

**EXECUTIVE SUMMARY**  
**Status Report of Current Regulatory and Legal Proceedings**  
**as of December 4, 2024**

The following activity, as more fully described in the attached Litigation Report, has occurred since the report dated November 5, 2024 (“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**

2	206 Proceeding: ISO Market Power Mitigation Rules (EL23-62)	Nov 21	FERC, having accepted the Fuel Price Adjustment changes (see Section III below), terminates this proceeding
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**II. Rate, ICR, FCA, Cost Recovery Filings**

* 4	ICR-Related Values and HQICCs – Annual Reconfiguration Auctions (ER25-519)	Nov 22 Nov 25 Nov 26-Dec 2	ISO-NE and NEPOOL jointly file ICR-Related Values and HQICCs for 2025/26 ARA3, 2026/27 ARA2; and 2027/28 ARA1; comment deadline <b>Dec 13, 2024</b> ISO-NE files errata to Nov 22 filing Calpine, National Grid intervene
* 3	EP Newington CIP-IROL (Schedule 17) Section 205 Cost Recovery Filing (ER25-588)	Nov 27	Essential Power Newington requests recovery of <b>\$356,401</b> in CIP-IROL Costs incurred between Jul 1, 2023 and Jun 30, 2024; comment deadline <b>Dec 18, 2024</b>
* 4	FirstLight CIP-IROL (Schedule 17) Section 205 Cost Recovery Filing (ER25-509)	Nov 21	FirstLight Power Management requests recovery of <b>\$87,186</b> in CIP-IROL Costs incurred between Sep 16, 2022 and Dec 31, 2023; comment deadline <b>Dec 12, 2024</b>
4	Canal Marketing CIP-IROL (Schedule 17) Section 205 Cost Recovery Filing (ER25-168)	Nov 8	Public Citizen intervenes
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6	<b>Mystic 8/9 COSA (ER18-1639)</b>		
* 6	Mystic Global Settlement (ER18-1639-029)	Nov 8 Nov 18 Nov 27 Dec 4	Mystic submits Global Settlement to resolve all remaining issues related to the Mystic COSA; reply comments due <b>Dec 9, 2024</b> Settlement Judge French issues 6 <sup>th</sup> status report, recommending settlement judge procedures continue FERC Trial Staff submit initial comments supporting Global Settlement Settlement Judge French issues 7 <sup>th</sup> and final status report, recommending settlement judge procedures be terminated
7	Mystic COSA ROE Settlement Agreement Tariff Records (ER25-584; ER24-2804)	Nov 27	Mystic submits tariff records reflecting a settled ROE of 9.0% for the Mystic COSA

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

* 8	DASI Effective Date Change (to Feb 28, 2025) (ER25-456)	Nov 15 Nov 18-Dec 2	ISO-NE files to change DASI effective date from Mar 1, 2025 to Feb 28, 2025 Calpine, National Grid intervene
8	Settlement Agreement: Withdrawal from IEP and Return of IEP Net Revenues (Canal Marketing/ Canal 3) (ER25-56; ER24-1407)	Nov 19 Nov 26 Dec 2	Settlement Judge Hurt issues 2 <sup>nd</sup> status report Settlement Judge Hurt certifies uncontested Settlement agreement to the Commission; issues 3 <sup>rd</sup> and final status report Deputy Chief ALJ terminates settlement judge procedures

10	MW-Dependent Fuel Price Adjustments (ER24-2584)	Nov 21	FERC accepts Fuel Price Adjustments, with notice of the actual effective date (projected to be <i>Nov 16, 2026</i> ) to be filed no less than 15 days prior to their implementation
10	New England's Order 2222 Compliance Filings (ER22-983)	Nov 19	FERC accepts ATTR Submetering Tariff Revisions, eff. <i>Nov 1, 2026</i>

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

* 11	PBOP Collections Report (New England Power) (ER25-510)	Nov 22	NEP files revisions to Appendix A to Attachment F to report on an over-recovery of transmission-related PBOP expenses; comment deadline <b><i>Dec 13, 2024</i></b>
* 12	Attachment C and Q Revisions (ER25-410)	Nov 12 Nov 18	ISO-NE and NEPOOL propose revisions to OATT Attachments C (Available Transfer Capability Methodology) and Attachment Q (Transmission Line Ratings) Calpine, National Grid intervene
12	<i>Order 2023</i> Compliance Revisions (ER24-2009) and Related Changes (ER24-2007)	Nov 12 Nov 13 Nov 18 Nov 25	Allco files supplemental answer to ISO-NE's Oct 18 answer ISO-NE answers Allco's Nov 12 answer Allco answers ISO-NE's Nov 13 answer NESCOE urges the FERC to act swiftly on the region's <i>Order 2023</i> compliance proposal
14	Phase I/II HVDC-TF <i>Order 881</i> Compliance Filing (Transmission Line Rating Calculation and Submittal Timeframe Implement'n Details): HVDC TOA (ER22-2467-001) and Sched. 20-A Common Attachment M (ER22-2468-001)	Nov 12 Nov 19 Nov 22	ISO-NE, Asset Owners and Schedule 20A Service Providers request 14-day extension of time, to Nov 26, 2024, to submit required compliance filing FERC grants requested extension of time ISO-NE, Asset Owners and the Schedule 20A Service Providers jointly submit compliance filing to provide implementation details regarding the calculation and submittal timeframes for ambient-adjusted ratings; comment deadline <b><i>Dec 13, 2024</i></b>
14	<i>Order 881</i> Compliance Filing (Trans. Line Rating Calc. and Submittal Timeframe Implement'n Details) (ER22-2357-002)	Nov 12	ISO-NE and PTO AC jointly submit implementation details regarding the calculation and submittal timeframes for Transmission Line Ratings as required by <i>Order 881</i>

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

14	FAP Revisions to Mitigate Risk of PFP Penalty Payment Defaults (ER24-3071)	Nov 15	<a href="#">ISO-NE</a> answers <a href="#">NEPGA Nov 5 answer</a>
15	Updates to Non-Commercial Capacity FA Multiplier (ER24-3040)	Nov 12	FERC accepts NCCFA Updates, eff. <i>Nov 13, 2024</i>

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

* 15	Schedule 21-ES: Essential Power MA/NSTAR/ISO-NE LSA (ER25-429)	Nov 14	NSTAR and ISO-NE file LSA for local point-to-point service to the West Springfield Project; comment deadline <b><i>Dec 5, 2024</i></b>
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#### VII. NEPOOL Agreement/Participants Agreement Amendments

No Activities to Report

**VIII. Regional Reports**

* 18	IMM Quarterly Markets Reports (ZZ24-4)	Nov 25	IMM files Summer 2024 Report
18	Interconnection Study Metrics Processing Time Exceedance Report 2024 Q3 (ER19-1951)	Nov 14	ISO-NE files 2024 Q3 Report
* 19	ISO-NE FERC Form 3Q (2024/Q3) (not docketed)	Nov 18	ISO-NE submits its 2024 Q3 FERC Form 3Q

**IX. Membership Filings**

19	Oct 2024 Membership Filing (ER24-3139)	Nov 27	FERC accepts: (i) the memberships of Castleton Commodities Energy Services LLC; Castleton Commodities Energy Trading LLC; Alan Sliski; and Stony Creek Energy LLC; and (ii) the termination of the Participant status of Gas Recovery Systems
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**X. Misc. - ERO Rules, Filings; Reliability Standards**

20	Revised Reliability Standard: PRC-030-1 (RD25-3)	Nov 12-Dec 2	ACPA, Calpine, Eversource, Orsted Wind, SEIA, NCEMC intervene
20	Revised Reliability Standards: PRC-028-1 and PRC-002-5 (Disturbance Monitoring) (RD25-2)	Nov 12-Dec 2	Calpine, Eversource, Invenergy Renewables, ACPA, NCEMC, Orsted Wind, SEIA intervene
20	Addition of "Inverter-Based Resource" to NERC Glossary of Terms (RD25-1)	Nov 12-Dec 2	Calpine, ACPA, Eversource, NCEMC, Orsted Wind, SEIA intervene
21	Revised Reliability Standards: PRC-029-1 and PRC-024-4 (RM25-3)	Nov 12-Dec 2	Eversource, ACPA, NCEMC, Orsted Wind, SEIA intervene
21	NOPR: CIP-015-1 (Cyber Security – Internal Network Security Monitoring) (RM24-7)	Nov 22-27	<a href="#">NERC</a> , <a href="#">NESCOE</a> , the <a href="#">IRC</a> , <a href="#">APPA</a> , <a href="#">Open Policy</a> submit comments on <i>CIP-015 INSM NOPR</i>
21	NOPR: Supply Chain Risk Reliability Standards (RM24-4)	Nov 22-27	<a href="#">NERC and its Regional Entities</a> , <a href="#">NESCOE</a> , <a href="#">BPA</a> , <a href="#">APPA/LPPC</a> , <a href="#">EEI</a> , <a href="#">North American Transmission Forum</a> , <a href="#">National Electrical Manufacturers Association</a> , <a href="#">Secure the Grid</a> submit comments
22	Report of Comparisons of 2023 Budgeted to Actual Costs for NERC and the Regional Entities (RR24-3)	Nov 21	FERC accepts 2023 Comparisons Report

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

22	203 Application: Carlyle Group (Nautilus)/Q-Generation (Trafigura) (EC24-114)	Nov 21	FERC authorizes proposed transaction
22	TSAs: Fourth Amendments to NECEC Transmission TSAs (ER25-261 et al.)	Nov 4-12	Eversource, National Grid, MA DPU intervene
23	UI Rate Incentives Request for Fairfield to Congress 115kV Railroad Project (ER25-167)	Nov 12 Nov 26	CT OCC, ME OPA, MA AG, and NH OCA file joint protest to requested Incentives UI answers joint protest

23	Wholesale Distribution Access Tariffs – CL&P (ER24-3153) & NSTAR (ER24-3154)	Nov 27	FERC accepts CL&P and NSTAR Wholesale Distribution Access Tariffs, eff. <i>Dec 1, 2024</i>
24	CSA Cancellation: NEP/WMECO (ER24-3056)	Nov 13	FERC accepts cancellation notice for NEP/WMECO Construction Services Agreement, eff. <i>Nov 16, 2024</i>
24	Wholesale Distribution Access Tariff – UI (ER24-2939)	Nov 27	UI files deficiency letter responses; comment deadline <b><i>Dec 18, 2024</i></b>
25	PJM/PPL/Susquehanna ISA Amendments Related to Increased Co-Located Load (ER24-2172)	Nov 20 Dec 2	Susquehanna Nuclear requests reh'g of <i>Susquehanna Co-Located Load Order</i> Vistra requests clarification of <i>Susquehanna Co-Located Load Order</i>
25	Wholesale Distribution Tariffs – National Grid (ER24-2796; ER24-2795)	Nov 13	National Grid files WDT Amendments
26	CMP ESF Rate (ER24-1177)	Nov 26	Settlement Judge Hessler issues 4 <sup>th</sup> status report, recommending that settlement judge procedures continue; 4 <sup>th</sup> settlement conference is scheduled for <b><i>Dec 10-11, 2024</i></b>

## XII. Misc. - Administrative & Rulemaking Proceedings



27	Large Loads Co-Located at Generating Facilities (AD24-11)	Nov 9 Dec 3	FERC issues notice inviting post-tech conf comments; comment deadline <b><i>Dec 9, 2024</i></b> Final tech conf transcript posted to eLibrary
27	Annual Reliability Technical Conference (AD24-10)	Nov 19 Nov 26, 27	Final tech conf transcript posted to eLibrary <a href="#">Tri-State Generation and Transmission Association</a> and <a href="#">EPISA</a> file post-tech conf comments
27	Innovations & Efficiencies in Generator Interconnection (AD24-9)	Nov 14-18	23 Entities file post-workshop comments, including by: ISO-NE, AEU, Constellation, Dominion, EEI, Elevate Renewables F7, ENGIE, Environmental Law and Policy Center, Invenergy Transmission, National Grid, New Leaf Energy, Public Interest Organizations, Vistra Corp, RWE Clean Energy, Shell, SEIA
27	Joint Federal-State Current Issues Collaborative (AD24-7)	Nov 12 Dec 4	Collaborative holds first public meeting FERC issues notice inviting public comments on issues discussed during the meeting; comment deadline <b><i>Jan 3, 2025</i></b> ; final meeting transcript posted to eLibrary
28	ANOPR: Implementation of Dynamic Line Ratings (RM24-6)	Nov 12-15	Nine sets of reply comments filed, including by: <a href="#">ISO-NE</a> , <a href="#">DC Energy</a> , and the <a href="#">US DOE</a>
29	Order 904: Compensation for Reactive Power Within the Standard Power Factor Range (RM22-2)	Nov 15-18	<a href="#">D. E. Shaw Renewable Investments</a> , <a href="#">Invenergy Nelson</a> , <a href="#">NYISO</a> , the <a href="#">PSEG Companies</a> , <a href="#">Vistra</a> request reh'g of <i>Order 904</i>
30	Orders 1920 and 1920-A: Transmission Planning Reforms (RM21-17)	Nov 21	FERC issues Order 1920-A, its order on reh'g and clarification of <i>Order 1920</i>

