to satisfy reliability criteria in our RA Model, *in addition* to resources with January 2027 CSOs
  - ✓ 'Instantaneous Replenishment' case assumes no oil inventory limits but applies derate to units with less than 40-hour tank size
- Modeling depletion of oil inventories substantially increases the firm capacity or LNG required, implying that not modeling it will:
  - ✓ Understate of winter capacity requirements; and
  - ✓ Overstate of capacity market surplus (see the second figure below)





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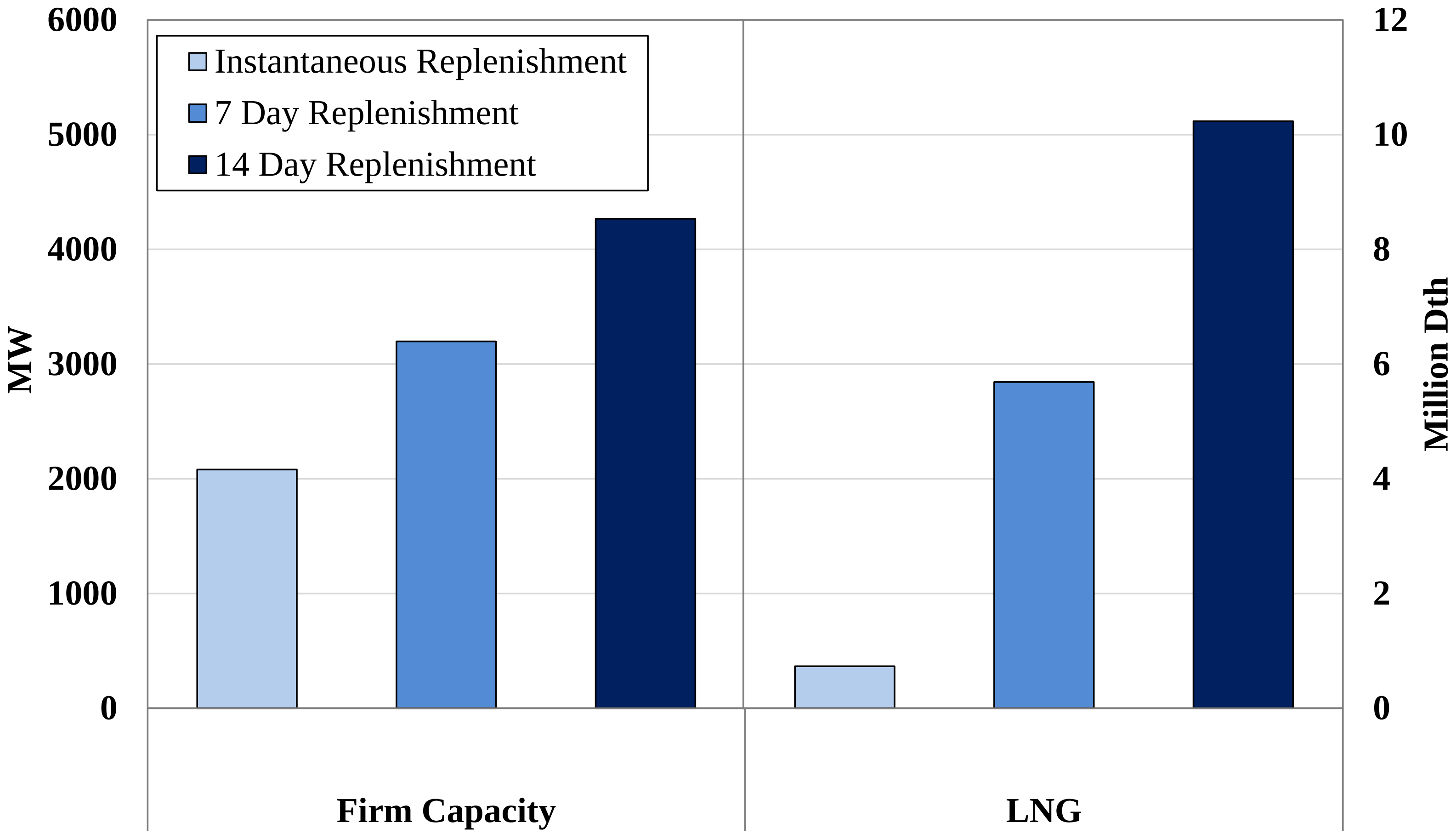
# Impact of Modeling Oil Inventories
## Firm Capacity or LNG Needed to Satisfy Reliability Criteria





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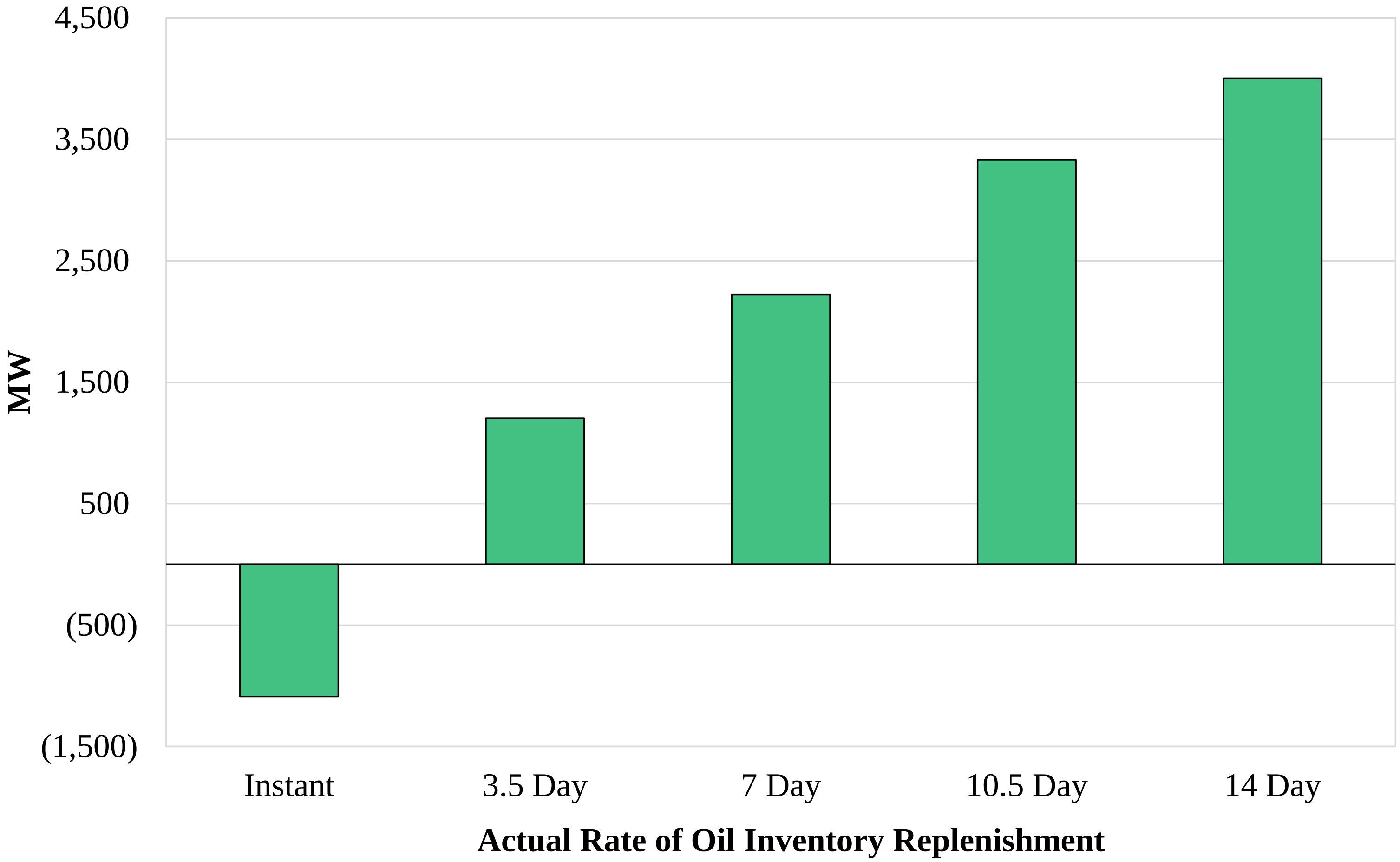
# Artificial Surplus from Assuming Instantaneous Replenishment