## XIII. FERC Enforcement Proceedings



*No Activity to Report*

**XIV. Natural Gas Proceedings**

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|----|------------------------------------|----------|---|
| 34 | Iroquois ExC Project (CP20-48-001) | Nov 4-15 | Protests to and comments on Iroquois' request for an extension of time associated with its ExC Project filed by Sierra Club CT, Save the Sound, and nearly 20 individual citizens |
|    |                                    | Dec 2    | Iroquois answers protests and comments  |

**XV. State Proceedings & Federal Legislative Proceedings***No Activity to Report***XVI. Federal Courts**

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|----|--|------------------|---|
| 35 | <i>TO Initial Funding Show Cause Order</i><br>(8 <sup>th</sup> Circuit - 24-2714)                | Nov 12<br>Nov 13 | Petitioners, along with Petitioner-Intervenors, request case continue be held in abeyance until FERC issues a merits decision in the underlying agency proceedings<br>Case dismissed for lack of jurisdiction |
| 36 | <i>Mystic Second CapEx Info Filing</i><br>(24-1077)  | Nov 22           | Mystic asks Court to continue to hold case in abeyance until <b>Mar 10, 2025</b>  |
| 36 | <i>Orders 2023 and 2023-A</i><br>(23-1282 et al.) (consolidated)                                 | Nov 12           | NYPA withdrawn as a Petitioner  |
| 37 | <i>Order 2222 Compliance Orders</i> (23-1167, 23-1168, 23-1169, 23-1170, 23-1335) (consolidated) | Dec 3            | FERC files status report suggesting that these consolidated appeals should remain in abeyance until the rehearing period for its Nov 19, 2024 order in ER22-983-009 expires                                   |
| 38 | <i>Mystic II</i> (ROE & True-Up)<br>(21-1198 et al.) (consolidated)                              | Nov 8<br>Nov 20  | Petitioners move to dismiss case voluntarily<br>Court dismisses case  |
| 39 | <i>Opinion 531-A Compliance Filing Undo</i> (20-1329)  | Nov 20           | FERC files status report indicating that the proceedings before the FERC remain ongoing and that this appeal should continue to remain in abeyance  |

## MEMORANDUM

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

**FROM:** Pat Gerity and Joan Bosma, NEPOOL Counsel

**DATE:** December 4, 2024

**RE:** Status Report on Current Regional Wholesale Power and Transmission Arrangements Pending Before the Regulators, Legislatures and Courts

We have summarized below the status of key ongoing proceedings relating to NEPOOL matters before the Federal Energy Regulatory Commission (“FERC”),<sup>1</sup> state regulatory commissions, and the Federal Courts and legislatures through December 4, 2024. If you have questions, please contact us.

**I. Complaints/Section 206 Proceedings<sup>2</sup>****• 206 Proceeding: TO Initial Funding Show Cause Order (EL24-83)**

As previously reported, on June 13, 2024, the FERC instituted a Section 206 proceeding finding that the ISO-NE Tariff appears to be unjust, unreasonable, and unduly discriminatory or preferential because it includes provisions for transmission owners to unilaterally elect transmission owner (“TO”) Initial Funding (the funding of network upgrade capital costs that the TO incurs to provide interconnection service to an interconnection customer, with the network upgrade capital costs subsequently recovered from the interconnection customer through charges that provide a return on and of those network upgrade capital costs).<sup>3</sup> TO Initial Funding, the FERC found, may increase the costs of interconnection service without corresponding improvements to that service, may unjustifiably increase costs such that it results in barriers to interconnection, and may result in undue discrimination among interconnection customers.<sup>4</sup> The FERC also found that there may be no risks associated with owning, operating, and maintaining network upgrades for which transmission owners are not already otherwise compensated.<sup>5</sup> Accordingly, ISO-NE was directed, on or before September 11, 2024, 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.<sup>6</sup> The refund effective date for this proceeding is June 24, 2024.<sup>7</sup> A more detailed summary of the *TO Initial Funding Show Cause Order* was circulated to, and was reviewed with, the Transmission Committee.

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

<sup>2</sup> Reporting on Base ROE Complaints I-IV: (EL11-66, EL13-33; EL14-86; EL16-64) has been suspended and will be continued if and when there is new activity to report.

<sup>3</sup> *ISO New England Inc. et al.*, 187 FERC ¶ 61,170 (June 13, 2024) (“*TO Initial Funding Show Cause Order*”).

<sup>4</sup> *Id.* at P 1.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at P 2.

<sup>7</sup> Notice of this 206 proceeding was published in the *Fed. Reg.* on June 24, 2024 (Vol. 89, No. 121) pp. 52,454-52,455.

Interventions were due on or before July 5, 2024 and were filed by the following New England-related parties:<sup>8</sup> NEPOOL, Advanced Energy United (“AEU”), Avangrid, Calpine, CMEEC (out-of-time), EDP Renewables, Eversource, Invenergy, MA AG, National Grid, NESCOE, NextEra, NRDC, PPL, Maine Public Utilities Commission (“MPUC”), Massachusetts Department of Public Utilities (“MA DPU”), American Clean Power Association (“ACPA”), American Council on Renewable Energy (“ACRE”), Edison Electric Institute (“EEI”), Electric Power Supply Association (“EPSA”), RENEW Northeast (“RENEW”), Solar Energy Industries Association (“SEIA”), WIRES, Cordelio Services, and Public Citizen.

**NE Response to Show Cause Order (Attaching Substantive Response by NETOs).** On September 11, 2024, ISO-NE submitted a response (“NE Response”) explaining that, because the rules identified in the *TO Initial Funding Show Cause Order*<sup>9</sup> fall within the exclusive purview of, and are implemented by, the Participating Transmission Owners (“PTOs”) under the Transmission Operating Agreement (“TOA”) between ISO-NE and the PTOs, it had requested that the PTOs respond to the *TO Initial Funding Show Cause Order* and attached the response of Indicated New England Transmission Owners (“NETOS”)<sup>10</sup> to the NE Response. NETOs’ response identified several reasons why the FERC’s proposal is in their view beyond the FERC’s authority and power.

Responses to the September NE Response were due on or before October 25, 2024.<sup>11</sup> Responses from ISO-NE-related parties to this joint proceeding were filed by, among others: [NE TOs](#), [Invenergy](#), [Public Interest Organizations](#), [Public Systems](#), [Clean Energy Associations](#), [EEI](#), [WIRES](#), and the [Harvard Law Initiative](#). This matter is pending before the FERC.

**Federal Court Appeals.** On August 30, 2024, certain parties<sup>12</sup> filed a petition for review of the FERC’s orders in this proceeding in the 8<sup>th</sup> Circuit, since challenged by the FERC. Developments on the federal court appeals will be reported in Section XVI below. In the meantime, if you have questions on this proceeding, please contact Eric Runge (617-345-4735; [ekrunge@daypitney.com](mailto:ekrunge@daypitney.com)) or Margaret Czepiel (202-218-3906; [mczepiel@daypitney.com](mailto:mczepiel@daypitney.com)).

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

On November 21, 2024, the FERC terminated this Show Cause proceeding.<sup>13</sup> As previously reported, this proceeding was instituted by the FERC on May 5, 2023, pursuant to its 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.<sup>14</sup> Changes in response to some of the requirements of the

<sup>8</sup> The notice instituting this 206 proceeding was issued in the following four unconsolidated dockets (which resulted in some parties intervening in all four proceedings): EL24-80 (MISO); EL24-81 (PJM); EL24-82 (SPP); and EL24-83 (ISO-NE).

<sup>9</sup> The rules identified in the *Order to Show Cause* were those that establish the methodology to recover costs associated with interconnection-related upgrades, and the related financial obligations of the PTO or the interconnecting party – in New England, set forth in Article 11.3 of the LGIA, Article 5.2 of the SGIA, and Article 11.3 of the ETU IA, as well as Schedule 11 of the OATT.

<sup>10</sup> The NETOs, for purposes of this proceeding, are: Eversource; Central Maine Power Company (“CMP”); The United Illuminating Company (“UI”); New England Power Company (“National Grid”); The Narragansett Electric Company (“RI Energy”); Fitchburg Gas and Electric Light Co. (“Unitil”); and Versant Power (“Versant”).

<sup>11</sup> On Oct. 8, 2024, the FERC, in response to a September 30, 2024 request by Clean Energy Associations (AEU, ACPA, SEIA) for an additional 14 days to submit responses to the ISO/RTO filings, granted an extension of time, to and including October 25, 2024, for interested parties to file comments.

<sup>12</sup> The parties to the 8<sup>th</sup> Circuit Appeal are: Ameren Services Co., Ameren Illinois Co., Union Elec. Co. d/b/a Ameren Missouri, Ameren Trans. Co. of IL, American Trans. Co. LLC, Duke Energy Corp., Duke Energy Business Services, LLC, Duke Energy Ohio, Inc., Duke Energy KY, Inc., Duke Energy IN, LLC, Exelon Corp., Atlantic City Elec. Co., Baltimore Gas and Elec. Co., Commonwealth Edison Co., Delmarva Power & Light Co., PECO Energy Co., Potomac Elec. Power Co., Northern Indiana Pub. Svc. Co. LLC, Xcel Energy Services Inc., Northern States Power Co., a MN Corp., Northern States Power Co., a WI Corp., and Southwestern Pub. Svc. Co. (“8<sup>th</sup> Circuit Parties”).

<sup>13</sup> *ISO New England Inc. et al.*, 189 FERC ¶ 61,112 (Nov. 21, 2024) (“*Fuel Price Adjustments Order*”).

<sup>14</sup> *Dynegy Marketing and Trade, LLC and ISO New England, Inc.*, 183 FERC ¶ 61,091 (May 5, 2023) (“*Dynegy Mitigation Order*”). In the *Dynegy Mitigation Order*, ISO-NE was directed to either: (1) show cause as to why the Tariff remains just and reasonable and not unduly



*Dynegy Mitigation Order* (“Upward Mitigation Revisions”) were supported by the Participants Committee, jointly filed with ISO-NE, accepted by the FERC,<sup>15</sup> and became effective as of *December 12, 2023*. Further changes to address the remaining issues raised by the FERC in the *Dynegy Mitigation Order* were filed on July 24, 2024 (see Section III, MW-Dependent Fuel Price Adjustments (ER24-2584)), supported by the Participants Committee, and accepted by the FERC (with the actual effective date to be filed no less than 15 days prior to implementation). Reporting on this Section 206 proceeding is now concluded. If you have any questions concerning this matter, please contact Rosendo Garza (860-275-0660; [rgarza@daypitney.com](mailto:rgarza@daypitney.com)) or Sebastian Lombardi (860-275-0663; [slombardi@daypitney.com](mailto:slombardi@daypitney.com)).

- **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,<sup>16</sup> 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 discussed at the Participants Committee’s 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 long 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, CMEEC, EMI, Eversource, RI Energy, National Grid, New Leaf Energy, NextEra, NRG, Versant, CT DEEP, MA DPU, ACPA, 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.

On July 16, 2024, RENEW submitted supplemental affidavits as further evidence in support of its [Complaint](#) and requested that the FERC issue an order on an expedited basis. On July 31, 2024, the PTO AC protested RENEW’s July 16 supplemental submission. On August 9, 2024, RENEW replied to the PTO AC’s July 31 protest. This matter remains pending before the FERC. If you have questions on this proceeding, please contact Eric Runge (617-345-4735; [ekrunge@daypitney.com](mailto:ekrunge@daypitney.com)) or Margaret Czepiel (202-218-3906; [mzczepiel@daypitney.com](mailto:mzczepiel@daypitney.com)).

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

- **Essential Power Newington CIP-IROL (Schedule 17) Section 205 Cost Recovery Filing (ER25-588)**

On November 27, 2024, Essential Power Newington, LLC (“EP Newington”) requested FERC acceptance of its revised rate schedule to allow recovery of 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 60 days from the date of filing. EP Newington seeks to recover **\$356,401** in incremental medium impact CIP-IROL Costs incurred between July 1, 2023 and June 30, 2024. Comments on EP

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. The refund effective date for this proceeding is May 12, 2023.

<sup>15</sup> *ISO New England Inc.*, Docket No. ER24-324-000 (Dec. 12, 2023) (unpublished letter order).

<sup>16</sup> 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.



Newington's request are due on or before **December 18, 2024**. If you have any questions concerning this matter, please contact Pat Gerity (860-275-0533; [pmgerity@daypitney.com](mailto:pmgerity@daypitney.com)).

- **ICR-Related Values and HQICCs – Annual Reconfiguration Auctions (ER25-519)**

On November 22, 2024 (as corrected on November 25, 2024), ISO-NE and NEPOOL jointly filed materials that identify the Installed Capacity Requirement ("ICR"), Local Sourcing Requirements ("LSR"), Maximum Capacity Limits ("MCL"), Hydro Quebec Interconnection Capability Credits ("HQICCs"), and capacity requirement values for the System-Wide and Marginal Reliability Impact Capacity Demand Curves (collectively, the "ICR-Related Values") for the third annual reconfiguration auction ("ARA") for the 2025-26 Capability Year, the second ARA for the 2026-27 Capability Year, and the first ARA for the 2027-28 Capability Year. The ICR-Related Values were supported by the Participants Committee at its November 7, 2024 meeting (Agenda Item 5). A January 21, 2025 effective date was requested. Comments on this filing are due on or before **December 21, 2023**. Thus far, Calpine and National Grid have intervened doc-lessly. If you have any questions concerning this matter, please contact Eric Runge (617-345-4735; [ekrunge@daypitney.com](mailto:ekrunge@daypitney.com)).