# Impact of Modeling Oil Inventories
## Market Signals and Accreditation

- The following figure illustrates how capacity prices and accreditation could be affected by modeling of oil inventories
  - ✓ Total consumer payments are the same in both cases
  - ✓ Artificial surplus in ‘Instantaneous Replenishment’ case results in inefficiently-low capacity price
  - ✓ Annual capacity credit estimated based on seasonal weighted average rMRI, assuming 75% summer risk in ‘Instantaneous Replenishment’ case and 90% winter risk in case w/oil inventories modeled
- Modeling oil inventory depletion has significant effects on incentives for different types of resources:
  - ✓ Dual fuel/oil payment rises because of higher recognized winter risk
  - ✓ Returns to acquiring firm gas contracts rise with winter risk
  - ✓ Wind payment rises due to higher recognized winter risk
  - ✓ Storage payment falls because of poor contribution to energy adequacy





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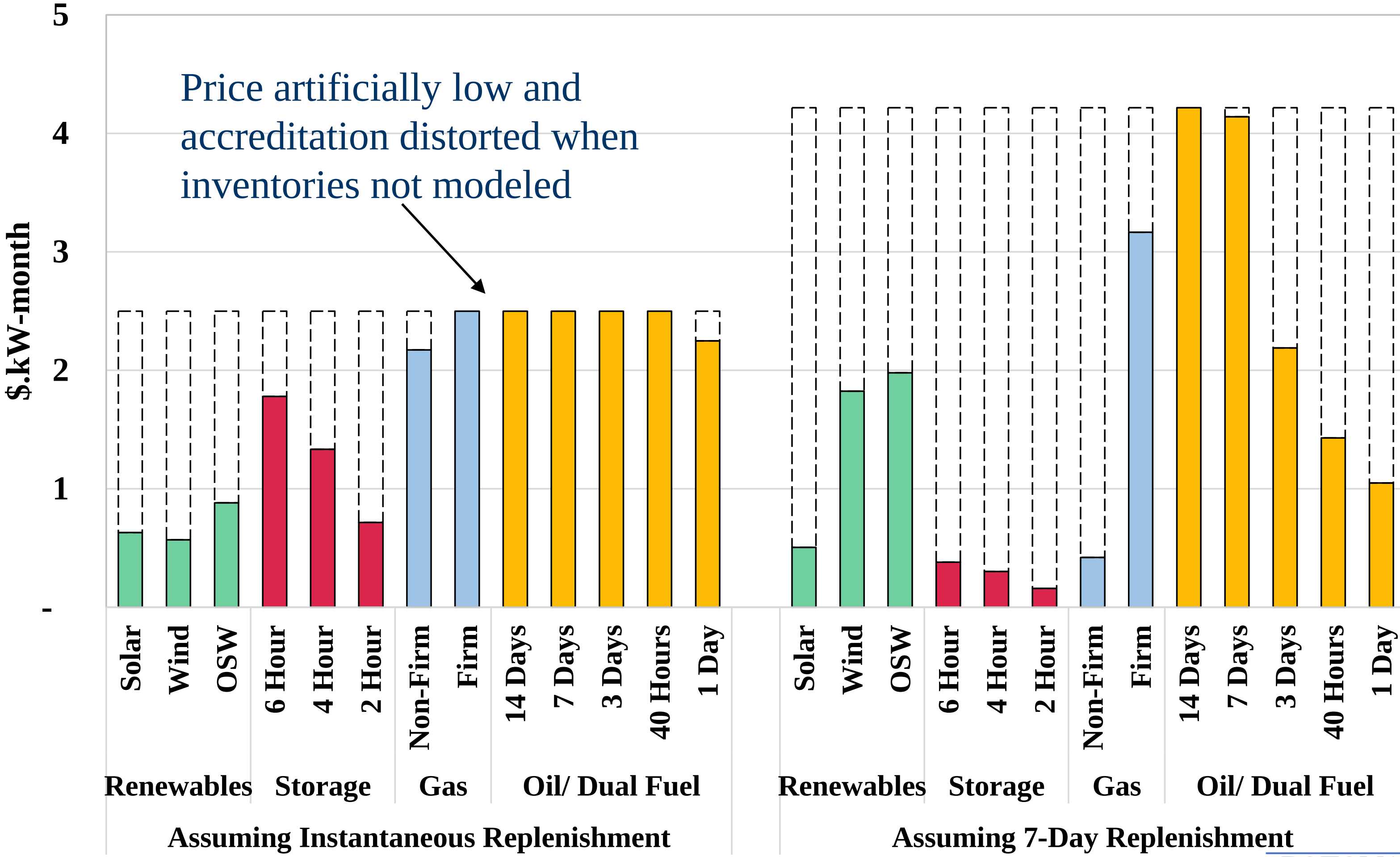
*See Section V.A.2*



# Marginal Accreditation and Pricing Impact of Modeling Oil Unit Inventories





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*See Section V.A.2*



# Winter Reliability Conclusions

- The capacity market can support energy adequacy by setting efficient prices and accreditation to:
  - ✓ Attract and retain firm imports;
  - ✓ Prevent inefficient retirements of dual fuel and oil units;
  - ✓ Encourage gas units to contract for LNG or firm gas; and
  - ✓ Support investment in renewables that contribute to reliability.
- Realistic modeling of oil inventory depletion/replenishment and other drivers of winter reliability is crucial.
- Out of market actions (e.g., centralized LNG procurement) can be counterproductive by:
  - ✓ Exacerbating artificial surplus; and
  - ✓ Reducing incentives to retain fuel-secure units and attract imports.





POTOMAC ECONOMICS

# Concerns with the Forward Capacity Market

- FCM has had a dubious track record of facilitating entry of new resources
- The timing of new entry is uncertain and being compelled to sell capacity forward can expose developers to substantial risk.
  - ✓ The outcome cannot be pivotal in the decision to enter since almost all of the economic value of a resource occurs after the initial planning year.
  - ✓ The three-year forward term of the FCA is not aligned with development timeframes for a growing share of projects in ISO-NE.
    - – The FCM inhibits resources with fast development timeframes from receiving revenues as soon as they are able to support reliability.
- The FCM creates significant financial risks for existing older generators.
  - ✓ Retirement of older units is often prompted by unforeseen equipment failure that is not economic to repair.
  - ✓ Such units must accept a capacity obligation that ends more than four years after the FCA, which creates substantial risk for the supplier.
  - ✓ This risk can cause older resources to retire prematurely.





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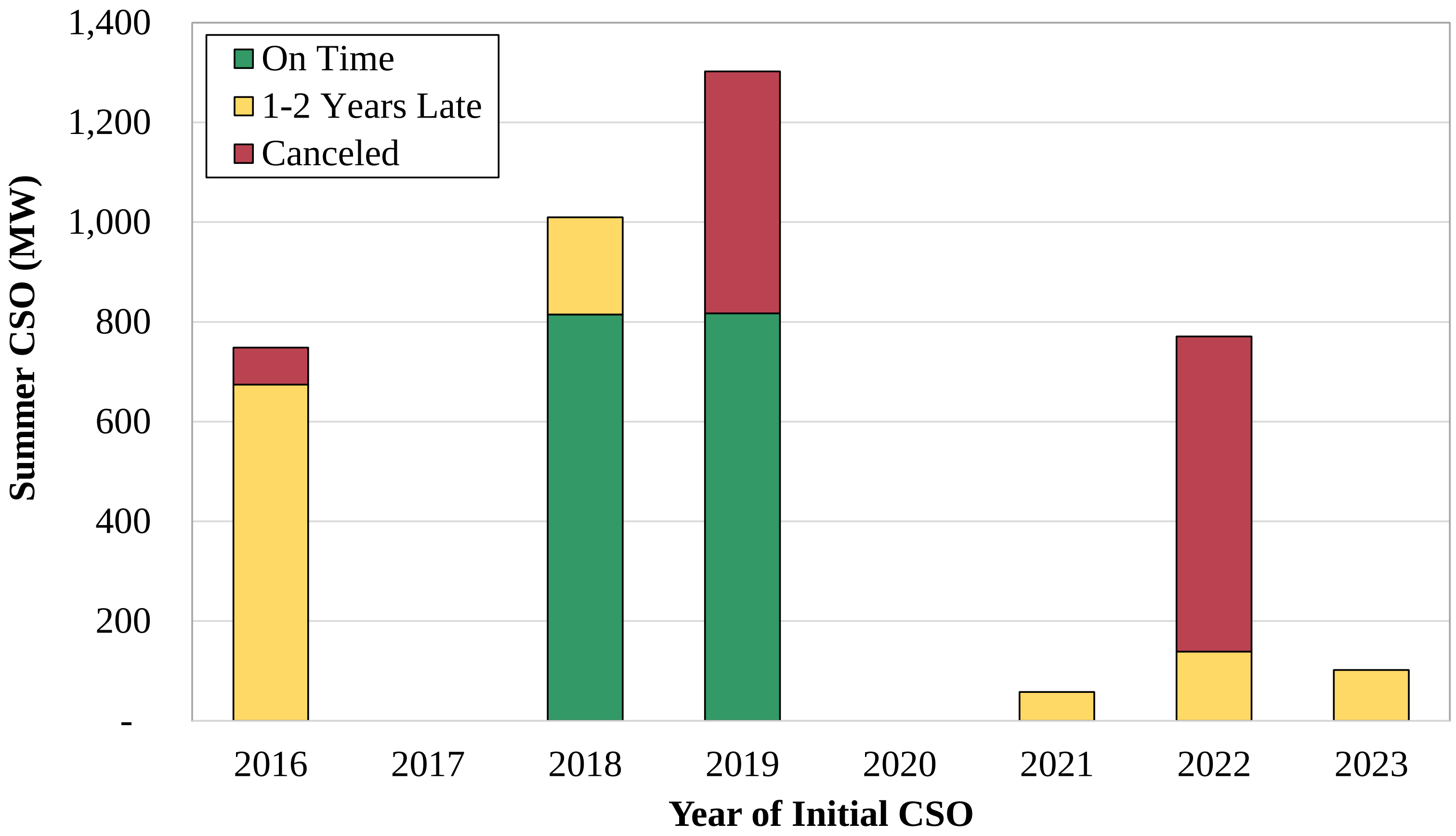
# New Generation Projects with Initial Capacity Obligation above 50 MW