- **FirstLight CIP-IROL (Schedule 17) Section 205 Cost Recovery Filing (ER25-509)**

On November 21, 2024, FirstLight Power Management ("FirstLight") requested FERC acceptance of its revised rate schedule to allow recovery of 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 January 20, 2025. FirstLight seeks to recover **\$87,186** in incremental medium impact CIP-IROL Costs incurred between September 16, 2022 and December 31, 2023. Comments on FirstLight's request are due on or before **December 12, 2024**. If you have any questions concerning this matter, please contact Pat Gerity (860-275-0533; [pmgerity@daypitney.com](mailto:pmgerity@daypitney.com)).

- **Canal Marketing CIP-IROL (Schedule 17) Section 205 Cost Recovery Filing (ER25-168)**

On October 21, 2024, Canal Marketing requested FERC acceptance of its revised rate schedule to allow recovery of 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 60 days from the date of filing. Canal Marketing seeks to recover **\$642,189** in incremental medium impact CIP-IROL Costs incurred between April 1, 2023 and March 31, 2024. Comments on Canal Marketing's request were due on or before November 12, 2024; none were filed. NEPOOL and Public Citizen intervened doc-lessly. This matter is now pending before the FERC. If you have any questions concerning this matter, please contact Pat Gerity (860-275-0533; [pmgerity@daypitney.com](mailto:pmgerity@daypitney.com)).

- **2025 NESCOE Budget (ER25-134)**

On October 17, 2024, ISO-NE, joined by NESCOE, filed Tariff changes for the funding of NESCOE's 2025 operations. The 2025 Operating Expense Budget for NESCOE is \$2,707,893. The amount to be recovered reflects true-ups from 2023 (over-collections of \$1,115,346). Accordingly, if accepted, the NESCOE budget will result in a charge of \$0.00716 per kilowatt ("kW") of Monthly Network Load (a \$0.00091/kW decrease from 2024). The 2025 NESCOE budget was supported by the Participants Committee at its October 10, 2024 meeting (Agenda Item #5). Comments and any interventions were due on or before November 7, 2024. On October 31, 2024, NEPOOL submitted comments supporting NESCOE's 2025 Budget. No other comments were submitted. National Grid intervened doc-lessly. This matter is pending before the FERC. If there are any questions on this matter, please contact Pat Gerity (860-275-0533; [pmgerity@daypitney.com](mailto:pmgerity@daypitney.com)).

- **2025 ISO-NE Administrative Costs and Capital Budgets (ER25-110)**

On October 15, 2024, ISO-NE filed for recovery of its 2025 administrative costs (the "2025 Revenue Requirement") and submitted its capital budget and supporting materials for calendar year 2025 ("2025 Capital Budget", and together with the 2025 Revenue Requirement, the "2025 ISO Budgets"). The 2025 ISO-NE Budgets were filed together pursuant to the Settlement Agreement entered into to resolve challenges to the 2013 ISO-NE Budgets. In its October 17 filing, ISO-NE reported that the 2025 Revenue Requirement is

\$306.4 million (a \$29.5 million or 10.7% increase over 2024), which increases to \$311.2 million after the over-collection for 2023 is subtracted. Of that total, ISO-NE's administrative costs (i.e., the 2025 Core Operating Budget) comprise \$269.4 million; depreciation and amortization of regulatory assets, \$37 million; and a \$4.8 million true-up increase for 2023 under-collections.

ISO-NE further reported that the 2025 Capital Budget is \$42.5 million, a \$7.5 million increase over 2024, and is comprised of the following (with 2025 projected costs and target completion dates, if available, in parentheses):

▸ nGem Clearing Engine Implementation (Jun 2026)	(\$4 million)	▸ nGem Software Development Part III (Apr 2025)	(\$2.9 million)
▸ Managing Transmission Line Ratings (Nov 2025)	(\$1.7 million)	▸ DASI Improvements (Mar 2025)	(\$1.5 million)
▸ CAMS Software Technology Upgrade (Jun 2025)	(\$700,000)	▸ Network Modeling Tool Enhancements (Jul 2025)	(\$500,000)
▸ New England Clean Energy Connect ("NECEC") (Dec 2025)	(\$300,000)	▸ Automatic Ring Down Circuit Continuity Modernization and Reliability Enhancements (Aug 2025)	(\$300,000)
▸ CIP Electronic Security Perimeter Redesign Phase II	(\$300,000)	▸ Tie Line Telemetry and PCEC Upgrade Phase I (Jun 2025)	(\$100,000)
▸ EMS Short-term Load Forecast Replacement (Jul 2025)	(\$100,000)	▸ Microsoft 365 Service Adoption (Nov 2024)	(\$100,000)
▸ Order 841 (Oct 2025)	(\$2 million)	▸ Space Utilization Project Phase I (Aug 2025)	(\$2 million)
▸ Enterprise Core Network Refresh (Dec 2025)	(\$2 million)	▸ Enterprise Resource Planning System Replacement (Dec 2025)	(\$1.9 million)
▸ EMS Energy Management Platform ("EMP") 3.5 Upgrade (Dec 2026)	(\$1.5 million)	▸ Windows Server Replacement Phase II (Dec 2025)	(\$1.5 million)
▸ Integrated Market Simulator Enhancement (Dec 2025)	(\$1.5 million)	▸ <i>Order 2222</i> (Nov 2026)	(\$1 million)
▸ nGEM Software Development Part IV (Jun 2026)	(\$1 million)	▸ MW Dependent Fuel Price Adjustment (Nov 2025)	(\$1 million)
▸ Tie Line Telemetry and PCEC Upgrade Phase II (Jul 2025)	(\$500,000)	▸ Storage as Transmission Only Asset (Mar 2027)	(\$400,000)
▸ Circuit Inventory Management Platform (Oct 2025)	(\$400,000)	▸ Replace Employee & Pager Application (Oct 2025)	(\$300,000)
▸ Adoption of NERC CIP Compliance of Synchrophasor Systems (Oct 2026)	(\$300,000)	▸ Solar DNE Dispatch Phase III (Nov 2025)	(\$300,000)
▸ Non-Project Capital Expenditures	(\$5 million)	▸ Other Emerging Work	(\$5.7 million)
▸ Capitalized Interest	(\$1 million)		

The 2025 ISO-NE Budgets were supported by the Participants Committee at its October 10, 2024 meeting. Comments on this filing were due November 5, 2024. NEPOOL filed comments supporting the 2025 Budgets and National Grid and NESCOE intervened doc-lessly. This matter remains pending before the FERC.

If there are any questions on this matter, please contact Rosendo Garza (860-275-0660; [rgarza@daypitney.com](mailto:rgarza@daypitney.com)).

- **Transmission Rate Annual (2023-24) Update/Informational Filing (ER20-2054-000)**

**Formal Challenge by MOPA.** As previously reported, the Maine Office of the Public Advocate (“MOPA”) filed a formal challenge (“MOPA Formal Challenge”) to the 2023-24 Annual Update on January 31, 2024.<sup>17</sup> MOPA asserted that, (i) with respect to the cost of asset condition projects placed into service in 2022, Identified TOs<sup>18</sup> have refused to answer questions regarding investment policies and practices related to prudence of these investments and (ii) that the Identified TOs’ decision not to respond to these questions violates their obligation under the OATT’s Protocols. Comments on the MOPA Formal Challenge were due on or before February 21, 2024 and were filed by Consumer Advocates<sup>19</sup> (who supported MOPA’s attempt to discover the information requested in its September 15, 2023 requests and agreed that policies, processes, and procedures related to ACP costs are discoverable pursuant to the Protocols) and Identified TOs (who urged the FERC to reject the MOPA Formal Challenge as baseless and misguided). On March 4, 2024, MOPA answered Identified TOs’ comments. Identified TOs answered MOPA’s March 4 answer on March 15 (as corrected on March 18, 2024).

On July 26, 2024, the FERC directed Identified TOs to provide to the FERC its responses (both public and confidential) to MOPA’s questions related to general processes and procedures for asset condition project planning. The FERC stated that it needs the full information to evaluate whether the Identified TOs made “a good faith effort to respond to [the] information request[] pertaining to the Annual Update.” Identified TOs’ responses were filed by CMP, Eversource (CL&P, NSTAR East, NSTAR West, and PSNH), MEPCO, National Grid (Narragansett and New England Power), and VTransco (on September 6). On September 5, 2024, MOPA challenged National Grid’s claim that, because it had provided copies of what it sent to MOPA originally, MOPA’s Formal Challenge could be rejected without further procedures. MOPA continues to assert that the materials provided by National Grid do not constitute a “good faith response” and renewed its request for the FERC to direct the Identified TOs to answer its questions concerning the investment policies and practices used to evaluate the need for a particular asset condition project, a necessary predicate to a prudence review.

The MOPA Formal Challenge is pending before the FERC. If there are questions on this matter, please contact Eric Runge (617-345-4735; [ekrunge@daypitney.com](mailto:ekrunge@daypitney.com)).

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

**(-029) Global Settlement.** On November 8, 2024, Constellation Mystic Power, LLC (“Mystic”) submitted an unopposed Settlement Agreement and related materials (collectively, the “Global Settlement”) to resolve all remaining/outstanding issues related to the COSA between Mystic, Constellation Energy, and ISO-NE.<sup>20</sup> The

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<sup>17</sup> On July 31, 2023, the PTO AC submitted its annual filing identifying adjustments to Regional Transmission Service charges, Local Service charges, and Schedule 12C Costs under Section II of the Tariff for 2024 (the “2023-24 Annual Update”). The filing reflected the charges to be assessed under annual transmission and settlement formula rates, reflecting actual 2022 cost data, plus forecasted revenue requirements associated with projected PTF, Local Service and Schedule 12C capital additions for 2023 and 2024, as well as the Annual True-up including associated interest. The PTO AC stated that the annual updates result in a Pool “postage stamp” RNS Rate of \$154.35/kW-year effective Jan. 1, 2024, an increase of \$12.71 /kW-year from the charges that went into effect on Jan. 1, 2023. 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 \$1.95 kW-year (effective June 1, 2023 through May 31, 2024), a \$0.20/kW-year increase from the Schedule 1 charge that last went into effect on June 1, 2023.

<sup>18</sup> “Identified TOs” are the New England Transmission Owners with asset condition projects that are the focus of the MOPA Formal Challenge: CL&P, Maine Electric Power Company (“MEPCO”), NSTAR (East & West), National Grid, Public Service Company of New Hampshire (“PSNH”), Rhode Island Energy (“RI Energy”), and Vermont Transco LLC (“VTransco”).

<sup>19</sup> For purposes of this proceeding, “Consumer Advocates” are the MA AG, CT OCC, NH OCA, and RI Division.

<sup>20</sup> The unresolved issues include, among others, certain formal challenges to Mystic’s Sep. 15, 2022 “Second CapEx Info Filing” (which addressed the capital expenditures and related costs that Mystic projected would be collected as an expense between Jan. 1, 2023 to Dec. 31, 2023 (“2023 CapEx Projects”), as well as certain challenges to Mystic’s 30-Day Compliance Filing in response to the requirements

following parties joined the Global Settlement in its entirety: Mystic; Constellation Energy; Eastern New England Consumer Owned Systems (“ENECOS”); ISO-NE; and the New England States Committee on Electricity (“NESCOE”) (collectively, the “Settling Parties”).<sup>21</sup> Comments on the Global Settlement were due on or before November 29, 2024. FERC Trial Staff filed comments in support of the Global Settlement Agreement. Reply comments are due on or before **December 9, 2024**. The Settling Parties requested that the FERC act upon the Global Settlement as soon as possible, but no later than February 3, 2025.

**Mystic COSA ROE Settlement Agreement (ER25-584; ER24-2804).** As previously reported, the FERC approved on November 1, 2024 the unopposed Settlement Agreement that establishes a settled ROE of 9.0%<sup>22</sup> for the Mystic COSA (“Mystic ROE Settlement Agreement”).<sup>23</sup> The *Mystic ROE Settlement Order* will moot the ROE appeals currently pending before the DC Circuit<sup>24</sup> and a pending Revised ROE (Sixth) Compliance Filing pending in ER18-1639-014.<sup>25</sup> As directed, Mystic submitted on November 27, 2024 a compliance filing with revised tariff records in eTariff format to reflect the FERC’s action in the *Mystic ROE Settlement Order* (ER25-584).

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

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

**RENEW Formal Challenge.** RENEW’s January 31, 2023 formal challenge (“Challenge”) to the 2022/23 Update/Informational Filing<sup>26</sup> remains pending before the FERC. In the 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

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of *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).

<sup>21</sup> In addition to NEPOOL, the following parties, while not Settling Parties, did not oppose the Global Settlement: MA AG, CT DEEP, CT PRA, CT OCC, MMWEC, National Grid, and NHEC.

<sup>22</sup> The ROE to be used in the Methodology for both Everett and Mystic would be 9.0% for the entirety of the Term (or June 1, 2022 – May 31, 2024) (“Settled Mystic ROE”), a reduction from the currently-on-file ROE of 9.19%. Recall that, on July 15, 2021, the FERC set the base ROE for the Mystic COSA at 9.33%. (*Constellation Mystic Power, LLC*, 176 FERC ¶ 61,019 (July 15, 2021) (“*Mystic ROE Order*”)) Subsequently, in response to challenges, the FERC on rehearing lowered the base ROE to 9.19%. (*Constellation Mystic Power, LLC*, 178 FERC ¶ 61,116 (Feb. 18, 2022) (“*Mystic ROE Second Allegheny Order*”)).

<sup>23</sup> *Constellation Mystic Power, LLC*, 189 FERC ¶ 61,091 (Nov. 1, 2024) (“*Mystic ROE Settlement Order*”).

<sup>24</sup> The *Mystic ROE Order* and the *Mystic ROE Second Allegheny Order* were appealed to the DC Circuit and are being held in abeyance. See Section XVI of this Report, Mystic II (ROE & True-Up) (21-1198 *et al.*)

<sup>25</sup> As long reported, Mystic filed a revised ROE (Sixth) compliance filing (docketed as ER18-1639-014) in response to the requirements of the *Mystic ROE Allegheny Order*. The sixth compliance filing revised (i) the Cost of Common Equity figures from 9.33% to 9.19%, for both Mystic 8&9 and Everett Marine Terminal (“Everett”), and (ii) the stated Annual Fixed Revenue Requirements for both the 2022/23 and 2023/24 Capacity Commitment Periods.

<sup>26</sup> The 2022/23 annual 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. The formula rates in effect for 2023 included a billing true up of seven months of 2021 (June-Dec.). The Pool “postage stamp” RNS Rate, effective Jan. 1, 2023, was \$140.94 /kW-year, a decrease of \$1.84 /kW-year from the charges that went into effect the year prior. The updates to the revenue requirements for Scheduling, System Control and Dispatch Services (the Schedule 1 formula rate) resulted in a Schedule 1 charge of \$1.75 kW-year (eff. 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.

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, 2023, RENEW answered the comments and protests to its Challenge. Subsequently, on April 14, 2023, Eversource answered RENEW's March 31 answer. There has been no activity in this proceeding since Eversource's answer. This matter remains pending before the FERC. If there are questions on this matter, please contact Eric Runge (617-345-4735; [ekrunge@daypitney.com](mailto:ekrunge@daypitney.com)).

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

- **DASI Effective Date Change (to Feb 28, 2025) (ER25-456)**

On November 15, 2024, ISO-NE filed changes to make the effective date for the Day-Ahead Ancillary Services Initiative ("DASI")-related Tariff revisions February 28, 2025 (rather than the previously-accepted date of March 1, 2025). By making the DASI changes effective February 28, 2025, ISO-NE intends to eliminate any confusion about when ISO-NE will first begin accepting Day-Ahead Ancillary Services Offers and clearing Day-Ahead Ancillary Services awards given the termination of the Forward Reserve Market ("FRM"). If the Day-Ahead Market with DASI were to run for the first time on March 1, 2025, then the first Operating Day covered by Day-Ahead Ancillary Services awards would be March 2, 2025. A February 28, 2025 effective date avoids any perceived "gap" between the termination of the FRM and the commencement of the new jointly optimized Day-Ahead Market on March 1, 2025. Comments on this filing are due on or before **December 6, 2024**. Thus far, Calpine and National Grid have intervened doc-lessly. If you have any questions concerning this matter, please contact Rosendo Garza (860-275-0660; [rgarza@daypitney.com](mailto:rgarza@daypitney.com)).

- **Waiver Request: Withdrawal from IEP and Return of IEP Net Revenues Received (Canal Marketing/ Canal 3) (ER25-56; ER24-1407)**

As previously reported, on March 4, 2024 (as amended and supplemented on March 8 and March 22, 2024), Canal Marketing LLC (f/k/a Stonepeak Kestrel Energy Marketing LLC) ("CM") requested a one-time waiver of the provisions of Appendix K to Market Rule 1 (Inventoried Energy Program (the "IEP")) so as to permit CM to (i) withdraw CM's participation in the IEP on behalf of Canal 3 Generating LLC ("Canal 3")<sup>27</sup> for Winter 2023-24 and (ii) to return to ISO-NE the net revenues, with applicable interest, that CM received on behalf of Canal 3 for Canal 3's participation in the IEP for Winter 2023-2024 because Canal 3's return from a forced outage was delayed beyond the end of the IEP's Winter 2023-24 period.<sup>28</sup> CM explained that, when it elected to participate in the IEP on behalf of Canal 3 on September 21, 2023, CM anticipated that the Canal 3 Facility would be back in service by December 18, 2023, and would be available for the remainder of the IEP's Winter 2023-24 period. However, the actual return-to-service date for the Canal 3 Facility was delayed beyond the end of the IEP's Winter 2023-24 period and Canal 3 was not able to perform during the Winter 2023-24 period. CM seeks the requested waiver because no provision in Appendix K nor any other provision of the Tariff was identified as providing a mechanism for a Participant to withdraw from the IEP or to return IEP revenues to ISO-NE. Comments on the CM Waiver Request were due on or before March 25, 2024. The IMM submitted comments supporting the CM Waiver Request in so far as CM requests the prompt repayment of the revenues received on behalf of Canal 3 under the

<sup>27</sup> Canal 3 is an approximately 333 MW (summer rating) gas- and oil-fired generation facility. Canal 3 has been on forced outage since Feb. 3, 2023, when a blade on the turbine wheel broke off and caused catastrophic damage to the gas turbine, which significantly impacted the compressor blades and bearings. As a result, the full train was disassembled and shipped to General Electric ("GE"), its manufacturer, for repair. GE initially provided a repair schedule that contemplated Canal 3's return to service by Dec. 15, 2023.

<sup>28</sup> At the time CM made its IEP election submission, CM anticipated that, based on information provided by GE, Canal 3 would be back on line by Dec. 18, 2023. CM informed ISO-NE in mid-December that forced outage of Canal 3 would continue until near the end of the IEP's Winter 2023-24 period, but no mechanism for a withdrawal from the IEP or the return of IEP payments received was identified.



IEP and, if determined to be warranted by the FERC, net of Program charges. NEPOOL (out-of-time) and National Grid intervened doc-lessly.

**Settlement Judge Proceedings.** On August 12, 2024, the FERC issued an order establishing settlement judge procedures to address the issue of whether and how CM should return revenues or net revenues, with applicable interest, to ISO-NE.<sup>29</sup> On August 21, 2024, the Chief ALJ designated ALJ Patricia E. Hurt as the settlement judge in this proceeding. Judge Hurt submitted her 1<sup>st</sup> status report on September 20, 2024, recommending that the settlement process continue. A formal settlement conference was held on September 23, 2024, at which time the parties reported that a settlement in principle between Canal and ISO-NE had already been reached. On November 19, 2024, Judge Hurt issued a second status report, followed one week later by a third and final status report that reported that she had certified the Canal IEP Settlement Agreement to the Commission and recommended that settlement procedures be terminated. On December 2, 2024, Deputy Chief ALJ Renee Terry, subject to final action by the Commission, terminated the settlement judge procedures in this proceeding.

**Settlement Agreement (ER25-56).** An *unopposed* settlement agreement, which will resolve all of the issues raised in this proceeding (“Canal IEP Settlement Agreement”), was submitted on October 8, 2024 (ER25-56). The Settlement Agreement provides that CM will refund and repay to ISO-NE the net revenues that it received on behalf of Canal 3 for participating in the IEP for the Winter 2023-2024 period, plus interest. The settlement amount (“Settlement Amount”) will consist of a lump sum of \$1,968,156.08 and an amount of interest to be calculated in accordance with FERC regulations. The time period for calculating that interest will be from January 15, 2024, the midpoint of the IEP 2023-2024 Winter period, until the day that the parties receive notice of approval of the Agreement by the FERC. Canal Marketing will have 10 Business Days from the date that the FERC approves the Settlement Agreement to pay the Settlement Amount to ISO-NE. ISO-NE will have 60 days to distribute the Settlement Amount as appropriate to the average Real-Time Load Obligation for the IEP Winter 2023-2024 period. Details regarding the distribution to IEP Participants will be provided by ISO-NE in a notice and included in the applicable monthly settlement’s job aid. On October 28, 2024, FERC Trial Staff filed initial comments in support of the Canal IEP Settlement Agreement. No reply comments were filed. Settlement Judge Hurt certified the uncontested Canal IEP Settlement Agreement to the Commission on November 26, 2024. The Canal IEP Settlement Agreement is pending before the Commission. If you have any questions concerning this matter, please contact Pat Gerity (860-275-0533; [pmgerity@daypitney.com](mailto:pmgerity@daypitney.com)).

- **Waiver Request: Late Stage SIS Process (GDQ ESS) (ER24-2926)**

On August 29, 2024, GDQ ESS LLC (“GDQ ESS”) requested a limited waiver of pending *Order 2023* compliance Tariff revisions<sup>30</sup> to allow it to accept, after August 30, 2024, the SIS results for its facility<sup>31</sup> and thus to enable its LGIA to benefit from the proposed Late-Stage SIS Process and for it to be refunded its deposits associated with participation in the Transitional Cluster Study.<sup>32</sup> On September 6, ISO-NE protested the waiver request asserting that GDQ ESS does not meet the FERC’s standard for granting waivers. NEPOOL and Calpine intervened. There has been no activity in this proceeding since the last Report. The GDQ ESS waiver request

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<sup>29</sup> *Canal Marketing LLC*, 188 FERC ¶ 61,122 (Aug. 12, 2024).

<sup>30</sup> Revisions to Section 5.1.1.2 of the LGIP, pending in the *Order 2023* Compliance Changes proceeding (ER24-2009), provide that “if the Interconnection Customer accepts the results of its system impact study on or before August 30, 2024, the System Operator shall not include the Interconnection Request in the Transitional Cluster Study and instead tender a Large Generator Interconnection Agreement pursuant to Section 11 of this LGIP, and refund any deposits associated with participation in the Transitional Cluster Study” (the “Late-Stage SIS Process”).

<sup>31</sup> GDQ is the project company for a 203 MW battery energy storage project located in North Kingstown, Rhode Island (Queue Position “QP1163”) (the “ESS Facility”). The ESS Facility will interconnect to the RI Energy transmission system.

<sup>32</sup> GDQ states that it is in potential jeopardy of missing the August 30, 2024 deadline under Section 5.1.1.2 to enter into a LGIA because a previously queued project upon which its queue position is dependent was unlikely to complete its System Impact Study ahead of GDQ’s.



remains pending before the FERC. If you have any questions concerning this matter, please contact Pat Gerity (860-275-0533; [pmgerity@daypitney.com](mailto:pmgerity@daypitney.com)).

- **MW-Dependent Fuel Price Adjustments (ER24-2584)**

On November 21, 2024, the FERC accepted (i) changes to allow Market Participants to submit up to two different MW-dependent fuel prices in their cost-based Reference Levels (“Fuel Price Adjustments”)<sup>33</sup> and (ii) terminated the show cause proceeding in Docket No. EL23-62, finding that ISO-NE had addressed the FERC’s directives and concerns set out in the Show Cause Order.<sup>34</sup> While ISO-NE’s targeted implementation date for the Fuel Price Adjustments is November 16, 2026, the FERC accepted the Fuel Price Adjustments for now with an undetermined effective date (12/31/9998), requiring ISO-NE to make an informational filing notifying the FERC of the actual effective date of the Fuel Price Adjustments no less than 15 days prior to their implementation date. Unless the *Fuel Price Adjustments Order* is challenged, and until the effective date notice is filed, reporting on this proceeding will be concluded. If you have any questions concerning this matter, please contact Rosendo Garza (860-275-0660; [rgarza@daypitney.com](mailto:rgarza@daypitney.com)).

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

As previously reported, in a lengthy compliance Order<sup>35</sup> issued March 1, 2023, the FERC approved in part, and rejected in part, the *Order 2222* compliance filing<sup>36</sup> (“*Order 2222 Compliance Order*”) filed jointly by ISO-NE, NEPOOL and the PTO AC (“Filing Parties”).<sup>37</sup> 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*. The FERC accepted the 30-, 60- and 180-day compliance filings.<sup>38</sup> In the order conditionally accepting the 60-day compliance filing,<sup>39</sup> the FERC directed ISO-NE to submit a further compliance filing, on or before January 31, 2024, to comply with the directives of the *First Compliance Order* regarding the submission of DERA meter data.<sup>40</sup> On December 4, 2023, AEU requested rehearing of the *Order 2222 60-Day*

<sup>33</sup> *Fuel Price Adjustments Order*.

<sup>34</sup> *Id.* at PP 16-20.

<sup>35</sup> 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.”

<sup>36</sup> 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.

<sup>37</sup> *ISO New England Inc. and New England Power Pool Participants Comm.*, 182 FERC ¶ 61,137 (Mar. 1, 2023) (“*First Order 2222 Compliance Order*”).

<sup>38</sup> *ISO New England Inc.*, Docket Nos. ER22-983-003 and ER22-983-005 (Oct. 25, 2023) (unpublished letter order) (“*30/180-Day Order 2222 Compliance Order*”). The 30-Day compliance filings explained how current Tariff capacity market mitigation rules would apply to DECRs participating in FCA18 and provided an update on implementation timeline milestones associated with DECR participation in FCA18 and the other markets. The 180-Day compliance filing explained how the current Tariff capacity market mitigation rules would apply to DECRs participating in FCA19 and beyond and the Mar. 1, 2024 effective date for the rules allowing DECRs to participate in the FCM).