# Concerns with the Forward Capacity Market

- The FCM is more prone to misalignment with the planning models – planning assumptions that are much more uncertain include:
  - ✓ Expected resource mix – affects system needs and resource accreditation.
  - ✓ Forecasted load – errors are larger and take much longer to correct since adjustment will not begin for three years.
- Fuel contracting decisions are not optimal to make three years ahead and should affect resources' accreditation in the future.
- To address these concerns, we recommend the following key changes:
  - ✓ Implement *a seasonal market* to reflect reliability needs in the winter and seasonal accreditation differences for resources. (#2021-1a)
  - ✓ Shift timeframe of capacity auction from three-years ahead to a *prompt timeframe* (1 to 3 months ahead of the planning period). (#2021-1b)
  - ✓ Accredit all capacity resources based on marginal reliability value and implement all necessary winter RA modeling enhancements. (#2020-2)
- This changes would greatly improve incentives governing fuel contracting and investment/retirement decisions.





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# Other Capacity Market Recommendations

- We also recommend the following additional capacity market changes:
  - ✓ Reflect increased risk from eliminating MOPR in CONE value. (#2021-2)
  - ✓ Replace descending clock auction format with sealed bid. (#2015-7)
  - ✓ Postpone the upcoming FCAs, beginning with FCA18 or FCA19 at the latest, to accelerate the transition to a prompt market. (#2022-4)
- Postponing the FCA will allow time to implement marginal accreditation and accurate winter resource adequacy modeling before another auction, which will address the following issues:
  - ✓ Current ICR and accreditation values understate winter risk, resulting in inaccurate values;
  - ✓ The FCA is too far in advance for generators to economically procure firm gas or LNG contracts; and
  - ✓ Cleared resource mix may differ substantially from ICR assumptions, causing inefficient prices and accreditation





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# Full List of Recommendations



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# List of Recommendations

| Recommendation Number and Description | | High Benefit[1] | Feasible in ST[2] | Report Reference |
|---|---|---|---|---|
| **Reliability Commitments and NCPC Allocation** | | | | |
| 2020-1 | Consider allowing firm energy imports from neighboring areas to satisfy local second contingency requirements. | | ✓ | Section III.B |
| 2010-4 | Modify allocation of “Economic” NCPC charges to make it consistent with a “cost causation” principle. | | ✓ | 2018 Report Section III |
| 2014-5 | Utilize the lowest-cost configuration for multi-unit generators when committed for local reliability. | | ✓ | Section III.B |
| **Energy and Operating Reserve Markets** | | | | |
| 2022-1 | Allow fast-start pricing model to utilize the full capability of online units for energy or reserves. | | | Section III.C |
| 2019-3 | Dynamically define a full set of local operating reserve requirements in the day-ahead and real-time markets. | ✓ | | Section III.B |
| 2014-7 | Eliminate the forward reserve market. | | ✓ | 2014 Report Section I.B |

*Notes:* 1. *High Benefit*: Will likely produce considerable efficiency benefits.
2. *Feasible in Short Term*: Complexity and software modifications are likely limited.