<sup>39</sup> *ISO New England Inc.*, 185 FERC ¶ 61,095 (Nov. 2, 2023) (“*Order 2222 60-Day Compliance Filing Order*”).

<sup>40</sup> Specifically, the FERC directed ISO-NE to revise the Tariff to designate the DER Aggregator as the entity responsible for providing any required metering information to ISO-NE, and to require that each DER Aggregator maintain and submit aggregate settlement data for the DERA, so that ISO-NE can regularly settle with the DER Aggregator for its market participation. To the extent that ISO-NE proposes in that further compliance filing that metering data come from or flow through distribution utilities, the FERC directed ISO-NE to coordinate with distribution utilities and relevant electric retail regulatory authorities to establish protocols for sharing such metering data,

*Compliance Filing Order*. Although the AEU request for rehearing was deemed to have been denied by operation of law,<sup>41</sup> the FERC issued an *Allegheny* order<sup>42</sup> in response to AEU's request for rehearing.<sup>43</sup> The *Order 2222 60-Day Compliance Filing Order Allegheny Order* sustained three of the four findings challenged by AEU, but set aside, in part, the FERC's prior finding that ISO-NE partially complies with the requirement to revise its Tariff to establish market rules that address metering requirements necessary for distributed energy resource aggregations ("DERAs"). The FERC found that, under its rule of reason,<sup>44</sup> ISO-NE's basic description of its metering practices for DERAs was incomplete because the Tariff did not include submetering requirements for DERAs participating as submetered Alternative Technology Regulation Resources ("ATRRs").<sup>45</sup> Accordingly, the FERC directed ISO-NE to file a further compliance filing to revise ISO-NE's Tariff to specify its submetering requirements for DER Aggregations' participation as submetered ATRRs ("ATTR Submetering Tariff Revisions"). ISO-NE filed the ATTR Submetering Tariff Revisions on July 22, 2023 and those revisions were accepted on November 19, 2024 (effective November 1, 2026, as requested).<sup>46</sup>

**Federal Court (DC Circuit) Appeals.** As previously reported, CMP and UI, National Grid, Eversource, and ISO-NE filed separate appeals of the *Order 2222 Compliance Order*. Those appeals have been consolidated (Case No. 23-1167) and are reported on in [Section XVI below](#). If you have any questions concerning these matters, please contact Sebastian Lombardi (860-275-0663; [slombardi@daypitney.com](mailto:slombardi@daypitney.com)); Eric Runge (617-345-4735; [ekrunge@daypitney.com](mailto:ekrunge@daypitney.com)); or Rosendo Garza (860-275-0660; [rgarza@daypitney.com](mailto:rgarza@daypitney.com)).

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

- **PBOP Collections Report (New England Power) (ER25-510)**

On November 22, 2024, New England Power ("NEP") filed a report identifying planned collection activity related to the over recovery of post-retirement benefits other than pensions ("PBOP") under Appendix A to Attachment F to the ISO-NE OATT. The report was required to be filed with the FERC because the absolute value of the over-recovery exceeds the threshold identified in OATT Attachment F.<sup>47</sup> No changes to the filed rate were sought. The report shows an over-recovery, after interest, of **\$2,852,101**. If accepted, the PBOP figures will be used in NEP's 2025 Annual Updates. Comments on this filing are due on or before **December 13, 2024**. If you have any questions concerning this proceeding, please contact Pat Gerity ([pmgerity@daypitney.com](mailto:pmgerity@daypitney.com); 860-275-0533).

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and explain how such protocols minimize costs and other burdens and address concerns raised with respect to privacy and cyber security. *Id.* at P 34.

<sup>41</sup> *ISO New England Inc.*, 186 FERC ¶ 62,002 (Jan. 4, 2023) ("*Order 2222 60-Day Compliance Filing Order Allegheny Notice*").

<sup>42</sup> 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..

<sup>43</sup> *ISO New England Inc.*, 187 FERC ¶ 61,100 (May 23, 2024) ("*Order 2222 60-Day Compliance Filing Order Allegheny Order*").

<sup>44</sup> "[d]ecisions as to whether an item should be placed in a tariff or in a business practice manual are guided by the [FERC]'s rule of reason policy, under which provisions that 'significantly affect rates, terms, and conditions' of service, are readily susceptible of specification, and are not generally understood in a contractual agreement must be included in the tariff, while items better classified as implementation details may be included only in the business practice manual." *Order 2222 60-Day Compliance Filing Order Allegheny Order* at P 36 citing *Order 2222*, 172 FERC ¶ 61,247 at P 271.

<sup>45</sup> *Order 2222 60-Day Compliance Filing Order Allegheny Order* at P 6.

<sup>46</sup> *ISO New England Inc.*, Docket No. ER22-983-009 (Nov. 19, 2024) (unpublished letter order).

<sup>47</sup> A Report is required when "the absolute value of [(Cumulative Under/(Over) Recovery, including Current Year interest)] is greater than \$100,000 and the absolute value of [(Cumulative Under/(Over) recovery, including Current Year interest, as a per cent of transmission-related PBOP expense)] is greater than 20%. See ISO-NE OATT, Attachment F, Appendix A, Worksheet 9, Note (j).

- **Attachments C and Q Revisions (ER25-410)**

On November 12, 2024, ISO-NE and NEPOOL jointly filed proposed revisions to Attachments C and Q of the OATT. The revisions to Attachment C are to conform to the requirements established by Order 881.<sup>48</sup> The revisions to Attachment Q address the use of Ambient Adjusted Ratings at ISO-NE's seams. An effective date of July 12, 2025 was requested. Comments on this filing were due on or before December 3, 2024; none were filed. Calpine and National Grid intervened doc-lessly. This matter is pending before the FERC. If you have any questions concerning this proceeding, please contact Pat Gerity ([pmgerity@daypitney.com](mailto:pmgerity@daypitney.com); 860-275-0533).

- **PBOP Collections Report (RI Energy) (ER25-343)**

On November 1, 2024, RI Energy filed a report identifying planned collection activity related to the over recovery of post-retirement benefits other than pensions under Appendix A to Attachment F to the ISO-NE OATT. The report was required to be filed with the FERC because the absolute value of the over-recovery exceeds the threshold identified in OATT Attachment F.<sup>49</sup> No changes to the filed rate were sought. The report shows an over-recovery, after interest, of \$974,272. If accepted, the PBOP figures will be used in RI Energy's 2025 Annual Updates. Comments on this filing were due on or before November 22, 2024; none were filed. This matter is pending before the FERC. If you have any questions concerning this proceeding, please contact Pat Gerity ([pmgerity@daypitney.com](mailto:pmgerity@daypitney.com); 860-275-0533).

- **NE/NB Coordination Agreement Updates (ER25-328)**

Also on November 1, 2024, ISO-NE and NEPOOL jointly filed updates to the Coordination Agreement Between ISO-NE and the New Brunswick System Operator ("NE/NB Coordination Agreement"). The updates: (i) reflect the amalgamation of the New Brunswick Power Group of Companies and align the agreement with the structure of the ISO-NE/NYISO Coordination Agreement; (ii) recognize the NERC Registered Reserve Sharing Group; and (iii) update pricing-related provisions for Security Energy and Emergency Energy. The updates were supported by the Participants Committee at its October 10, 2024 meeting (Consent Agenda Item Nos. 1 and 2). A January 1, 2025 effective date was requested. Comments on this filing were also due on or before November 22, 2024; none were filed. This matter is pending before the FERC. If you have any questions concerning this proceeding, please contact Pat Gerity ([pmgerity@daypitney.com](mailto:pmgerity@daypitney.com); 860-275-0533).

- **PBOP Collections Report (CL&P) (ER25-306)**

On October 31, 2024, CL&P filed a report identifying planned collection activity related to the over recovery of PBOP under Appendix A to Attachment F to the ISO-NE OATT. The report was required to be filed with the FERC because the absolute value of the over-recovery exceeds the threshold identified in OATT Attachment F. No changes to the filed rate were sought. The report shows an over-recovery, after interest, of \$173,347. If accepted, the PBOP figures will be used in CL&P's 2025 Annual Updates. Comments on this filing were due on or before November 21, 2024; none were filed. This matter is pending before the FERC. If you have any questions concerning this proceeding, please contact Pat Gerity ([pmgerity@daypitney.com](mailto:pmgerity@daypitney.com); 860-275-0533).

- **Order 2023 Compliance Revisions (ER24-2009) and Related Changes (ER24-2007)**

On May 14, 2024 (as corrected May 31, 2024), ISO-NE, NEPOOL and the PTO AC filed (i) proposed Tariff revisions in response to the requirements of *Orders 2023* and *2023-A* ("*Order 2023 Compliance Revisions*") and Tariff revisions to harmonize the SGIP, ETU Interconnection Procedures ("*ETUIP*"), and Regional Transmission Service rules with the contemporaneously-filed *Order 2023 Compliance Revisions* ("*Order 2023 Related Changes*"). The *Order 2023 Compliance Revisions* adopt most of the required *pro forma* OATT changes, with some regional variations to recognize certain existing features of the ISO-NE interconnection process, including an existing

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<sup>48</sup> *Managing Transmission Line Ratings*, Order No. 881, 177 FERC ¶ 61,179 (Dec. 16, 2021).

<sup>49</sup> A Report is required when "the absolute value of [(Cumulative Under/(Over) Recovery, including Current Year interest)] is greater than \$100,000 and the absolute value of [(Cumulative Under/(Over) recovery, including Current Year interest, as a per cent of transmission-related PBOP expense)] is greater than 20%. See ISO-NE OATT, Attachment F, Appendix A, Worksheet 9, Note (j).

cluster process to address cases where cluster enabling transmission is required, integration of the interconnection process with Forward Capacity Market (“FCM”) participation, and a unified treatment of all ISO interconnection requests, including those for small generators and Elective Transmission Upgrades (“ETU”) (filed in ER24-2007).<sup>50</sup> The *Order 2023 Related Changes* were filed concurrently as they may be considered to be beyond the scope of the compliance obligations.<sup>51</sup> The filing parties requested an effective date of August 12, 2024 for the *Order 2023 Compliance Revisions* and that the FERC issue an order for the *Order 2023 Related Changes* concurrently with its order on the *Order 2023 Compliance Revisions* and that the *Order 2023 Related Changes* become effective on the same date as the *Order 2023 Compliance Revisions*.

Comments on these filings were due on or before June 4, 2024, and were filed by [BlueWave](#), [Glenvale](#), [New Leaf](#), [RENEW](#), [Clean Energy Associations](#),<sup>52</sup> and [Longroad Energy Holdings](#). Calpine, Clearway, Constellation, National Grid, NESCOE, RIE, Shell Energy/Savion, MA DPU, and Cordelio Services intervened doc-lessly. On June 20, 2024, ISO-NE answered the June 4 comments. On July 5, [Glenvale](#) and [Longroad Energy](#) answered [ISO-NE’s Jun 20 Answer](#). On July 19, [ISO-NE](#) answered [Glenvale’s](#) and [Longroad Energy’s](#) further July 5 answers. Since the last Report, on August 5, [Longroad Energy](#) answered ISO-NE’s July 19 answer (again advocating for why ISO-NE should be required to accept surety bonds for CETU Participation Deposits, as it asserts is required for all commercial readiness deposits per *Order 2023*) (“Additional Answer”). [ISO-NE](#) answered Longroad’s August 5 Additional Answer on August 7. On September 30, 2024, Allco Finance Limited (“[Allco](#)”) intervened out-of-time and protested this filing (asserting that the new proposed ISO-NE practices “will strike a crushing blow to small distributed solar between 1 MW and 5 MW” by “imposing knee-buckling interconnection fees and costs and a crushing interconnection process”). On October 18, 2024, ISO-NE answered the Allco protest, and Allco answered ISO-NE’s October 18 answer on October 24, 2024.

Since the last Report, Allco supplemented its October 24 answer on November 12, ISO-NE answer Allco’s November 12 supplement on November 13, and Allco answered ISO-NE November 18 answer. In addition, on November 25, 2024, [NESCOE](#) urged the FERC to act swiftly on the region’s *Order 2023* compliance proposal. This matter remains pending before the FERC. If you have any questions concerning this matter, please contact Eric Runge (617-345-4735; [ekrunge@daypitney.com](mailto:ekrunge@daypitney.com)).

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<sup>50</sup> The *Order 2023 Related Changes*, which propose changes to aspects of the Tariff impacted by the *Order 2023 Compliance Revisions*, but that may be considered to be beyond the scope of the *Order 2023* compliance requirements, include: (i) revisions to the pro forma SGIP beyond those explicitly required in *Order 2023/2023-A* to align the Small Generator Interconnection Procedures (“SGIP”) with the Large Generator Interconnection Procedures (“LGIP”) and include Small Generating Facilities in the new Cluster Study Process; (ii) revisions to the ETUIP to ensure it remains aligned with the LGIP and include ETUs in the Cluster Study Process; and (iii) revisions to Study Procedures for Regional Network Service Requests and Through or Out Service Requests to require that System Impact Studies related to Regional Transmission Service requests take place in the Cluster Study incorporated as part of the Cluster Study Process.

<sup>51</sup> The *Order 2023 Related Changes* include: (i) revisions to the pro forma SGIP beyond those explicitly required in *Order 2023/2023-A* to align the Small Generator Interconnection Procedures (“SGIP”) with the Large Generator Interconnection Procedures (“LGIP”) and include Small Generating Facilities in the new Cluster Study Process; (ii) revisions to the ETUIP to ensure it remains aligned with the LGIP and include ETUs in the Cluster Study Process; and (iii) revisions to Study Procedures for Regional Network Service Requests and Through or Out Service Requests to require that System Impact Studies related to Regional Transmission Service requests take place in the Cluster Study incorporated as part of the Cluster Study Process.

<sup>52</sup> “Clean Energy Associations” are, collectively, AEU, ACPA, Natural Resources Defense Council (“NRDC”), and SEIA.

- **Order 881 Compliance Filing (Transmission Line Rating Calculation and Submittal Timeframe Implementation Details) (Phase I/II HVDC-TF) (ER22-2468-001; ER22-2467-001)**

Following a requested 14-day extension of time granted by the FERC,<sup>53</sup> ISO-NE, the Asset Owners,<sup>54</sup> and the Schedule 20A Service Providers<sup>55</sup> jointly submitted their compliance filing to address the sole directive in the June 15, 2023 *Phase I/II HVDC-TF Order 881 Compliance Order*<sup>56</sup> to provide implementation details regarding the calculation and submittal timeframes for the ambient-adjusted ratings (“AARs”) required by *Order 881*. Comments on this filing are due on or before **December 13, 2024**. If you have any questions concerning this matter, please contact Eric Runge (617-345-4735; [ekrunge@daypitney.com](mailto:ekrunge@daypitney.com)).

- **Order 881 Compliance Filing (Transmission Line Rating Calculation and Submittal Timeframe Implementation Details) (New England) (ER22-2357-002)**

On November 12, 2024, ISO-NE and the PTO AC jointly submitted implementation details regarding the calculation and submittal timeframes for the Transmission Line Ratings as required by *Order 881*. Comments on this filing were due on or before December 3, 2024; none were filed. This matter is pending before the FERC. If you have any questions concerning this matter, please contact Eric Runge (617-345-4735; [ekrunge@daypitney.com](mailto:ekrunge@daypitney.com)).

## V. Financial Assurance/Billing Policy Amendments

- **FAP Revisions to Mitigate Risk of PFP Penalty Payment Defaults (ER24-3071)**

On September 18, 2024, ISO-NE proposed Financial Assurance Policy (“FAP”) revisions for Participants that are determined not to have adequate corporate liquidity relative to potential obligations that may be incurred under the pay for performance (“PFP”) construct of the FCM (the “FAP Revisions”). Beginning with the 2025 – 2026 Capacity Commitment Period (“CCP”), ISO-NE will perform a corporate liquidity assessment on each FCM participant holding a Capacity Supply Obligation (“CSO”) (or its guarantor, if such guarantor is guaranteeing the payment of PFP penalties), to determine its ability to pay potential penalty payment obligations associated with its CSO within the applicable Capacity CCP, over a forward-looking rolling six months. “Low risk” participants will continue to be subject to the current FCM Delivery Financial Assurance methodology; “medium and high risk” participants will be subject to higher collateral requirements (risk adders). ISO-NE proposed a February 1, 2025, effective date for these changes. The changes were considered, but were not supported, by the Participants Committee at its September 5, 2024 meeting (Agenda Item #5). Comments on these changes were due on or before October 9, 2024. [NEPGA](#) filed a protest (protesting the proposed effective date, though not the substance of, the FAP Revisions)<sup>57</sup> and [NEPOOL](#) filed comments (summarizing consideration of the changes in the stakeholder process). Interventions only were filed by: Calpine, Dominion, ENE, HQ US, National Grid, MA DPU, and Public Citizen. On October 24, as corrected on November 1, 2024, [ISO-NE](#) answered NEPGA’s protest. [NEPGA](#) answered ISO-NE’s answer on November 5, 2024. On November 15, [ISO-NE](#) answered NEPGA’s November 5 answer. This

<sup>53</sup> See Notice of Extension of Time, *ISO New England Inc.*, Docket Nos. ER22-2467-000 and ER22-2468-000 (Nov. 19, 2024) (extending by 14 days, to Nov. 26, 2024, the compliance deadline set forth in the *Phase I/II HVDC-TF Order 881 Compliance Order*).

<sup>54</sup> The “Asset Owners” are, collectively: New England Hydro-Transmission Elec. Co., Inc.; New England Hydro-Transmission Corp.; New England Elec. Transmission Corp.; and Vermont Elec. Transmission Co.

<sup>55</sup> The “Schedule 20A Service Providers” are the public utilities that provide transmission service under Schedule 20A to the ISO-NE OATT.

<sup>56</sup> *ISO New England Inc.*, 183 FERC ¶ 61,179 (June 15, 2023) (“*Phase I/II HVDC-TF Order 881 Compliance Order*”).

<sup>57</sup> NEPGA asserted that the FAP Revisions, if applied as requested beginning on June 1, 2025, would alter the legal requirements associated with CSOs in violation of the filed rate doctrine, and would decrease confidence in the stability and predictability of the wholesale markets, undermining reliability in New England. Accordingly, NEPGA asked that the FAP Revisions be made effective June 1, 2028 (i.e., the first day of the FCA19 CCP).



matter is pending before the FERC. If you have any questions concerning this proceeding, please contact Rosendo Garza (860-275-0660; [rgarza@daypitney.com](mailto:rgarza@daypitney.com)).

- **Updates to Non-Commercial Capacity FA Amount Multiplier (ER24-3040)**

On November 12 2024, the FERC accepted FAP revisions that: (i) ensure that the post-auction Non-Commercial Capacity Financial Assurance (“NCCFA”) Multiplier continues to increase annually during the three-year delay of the next FCA; (ii) ensure that the formula for calculating the NCCFA Amount directly before an FCA (“pre-auction NCCFA Amount”) remains generally consistent with the formula for calculating NCCFA required upon completion of an FCA (“post-auction NCCFA Amount”), and (iii) eliminate an NCCFA provision which is no longer relevant due to the passage of time (“ministerial revision”).<sup>58</sup> The changes were accepted effective November 13, 2024, as requested. Unless the November 12, 2024 order is challenged, this proceeding will be concluded. If you have any questions concerning this proceeding, please contact Rosendo Garza (860-275-0660; [rgarza@daypitney.com](mailto:rgarza@daypitney.com)).

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

- **Schedule 21-ES: Essential Power MA/NSTAR/ISO-NE LSA (ER25-429)**

On November 14, 2024, NSTAR and ISO-NE filed a non-conforming<sup>59</sup> Local Service Agreement (“LSA”) with Essential Power Massachusetts, Inc. for firm Local Point-to-Point Service to Essential Power’s 45 MW BESS Large Generating Facility located in West Springfield, MA (“West Springfield Project”). An October 15, 2024 effective date for the LSA was requested. Comments on the LSA filing are due on or before **December 5, 2024**. If you have any questions concerning this proceeding, please contact Pat Gerity (860-275-0533; [pmgerity@daypitney.com](mailto:pmgerity@daypitney.com)).

- **Schedule 21-RIE: Revisions (ER25-347)**

On November 1, 2024, RI Energy submitted revisions to Schedule 21-RIE (“RIE Revisions”) to, among other things: (i) clarify the function of the meter surcharge calculation contained in Attachment OCC, Exhibit 3; (ii) align the exhibit numbers with the corresponding excel spreadsheet titles in Attachment OCC, Exhibits 4 and 5; (iii) add a definition for “Primary Revenue Credit” to Attachment RR, Exhibit 1; (iv) amend the definition for “Primary Related Accumulated Deferred Income Taxes” contained in Attachment RR, Exhibit 1; (v) revise Attachment OCC Exhibit 4 to include ISO-NE expenses in Line 6; and (vi) amending Attachment RR, Exhibit 2, to clarify the function of the (Excess)/Deficient Accumulated Deferred Income Tax (“ADIT”) calculation. RI Energy requested a January 1, 2025 effective date for the RIE Revisions. Comments on this filing were due on or before November 22, 2024; none were filed. This matter is now pending before the FERC. If you have any questions concerning this proceeding, please contact Pat Gerity (860-275-0533; [pmgerity@daypitney.com](mailto:pmgerity@daypitney.com)).

- **Schedule 21-GMP: GMP-Hardwick NITSA Notice of Cancellation (ER25-298)**

On October 30, 2024, GMP submitted a notice of cancellation of the Network Integration Transmission Service Agreement and Local Operating Agreement (“NITSA”) with the Village of Hardwick Electric Department (“Hardwick”) filed under Schedule 21-GMP. GMP reported that, as of June 30, 2024, Hardwick is no longer taking service pursuant to the NITSA. GMP requested that the FERC grant waiver of its notice requirement<sup>60</sup> to

<sup>58</sup> *ISO New England Inc.*, Docket No. ER24-3040-000 (Nov. 12, 2024) (unpublished letter order).

<sup>59</sup> The LSA is non-conforming in that it contains provisions reflecting a long-standing agreement between NSTAR and Essential Power, including a discounted rate. Although NSTAR believes that the discounted rate provisions may not trigger a Section 205 filing requirement, NSTAR nevertheless requested that the LSA be accepted for filing without any determination whether the LSA needed to be submitted in the first instance.

<sup>60</sup> 18 CFR § 35.11 (which permits, upon application and for good cause shown, the FERC to allow a rate schedule, tariff, service agreement, or a part thereof, to become effective as of a date prior to the date of filing or the date such change would otherwise become effective in accordance with the FERC’s rules (e.g. 60 days after filing)). FERC policy is to deny waiver of the prior notice requirement when an agreement for new service is filed on or after the date that services commence, absent a showing of extraordinary circumstances.



the extent necessary to permit a requested June 30, 2024 effective date. Comments on this filing were due on or before November 20, 2024; none were filed. This matter is now pending before the FERC. If you have any questions concerning this proceeding, please contact Pat Gerity (860-275-0533; [pmgerity@daypitney.com](mailto:pmgerity@daypitney.com)).

- **Schedule 22: ISO-NE/CMP/Andro Hydro LGIA (ER24-2970)**

On September 4, 2024, as corrected on October 28, 2024,<sup>61</sup> ISO-NE and CMP filed a revised LGIA with Andro Hydro to clarify the relationship between Andro Hydro (Interconnection Customer) and JGT2 Redevelopment LLC (“JGT2”), the owner of a closed paper mill located on Andro Hydro’s side of the interconnection, and the status of the Interconnection Facilities governed by the LGIA. While the LGIA is based on the Schedule 22 *pro forma* LGIA, it contains limited revisions that are necessary given the Large Generating Facility’s unique interconnection to the system, including the interconnection of its facility through shared facilities co-owned, and used by, JGT2 Redevelopment LLC to serve its own load,<sup>62</sup> thus making it non-conforming and requiring it to be filed with the FERC. The Parties requested an August 8, 2024 effective date (the date on which all of the parties to the LGIA executed the agreement). Initial comments on the LGIA filing were due on or before September 25, 2024; none were filed. With the correction filed on October 28, a second comment period was established, with any comments due on or before November 18, 2024; no comments were submitted by the second comment deadline. This matter is pending before the FERC. If you have any questions concerning this proceeding, please contact Pat Gerity (860-275-0533; [pmgerity@daypitney.com](mailto:pmgerity@daypitney.com)).

- **Schedule 21-VP: Versant/Jonesboro LSA (ER24-24)**

As previously reported, the FERC accepted for filing a LSA by and among Versant, ISO-NE, NE Renewable Power, and Jonesboro, LLC (“Jonesboro”), effective *December 4, 2023*, but denied waiver of the FERC’s 60-day prior notice requirement for the filing.<sup>63</sup> The FERC found that the Filing Parties did not make the required showing of extraordinary circumstances to warrant waiver of the prior filing requirement. Accordingly, the FERC directed the Filing Parties (i) to refund the time value of revenues collected for the time period the rate was collected without FERC authorization, with refunds limited so as not to cause Filing Parties to operate at a loss (“Time Value Refunds”); and (ii) to file a refund report, including information supporting calculation of the Time Value Refunds.

**Time Value Refunds Report.** On December 18, 2023, Versant Power filed a refund report (“Report”) detailing the Time Value Refunds it paid to NE Renewable Power and Jonesboro on December 15, 2023. Comments on the Report were due on or before January 8, 2024; none were filed. The Report remains pending before the FERC. If you have any questions concerning this matter, please contact Pat Gerity ([pmgerity@daypitney.com](mailto:pmgerity@daypitney.com); 860-275-0533).

- **Schedule 21-GMP: National Grid/Green Mountain Power LSA (ER23-2804)**

As previously reported, ISO-NE and New England Power (“National Grid”, and together with ISO-NE, the “Filing Parties”) filed on September 11, 2023, a 20-year LSA by and among National Grid, ISO-NE and Green Mountain Power (“GMP”).<sup>64</sup> The Filing Parties stated that the LSA conformed to the *pro forma* LSA contained in the ISO-NE Tariff and superseded and replaced another conforming LSA among ISO-NE, National Grid, and GMP that listed an expiration date of September 30, 2022 (TSA-NEP-25). The Parties requested that the FERC

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<sup>61</sup> The October 28 filing corrects an administrative error that resulted in the redlined and clean versions of the LGIA being inconsistent with one another. A corrected version of the LGIA was being submitted and noticed for public comment.