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# List of Recommendations (cont.)

| Recommendation Number and Description | | High Benefit[1] | Feasible in ST[2] | Report Reference |
|---|---|---|---|---|
| **Energy and Operating Reserve Markets** | | | | |
| 2012-8 | Introduce co-optimized operating reserves in the day-ahead market reflecting forecasted system needs. | ✓ | | Section III.A |
| **Energy Market Mitigation** | | | | |
| 2022-2 | Implement energy mitigation reforms including (a) hourly conduct and impact tests, (b) mitigation of only conduct-failing offer ranges, and (c) fuel-price adjustments that vary by output level. | | | Section II.D |
| **Capacity Market** | | | | |
| 2022-3 | Charge exporters at the PFP rate during reserve shortages. | | ✓ | Section IV.C |
| 2022-4 | Postpone to forward capacity auction to support the transition to a prompt capacity market. | ✓ | ✓ | Section V.B |
| 2021-1 | Replace the forward capacity market with a prompt seasonal capacity market. | ✓ | | Section V.B |

# List of Recommendations (cont.)

| Recommendation Number and Description | | High Benefit[1] | Feasible in ST[2] | Report Reference |
|---|---|---|---|---|
| **Capacity Market** | | | | |
| 2021-2 | Include the effects of MOPR elimination on investment risk when establishing the net CONE for the demand curve. | | ✓ | Section V.B |
| 2020-2 | Improve capacity accreditation by a) Accrediting all resources consistent with their marginal reliability value, and b) modify the planning model to accurately estimate marginal reliability values. | ✓ | | Section V.A-B |
| 2020-3 | Account for energy efficiency as a reduction in load instead of as a supply resource in the FCM. | | ✓ | 2020 Report Section V |
| 2018-7 | Modify the PPR to rise with the reserve shortage level, and not implement the remaining planned increase in the payment rate. | ✓ | ✓ | 2019 Report Section V |
| 2015-7 | Replace the descending clock auction with a sealed-bid auction to improve competition in the FCA. | | | 2017 Report Section IV.A |





POTOMAC ECONOMICS

memo

**To:** NEPOOL Participants, Markets, and Reliability Committees

**From:** Vamsi Chadalavada, Executive Vice President and Chief Operating Officer

**Date:** June 14, 2023

**Subject:** Resource Capacity Accreditation (RCA) Update and Options

The ISO and its stakeholders have dedicated significant time and effort to designing and refining the ISO's RCA proposal in order to file it before the end of the year for implementation starting with Forward Capacity Auction (FCA) 19. As recently discussed at the June NEPOOL Markets Committee meeting, the ISO identified a GE software error that significantly understated the amount of liquefied natural gas (LNG) allocated to gas generators in the winter risk model.[1] This error affects several months of work on the ISO's proposed gas resource accreditation approach and also invalidates the initial results of the impact analysis shared with stakeholders in April. Based on this error and the need for a comprehensive modeling review, the RCA project schedule is delayed and FCA 19 implementation is impacted.

While FCA 19 for Capacity Commitment Period (CCP) 2028-29 runs in February 2025, pre-auction processes such as resource qualification begin in Q1 2024. Any effort to develop administrative or heuristic constructs in the RCA design as a 'quick fix' in the model in order to proceed with the expected FCA 19 timeframes introduces additional uncertainties to the model and creates significant regulatory risks. Therefore, the ISO is assessing its options for proceeding and is seeking stakeholder feedback on four approaches set forth below.

Some options contemplate the integration of RCA with a prompt and seasonal capacity market structure, a request we have heard from numerous stakeholders as well as the External Market Monitor. One of the key details associated with a prompt capacity market is the timing of conducting the auction relative to the start of the CCP. For example, a prompt capacity auction could theoretically be held in Q1 of the calendar year, 3-4 months ahead of the start of the CCP. In transitioning from a three-year forward to a prompt capacity market construct, there will be up to a three-year period between conducting the final forward capacity auction and conducting the first prompt capacity auction. Once an option is chosen, the ISO plans to engage with stakeholders to further define the scope of work.

[1] Tongxin Zheng, "Resource Capacity Accreditation (RCA) – Status Update," presentation to the NEPOOL Markets Committee, Westborough, MA (June 6, 2023), 2, https://www.iso-ne.com/static-assets/documents/2023/06/a02_mc_2023_06_06_rca_in_the_forward_capacity_market_iso_status_update.pdf.

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There are four broad objectives that the ISO is seeking to balance:

(1) Seek additional time to make the necessary improvements to the winter risk model, rerun the impact analysis, and seek feedback from stakeholders;

(2) Recognize the importance of simultaneously implementing a revised capacity accreditation framework that coincides with the elimination of the minimum offer price rule (MOPR) for FCA 19 as previously noted by the ISO;[2]

(3) Recognize the increasing importance of seasonality in the region, both from a supply resource portfolio perspective and the expected transition to a winter peaking system, and a stated interest in exploring a change from a forward to a prompt capacity market construct; and

(4) Minimize regulatory and implementation risks.

The options listed below are not listed in an order of preference, nor do they reflect the totality of trade-offs. From an ISO perspective, these appear to be the best options available.

**Option A: Implement RCA for FCA 19, but with a shorter forward auction cycle, and move to a prompt and seasonal market for the 20th capacity auction**

This scenario would implement RCA for FCA 19, with the auction held in 2026 instead of February 2025. FCA 19 would still acquire capacity for CCP 2028-29. It effectively turns the Forward Capacity Market into a shortened forward auction until the twentieth capacity auction, which could become a prompt auction run in 2029, versus 2026, for CCP 2029-30.

This option gives the region more time to complete the FCA 19 RCA project for implementation in CCP 2028-29, while also progressing toward a prompt and seasonal market. The benefit of this approach is that it largely addresses the objectives noted above. However, it will result in substantial additional work in that the design and associated implementation will have to accommodate interim measures for one forward auction with RCA, before switching to a prompt and seasonal market. At the same time, this option may serve as a transition from the current forward cycle to a prompt cycle.

**Option B: Delay RCA filing by a year and target implementation for FCA 20, CCP 2029-30, and move to a prompt and seasonal market for the 21st capacity auction**

With this scenario, FCA 19 would proceed as scheduled under currently-approved market rules, without the RCA design. The ISO would file a proposal for RCA for implementation starting in FCA 20. FCA 20 would be the last forward capacity auction and the 21st capacity auction, for CCP 2030-31, would be a prompt auction running in early 2030 versus early 2027.

This option would allow the ISO time to improve the simulation software and resource models. The extra time allowed for RCA development, until FCA 20 pre-auction processes start in Q1 2025, will reduce

[2] As filed and approved by the FERC, the MOPR will be removed for CCP 2028-29 and will not be extended under any of the proposed options.

implementation risks. However, this option will delay implementation of a prompt and seasonal market to FCA 21 for CCP 2030-31 or beyond. This approach will address the first and fourth objective, but not the second objective. It also will not address the third objective on a timely basis.

**Option C: Establish a later auction date for CCP 2028-29 by implementing RCA with a prompt and seasonal market for the 19th capacity auction**

In this scenario, FCA 18 would be the last forward capacity auction and the 19th capacity auction, for CCP 2028-29, would be a prompt auction running in early 2028 versus early 2025.

This option provides more time to complete the RCA design for the 19th capacity auction while simultaneously addressing requests from stakeholders and the External Market Monitor to move toward a prompt and seasonal capacity market. The administration of the capacity markets could be simplified with a prompt auction design. Time spent developing and discussing the prompt and seasonal market design in parallel with completing the RCA design will require sharp and sustained focus on the scope and objectives by the ISO and stakeholders. This option has three notable design initiatives for one CCP, possibly in a combined development and regulatory cycle. Having a full design and associated rule certainty, once approved, should help improve market certainty and confidence. This option addresses the first three objectives. However, if the new, prompt design is not timely developed, filed, and approved, there is risk to the region. It is not clear that the region could resume forward auctions under compressed timelines.

**Option D: Implement RCA with a prompt and seasonal market for the 20th capacity auction with a later auction date, for CCP 2029-30**

This scenario is the same as option C, but it targets RCA and a prompt and seasonal market implementation for CCP 2029-30 instead of CCP 2028-29. Under this approach, FCA 19 would be the last forward auction, conducted in 2025 without RCA, and the 20th capacity auction for CCP 2029-30 would be the first prompt auction running in early 2029.

This option provides extra time to help ensure regulatory approvals and certainty, which will mitigate some of the risk associated with option C. This option addresses the first, third, and fourth objectives, but similar to option B, will not address the second.