<sup>62</sup> The original non-conforming LGIA was filed in Docket No. ER24-1477. Reporting on that docket has concluded as the Filing Parties indicated that filing will be withdrawn upon action on this instant filing. Details concerning Docket No. ER24-1477 can be found in the last Report.

<sup>63</sup> *ISO New England Inc.*, Docket No. ER24-24-000 (Nov. 30, 2023) (unpublished letter order).

<sup>64</sup> The LSA was designated as Service Agreement No. TSA-NEP-114 under the ISO-NE OATT.

grant waiver of its notice requirement<sup>65</sup> to the extent necessary to permit a requested October 21, 2022 effective date. The LSA was filed separately given that requested effective date.

**LSA Accepted; Waiver of Prior Filing Requirement Denied; Time Value Refunds Ordered.** Similar to the Versant/Jonesboro proceeding (see ER24-24 above), the FERC accepted the National Grid/GMP LSA for filing, effective *November 11, 2023*, but denied waiver of the FERC's 60-day prior notice requirement for the filing.<sup>66</sup> The FERC found that the Filing Parties did not make the required showing of extraordinary circumstances to warrant waiver of the prior filing requirement. Accordingly, the FERC directed the Filing Parties to make Time Value Refunds. On December 4, 2023, Filing Parties requested, and on December 6, 2023 the FERC granted, a 45-day extension of time (to January 22, 2024) to make the Time Value Refunds, with the corresponding refund report to be filed no later than February 21, 2024.

**Time Value Refunds Report.** On February 21, 2024, National Grid filed a refund report ("Report") detailing the Time Value Refunds National Grid paid to GMP on January 22, 2024. Comments on the Report were due on or before March 13, 2024; none were filed. The Report remains pending before the FERC. If you have any questions concerning these matters, please contact Pat Gerity ([pmgerity@daypitney.com](mailto:pmgerity@daypitney.com); 860-275-0533).

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

On July 28, 2023, the FERC accepted seven fully executed, non-conforming 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").<sup>67</sup> The service agreements are based on the Form of Local Service Agreement contained in Schedule 21-Common under the ISO-NE OATT, but were filed because they are non-conforming insofar as they reflect different rates from those set forth in Schedule 21-VP. The LSAs were accepted for filing effective *August 1, 2023*, rather than January 1, 2021 as requested, triggering a Time Value Refund requirement.<sup>68</sup> On August 29, 2023, Versant submitted a Refund Report detailing the Time Value Refunds it paid to Black Bear Hydro Partners, LLC and Black Bear SO, LLC on August 18, 2023. Comments on the Refund Report were due on or before September 19, 2023; none were filed. The Refund Report remains pending before the FERC. If you have any questions concerning this matter, please contact Pat Gerity ([pmgerity@daypitney.com](mailto:pmgerity@daypitney.com); 860-275-0533).

- **Schedule 21-VP: 2022 Annual Update Settlement Agreement (ER20-2054-003)**

On August 29, 2023, Versant submitted a Joint Offer of Settlement ("Versant 2022 Annual Update Settlement Agreement") between itself and the MPUC. Versant stated that, if approved, the 2022 Annual Update Settlement Agreement would resolve all issues raised by the MPUC with respect to the 2022 Annual Update. Comments on the Versant 2022 Annual Update Settlement Agreement were due on or before September 19, 2023; none were filed. MPUC intervened doc-lessly on September 15, 2023. This matter remains pending before the FERC. If you have any questions concerning this proceeding, please contact Pat Gerity (860-275-0533; [pmgerity@daypitney.com](mailto:pmgerity@daypitney.com)).

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<sup>65</sup> 18 CFR § 35.11 (which permits, upon application and for good cause shown, the FERC to allow a rate schedule, tariff, service agreement, or a part thereof, to become effective as of a date prior to the date of filing or the date such change would otherwise become effective in accordance with the FERC's rules (e.g. 60 days after filing)). FERC policy is to deny waiver of the prior notice requirement when an agreement for new service is filed on or after the date that services commence, absent a showing of extraordinary circumstances.

<sup>66</sup> *ISO New England Inc.*, Docket No. ER23-2804-000 (Nov. 7, 2023) (unpublished letter order).

<sup>67</sup> *ISO New England Inc.*, Docket No. ER23-2035-000 (July 28, 2023) ("*Versant Black Bear LSAs Order*").

<sup>68</sup> The FERC denied the requested waiver of its 60-day prior notice requirement (18 C.F.R. § 35.11), finding that the Filing Parties did not make an adequate showing of extraordinary circumstances. Accordingly, Versant was required to refund the time value of revenues collected for the time period the rate was collected without FERC authorization (with refunds limited so as not to cause Versant to operate at a loss) and file a refund report with the FERC.

## VII. NEPOOL Agreement/Participants Agreement Amendments

No Activities to Report

## VIII. Regional Reports<sup>69</sup>

- **Capital Projects Report – 2024 Q3 (ER25-125)**

On October 15, 2024, ISO-NE filed its Capital Projects Report and Unamortized Cost Schedule covering the third quarter (“Q3”) of calendar year 2024 (the “Q3 Report”). 2024 Q3 Report highlights include:

- One new project -- Automatic Ring Down Circuit Continuity Modernization and Reliability Enhancements (\$300,000);
- Two projects with significant changes: (i) Energy Management System Short-Term Load Forecast Replacement (increased in 2024 by \$327,300); and (ii) IT Asset Workflow Integration and Updates (2024 budget increased by \$116,400); and
- Three projects completed in Q2: (i) Settlement Technology Improvements; (ii) Control Room Voice Recorder Update; and (iii) On Call Notification Systems. Each cost less than planned.

Comments on the Report were due on or before November 5, 2024. On October 21, 2024, NEPOOL submitted comments supporting the Q3 Report. National Grid intervened doc-lessly. This matter remains pending before the FERC. If you have any questions concerning this matter, please contact Rosendo Garza (860-275-0660; [rgarza@daypitney.com](mailto:rgarza@daypitney.com)).

- **IMM Quarterly Markets Reports: Summer 2024 (ZZ24-4)**

On November 25, 2024, the IMM filed with the FERC its Summer 2024 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 Summer Report will be discussed with the Markets Committee at the Markets Committee’s December annual meeting.

- **Interconnection Study Metrics Processing Time Exceedance Report Q3 2022 (ER19-1951)**

On November 14, 2024, ISO-NE filed, as required,<sup>70</sup> public and confidential versions<sup>71</sup> of its Interconnection Study Metrics Processing Time Exceedance Report (the “Exceedance Report”) for the Third Quarter of 2024 (“2024 Q3”). ISO-NE reported that with respect to:

<sup>69</sup> Reporting on the *Opinion 531* Refund Reports (EL11-66) has been suspended and will be continued if and when there is new activity to report.

<sup>70</sup> Under section 3.5.4 of ISO-NE’s Large Generator Interconnection Procedures (“LGIP”), ISO-NE must submit an informational report to the FERC describing each study that exceeds its Interconnection Study deadline, the basis for the delay, and any steps taken to remedy the issue and prevent such delays in the future. The Exceedance Report must be filed within 45 days of the end of the calendar quarter, and ISO-NE must continue to report the information until it reports four consecutive quarters where the delayed amounts do not exceed 25 percent of all the studies conducted for any study type in two consecutive quarters.

<sup>71</sup> ISO-NE requested that the information contained in Section 3 of the un-redacted version of the Exceedance Report, which contains detailed information regarding ongoing Interconnection Studies and if released could harm or prejudice the competitive position of the Interconnection Customer, be treated as confidential under FERC regulations.

- ◆ **Interconnection Feasibility Study (“IFS”) Reports**
  - Three of the 2024 Q3 IFS Reports delivered to Interconnection Customers were delivered later than the best efforts completion timeline (90 days from the Interconnection Customer’s execution of the study agreement).
  - 33 IFS Reports 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 420.67 days (roughly 120 days longer than in 2024 Q2).
  
- ◆ **System Impact Study (“SIS”) Reports**
  - 7 SIS Reports delivered to Interconnection Customers were delivered later than the best efforts completion timeline of 270 days.
  - 29 SIS Studies 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 633.6 days (a decrease of roughly 215 days from 2024 Q2).
  
- ◆ **Facility Study Reports**
  - There were no Facility Study reports delivered to an Interconnection Customers and three Facility Studies are in process that have exceeded completion expectations.

Section 4 of the Report identified steps ISO-NE has identified to remedy issues and prevent future delays, including modifying the standard scope of the Feasibility Study, mitigating the impact of backlogs and initiating clustering, moving to earlier in the process certain Interconnection Customer data reviews, and standardizing cost estimate development timelines for Interconnection Studies.

- **ISO-NE FERC Form 3Q (2024/Q3) (not docketed)**

On November 18, 2024, ISO-NE submitted its 2024/Q3 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.

## IX. Membership Filings

Questions concerning any of the Membership Filings can be directed to Pat Gerity (860-275-0533; [pmgerity@daypitney.com](mailto:pmgerity@daypitney.com)).

- **November 2024 Membership Filing (ER25-296)**

On October 31, 2024, NEPOOL requested that the FERC accept the termination of the Participant status of ProGrid Ventures and Palm Energy. Comments on this filing were due on or before November 21, 2024; none were filed. This matter is pending before the FERC.

- **October 2024 Membership Filing (ER24-3139)**

On November 27, 2024, the FERC accepted: (i) the following Applicant’s membership in NEPOOL as of October 1, 2024: Castleton Commodities Energy Services LLC and Castleton Commodities Energy Trading LLC [Related Persons to Castleton Commodities Merchant Trading (Supplier Sector)]; Alan Sliski (End User Sector, Governance Only Member); and Stony Creek Energy LLC [Related Person to Invenergy Energy Management

(Supplier Sector)); and (ii) the termination of the Participant status of Gas Recovery Systems.<sup>72</sup> Unless the November 27 order is challenged, this proceeding will be concluded.

### X. Misc. - ERO Rules, Filings; Reliability Standards<sup>73</sup>

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

- **Revised Reliability Standard: PRC-030-1 (RD25-3)**

On November 4, 2024, NERC filed for approval, in response to the requirements of *Order 901*,<sup>74</sup> revisions to Reliability Standard PRC-030-1 (Unexpected Inverter-Based Resource Event Mitigation) to require Generator Owners to identify, analyze, and mitigate Inverter-Based Resources (“IBR”) performance issues. NERC stated that “PRC-030-1 addresses the need for Corrective Action Plans to reduce poor IBR ride-through performance from exacerbating system disturbances, as demonstrated by multiple event reports of the last decade, while providing a reasonable period for entities to develop and implement new processes to meet the new requirements.” Comments on this filing were due on or before December 4, 2024; none were filed. Calpine, Dominion, Eversource, ACPA, North Carolina Electric Membership Corporation (“NCEMC”), Orsted Wind, and the Solar Energy Industries Association intervened doc-lessly. This matter is pending before the FERC.

- **Revised Reliability Standards: PRC-028-1 and PRC-002-5 (Disturbance Monitoring) (RD25-2)**

On November 4, 2024, NERC filed for approval, also in response to the requirements of *Order 901*, revisions to Reliability Standards PRC-028-1 and PRC-002-5 to ensure that adequate data from both synchronous generating resources and IBRs is available to facilitate the analysis of disturbances on the Bulk-Power System, and that adequate data is available from IBRs to evaluate ride-through performance during disturbances. Comments on this filing were due on or before December 4, 2024; none were filed. Calpine, Dominion, Eversource, Invenegy Renewables, ACPA, NCEMC, Orsted Wind, and SEIA intervened doc-lessly. This matter is pending before the FERC.

- **Addition of “Inverter-Based Resource” to NERC Glossary of Terms (RD25-1)**

On November 4, 2024, NERC filed for approval a new definition of the term “Inverter-Based Resource” (“IBR”) for inclusion in the Glossary of Terms used in NERC Reliability Standards. The proposed definition is as follows:

Inverter-Based Resource: A plant/facility consisting of individual devices that are capable of exporting Real Power through a power electronic interface(s) such as an inverter or converter, and that are operated together as a single resource at a common point of interconnection to the electric system. Examples include, but are not limited to, plants/facilities with solar photovoltaic (PV), Type 3 and Type 4 wind, battery energy storage system (BESS), and fuel cell devices.

NERC asked that the definition of IBR become effective on the first day of the first calendar quarter following FERC approval. Comments on this filing were due on or before December 4, 2024; none were filed. Calpine, Dominion, Eversource, Invenegy Renewables, ACPA, NCEMC, Orsted Wind, RENEW Northeast, and SEIA intervened doc-lessly. This matter is pending before the FERC.

<sup>72</sup> *New England Power Pool Participants Comm.*, Docket No. ER24-3139 (Nov. 27, 2024) (unpublished letter order).