**Next Steps**

The ISO is seeking stakeholder feedback on these four options, and welcomes stakeholders' views at the June Participants Committee and breakout meetings. The ISO will take all of the feedback under advisement while it continues to assess the options, and will provide a further update to stakeholders on its considerations of these options, ahead of making its final recommendation to stakeholders.

**20th Annual**

# Participants Committee Summer Meeting

**Manchester Village, VT**

**June 29 Schedule**   v. 2023.06.29**

| SECTOR/GROUP | 8:30 – 9:45 a.m. | 10:00 – 11:15 a.m. | 11:30 a.m. – 12:45 p.m. | 12:15 – 2:00 p.m. |
|---|---|---|---|---|
| **Generation / Long** | *FERC Staff (9:15-9:45)*<br>***(Dorset)*** | State Officials Panel 1<br>***(Rockwell C)*** | ISO Board Panel 2<br>***(Manchester)*** | Lunch<br>(All)<br>***(Colonnade)*** |
| **Transmission** | *FERC Staff (8:30-9:00)*<br>***(Dorset)*** | State Officials Panel 2<br>***(Rockwell A)*** | ISO Board Panel 1<br>***(Battenkill)*** | |
| **Supplier / Short (LSE)** | State Officials Panel 1<br>***(Rockwell C)*** | ISO Board Panel 1<br>***(Battenkill)*** | *FERC Staff (11:30-12:00)*<br>***(Dorset)*** | |
| **Publicly Owned Entity** | ISO Board Panel 1<br>***(Battenkill)*** | *FERC Staff (10:45-11:15)*<br>***(Dorset)*** | State Officials Panel 2<br>***(Rockwell A)*** | |
| **AR** | ISO Board Panel 2<br>***(Manchester)*** | *FERC Staff (10:00-10:30)*<br>***(Dorset)*** | State Officials Panel 1<br>***(Rockwell C)*** | |
| **End User** | State Officials Panel 2<br>***(Rockwell A)*** | ISO Board Panel 2<br>***(Manchester)*** | *FERC Staff (12:15-12:45)*<br>***(Dorset)*** | |
| | | | | |
| **ISO Board Panel 1** | Publicly Owned Entity<br>***(Battenkill)*** | Supplier / Short (LSE)<br>***(Battenkill)*** | Transmission<br>***(Battenkill)*** | |
| **ISO Board Panel 2** | AR<br>***(Manchester)*** | End User<br>***(Manchester)*** | Generation / Long<br>***(Manchester)*** | |
| **State Officials Panel 1** | Supplier / Short (LSE)<br>***(Rockwell C)*** | Generation / Long<br>***(Rockwell C)*** | AR<br>***(Rockwell C)*** | |
| **State Officials Panel 2** | End User<br>***(Rockwell A)*** | Transmission<br>***(Rockwell A)*** | Publicly Owned Entity<br>***(Rockwell A)*** | |
| **FERC Staff** | *Transmission (8:30-9:00)*<br>*Generation/Long (9:15-9:45)*<br>***(Dorset)*** | *AR (10:00-10:30)*<br>*Publicly Owned (10:45-11:15)*<br>***(Dorset)*** | Supplier/Short (LSE) *(11:30-12:00)*<br>*End User (12:15-12:45)*<br>***(Dorset)*** | |

***ISO Board Panel 1***: Caren Anders, Steve Corneli, Brook Colangelo, Mark Vannoy, and Gordon van Welie.

***ISO Board Panel 2***: Mike Curran, Roberto Denis, Cheryl LaFleur, and Mel Williams.

***State Officials Panel 1:*** VT staff Lou Cecere, VT staff Mary Jo Krolewski, ME Chairman Phil Bartlett, ME staff Ron Guay, MA Assistant Secretary Weezie Nuara, MA staff John Slocum, NH staff Dan Phelan, NESCOE staff Jeff Bentz, NESCOE staff Shannon Beale, NECPUC Exec. Dir. George Twigg. **

***State Officials Panel 2:*** VT Chairman Tony Roisman, VT Commissioner Riley Allen, ME Commissioner Scully, ME staff Michael Haskell, MA Deputy Secretary Jason Marshall, CT staff Josh Walters, NESCOE staff Sheila Keane, NESCOE staff Nathan Forster and NESCOE Exec. Dir. Heather Hunt. **

***FERC Staff:*** Nicole Businelli, Eric Jacobi, Noah Schlosser, and Zach Harris.

**** Subject to change**