<sup>73</sup> Reporting on the following ERO Reliability Standards or related rule-making proceedings has been suspended since the last Report and will be continued if and when there is new activity to report: NERC Report on Evaluation of Physical Reliability Standard (CIP-014) (RD23-2); *Order 901*: IBR Reliability Standards (RM22-12); and 2024 Reliability Standards Development Plan (RM05-17 *et al.*).

<sup>74</sup> *Reliability Standards to Address Inverter-Based Resources*, Order No. 901, 185 FERC ¶ 61,042 at P 229 (2023) (“*Order 901*”).



- **Revised Reliability Standards: PRC-029-1 and PRC-024-4 (RM25-3)**

On November 4, 2024, NERC filed for approval, in response to the requirements of *Order 901*, revisions to Reliability Standards PRC-029-1 and PRC-029-4, as well as a proposed change to the Glossary definition of “Ride-through” to establish voltage and frequency ride-through criteria for Generator Owners of IBRs to continue to inject current and perform voltage support during a BPS disturbance and prohibit momentary cessation in the no-trip zone during disturbances. As of the date of this Report, while the FERC docketed these changes in an “RM” docket (unlike the “RD” dockets assigned to the other three November 4 filings), the FERC has not noticed a proposed rulemaking proceeding or otherwise invited public comment. Nevertheless, since the last Report, Eversource, ACPA, NCEMC, Orsted Wind, and SEIA intervened doc-lessly.

- **Revised Reliability Standards: CIP-002-7 through CIP-013-3 (Virtualization) (RM24-8)**

On July 10, 2024, NERC filed for approval 11 revised Critical Infrastructure Protection (“CIP”) Reliability Standards,<sup>75</sup> as well as 18 new or revised definitions for inclusion in NERC’s Glossary,<sup>76</sup> to facilitate the full implementation of virtualization and to address the risks associated with virtualized environments. The proposed CIP Reliability Standards would permit Responsible Entities with more “traditional” architecture to continue with their current configurations. As of the date of this Report, the FERC still has not yet noticed a proposed rulemaking proceeding or otherwise invited public comment.

- **NOPR: CIP-015-1 (Cyber Security – Internal Network Security Monitoring) (RM24-7)**

On September 19, 2024, the FERC issued a NOPR<sup>77</sup> proposing to approve Reliability Standard CIP-015-1 (Cyber Security – Internal Network Security Monitoring) and to direct that NERC develop certain modifications to CIP-015-1 to extend internal network security monitoring (“INSM”) to include electronic access control or monitoring systems and physical access control systems outside of the electronic security perimeter. Comments on the NOPR were filed by [NERC](#), [NESCOE](#), the [IRC](#), [APPA](#), and [Open Policy](#). This matter is pending before the FERC.

- **NOPR: Supply Chain Risk Reliability Standards (RM24-4)**

Also on September 19, 2024, the FERC issued a NOPR proposing to direct NERC to develop and submit for FERC approval new or modified Reliability Standards that address the sufficiency of responsible entities’ supply chain risk management plans related to the identification of, assessment of, and response to supply chain risks, and applicability of Reliability Standards’ supply chain protections to protected cyber assets.<sup>78</sup> Comments on the NOPR were due on or before December 2, 2024<sup>79</sup> and were filed by, among others: [NERC and its Regional Entities](#), [NESCOE](#), [BPA](#), [APPA/LPPC](#), [EEI](#), [North American Transmission Forum](#), [National Electrical Manufacturers Association](#), and [Secure the Grid](#). This matter is pending before the FERC.

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<sup>75</sup> The revised Cyber Security Standards are: CIP-002-7 (BES Cyber System Categorization); CIP-003-10 (Security Management Controls); CIP-004-8 (Personnel & Training); CIP-005-8 (Electronic Security Perimeter(s)); CIP-006-7 (Physical Security of BES Cyber Systems); CIP-007-7 (Systems Security Management); CIP-008-7 (Incident Reporting and Response Planning); CIP-009-7 (Recovery Plans for BES Cyber Systems); CIP-010-5 (Configuration Change Management and Vulnerability Assessments); CIP-011-4 (Information Protection); and CIP-013-3 (Supply Chain Risk Management).

<sup>76</sup> The new and/or revised Glossary Terms are: BES Cyber Asset (“BCA”), BES Cyber System (“BCS”), BES Cyber System Information (“BCSI”), CIP Senior Manager, Cyber Assets, Cyber Security Incident, Cyber System, Electronic Access Point (“EAP”); External Routable Connectivity (“ERC”), Electronic Security Perimeter (“ESP”), Interactive Remote Access (“IRA”), Intermediate System, Management Interface, Physical Access Control Systems (“PACS”), Physical Security Perimeter (“PSP”), Protected Cyber Asset (“PCA”), Removable Media, Reportable Cyber Security Incident, Shared Cyber Infrastructure (“SCI”), Transient Cyber Asset (“TCA”), and Virtual Cyber Asset (“VCA”).

<sup>77</sup> *Critical Infrastructure Protection Reliability Standard CIP-015-1 – Cyber Security – Internal Network Security Monitoring*, 188 FERC ¶ 61,175 (Sep. 19, 2024) (“CIP-015 INSM NOPR”).

<sup>78</sup> *Supply Chain Risk Management Reliability Standards Revisions*, 188 FERC ¶ 61,174 (Sep. 19, 2024) (“Supply Chain Risk Standards NOPR”).

<sup>79</sup> The *Supply Chain Risk Standards NOPR* was published in the *Fed. Reg.* on Oct. 1, 2024 (Vol. 89, No. 190) pp. 79,794-79,804.



- **Report of Comparisons of 2023 Budgeted to Actual Costs for NERC and the Regional Entities (RR24-3)**

On November 21, 2024, the FERC accepted for filing NERC's 2023 annual comparisons of actual to budgeted costs for NERC and the six Regional Entities operating in 2023,<sup>80</sup> including NPCC.<sup>81</sup> As previously reported, the Report included 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 2023 budgets and actual results. Unless the November 21 order is challenged, this proceeding will be concluded.

- **IBR ROP Compliance Filing (RR24-2)**

On October 30, 2024, the FERC accepted NERC's compliance filing clarifying that the term "generating resources" as used in the ROP Appendices 2 and 5B definitions of Generator Operator ("GOP") and Generator Owner ("GO") (i) includes those IBRs that provide energy for load, including resources that are battery energy storage systems ("BESS") or fuel cells; and (ii) excludes those resources that only perform transmission functions.<sup>82</sup> The October 30, 2024 was not challenged and is final and unappealable. This concluded reporting on this matter.

## XI. Misc. - of Regional Interest

- **203 Application: RISEC/Shell (EC25-14)**

On October 24, 2024, Rhode Island State Energy Center, LP ("RISEC") and Shell Energy North America (US), L.P. ("Shell" or "Buyer", and together with RISEC, "Applicants") requested authorization for Shell's indirect acquisition of 100% of the ownership interests in RISEC from investment fund vehicles managed/advised by The Carlyle Group. Following consummation of the proposed transaction, RISEC will become a Related Person to Shell and its Related Persons. Comments on this application were due on or before November 14, 2024; none were filed. Public Citizen filed a doc-less motion to intervene. This matter is now pending before the FERC. If you have any questions concerning this matter, please contact Pat Gerity ([pmgerity@daypitney.com](mailto:pmgerity@daypitney.com); 860-275-0533).

- **203 Application: Carlyle Group (Nautilus)/Q-Generation (Trafigura) (EC24-114)**

On November 21, 2024, the FERC authorized Q-Generation Partner's acquisition of 100% of the interests of CPP II Master Holdco, LLC ("CPP II"), a company indirectly owned by investment fund vehicles managed/advised by The Carlyle Group.<sup>83</sup> As previously reported, following consummation of the proposed transaction, the ISO-NE Companies<sup>84</sup> will no longer be Related Persons to The Carlyle Group and will become Related Persons to Trafigura Trading LLC (whose upstream parent will own or control more than 10% of the equity interests in Q-Generation Partners). Following consummation of the proposed transaction, the ISO-NE Companies will no longer be Related Persons to The Carlyle Group and will become Related Persons to Trafigura Trading LLC (whose upstream parent will own or control more than 10% of the equity interests in Q-Generation Partners). A notice of consummation must be filed within 10 days of the date of consummation (which as of the date of this Report has not been filed). If you have any questions concerning this matter, please contact Pat Gerity ([pmgerity@daypitney.com](mailto:pmgerity@daypitney.com); 860-275-0533).

- **TSAs: Fourth Amendments to NECEC Transmission TSAs (ER25-261 et al.)**

On October 29, 2024, NECEC Transmission filed executed fourth amendments to 7 of its previously-filed and accepted, cost-based transmission service agreements ("TSAs") with the participants that will fund

<sup>80</sup> 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").

<sup>81</sup> *N. Am. Elec. Reliability Corp.*, Docket No. RR24-3-000 (Nov. 21, 2024).

<sup>82</sup> *N. Am. Elec. Reliability Corp.*, Docket No. RR24-2-001 (Oct. 30, 2024).

<sup>83</sup> *Bridgeport Energy LLC et al.*, 189 FERC 61,129 (Nov. 21, 2024).

<sup>84</sup> "ISO-NE Companies" include: Nautilus Power, Bridgeport Energy LLC; Essential Power Massachusetts, LLC; Essential Power Newington, LLC; Rumford Power LLC; and Tiverton Power LLC.

the construction, operation and maintenance of the New England Clean Energy Connect Project.<sup>85</sup> The amendments are intended to (i) extend critical milestone dates set forth in the TSAs and (ii) amend the changes to applicable law provisions set forth in the TSAs. An October 30, 2024 effective date was requested. Comments on the fourth amendments were due on or before November 19, 2024; none were filed. Eversource, National Grid, and the MA DPU intervened doc-lessly. This matter is pending before the FERC. If you have any questions concerning this matter, please contact Pat Gerity ([pmgerity@daypitney.com](mailto:pmgerity@daypitney.com); 860-275-0533).

- **UI Rate Incentives for Fairfield to Congress 115kV Railroad Project (ER25-167)**

On October 21, 2024, UI requested approval, effective December 21, 2024, for a Construction Work in Progress (“CWIP”) Incentive and an Abandoned Plant Incentive (together, the “Incentives”) in connection with its Fairfield to Congress 115kV Railroad Project (the “Project”). The Project is a transmission line rebuild project in Fairfield, CT and Bridgeport, CT that includes the relocation of transmission lines from 7.3 miles of the existing Connecticut Department of Transportation’s Metro-North Railroad corridor and a rebuild of a 115-kV transmission line along 0.23 miles of existing UI right-of-way to allow interconnection of the rebuilt facilities with UI’s existing Ash Creek, Resco, Pequonnock, and Congress Street substations. The Project was identified in the March 2023 RSP Asset Condition List as PTF that must be rebuilt or modified due to its condition, age, or physical deterioration to comply with National Electrical Safety Code standards. The Project revenue requirement will be charged to RNS pursuant to Schedule 9 of the ISO-NE Tariff. Comments on the Project filing were due by November 12, 2024. In a [Joint Protest](#), the CT Office of Consumer Counsel (“CT OCC”), Maine Office of the Public Advocate (“ME OPA”), MA AG, and NH Office of the Consumer Advocate (“NH OCA”) asked the FERC to deny the requested Incentives. On November 26, [UI answered](#) the Joint Protest. UI’s Incentives request is now pending before the FERC. If you have any questions concerning this matter, please contact Pat Gerity ([pmgerity@daypitney.com](mailto:pmgerity@daypitney.com); 860-275-0533).

- **LCCSA Amendment: National Grid (Termination of RIE/BIPCO/PUD Participation) (ER25-88)**

On October 11, 2024, New England Power (“National Grid”) filed an amended Local Control Center Services Agreement (“LCCSA”) to reflect the termination of the participation of RI Energy, Block Island Power Company (“BIPCO”) and Pascoag Utility District (“Pascoag”), the three parties to a [successor LCCSA](#) recently accepted by the FERC in ER24-2390). An effective date of May 30, 2024 was requested. Comments on this filing were due on or before November 1, 2024; none were filed. RI Energy filed a doc-less motion to intervene. This matter remains pending before the FERC. If you have any questions concerning this matter, please contact Pat Gerity ([pmgerity@daypitney.com](mailto:pmgerity@daypitney.com); 860-275-0533).

- **D&E Agreement: NSTAR / Vicinity Energy Boston (ER25-49)**

On October 7, 2024, NSTAR filed a Design and Engineering Agreement (“D&E Agreement”) between itself and Vicinity Energy Boston, Inc. (“Vicinity”) to initiate the D&E process required to develop a non-binding cost estimate for the development of Kneeland Substation, which will incorporate Vicinity’s proposed 100 MW electrode boiler load into the overall design, at Vicinity’s expense. Comments on the D&E Agreement were due on or before October 28, 2024; none were filed. This matter remains pending before the FERC. If you have any questions concerning this matter, please contact Pat Gerity ([pmgerity@daypitney.com](mailto:pmgerity@daypitney.com); 860-275-0533).

- **Wholesale Distribution Access Tariffs – CL&P (ER24-3153) and NSTAR (ER24-3154)**

On November 27, 2024, the FERC accepted two new Wholesale Distribution Access Tariffs (each a “WDAT”), filed by Eversource for CL&P (ER24-3153) and NSTAR (ER24-3154), respectively, to provide for the recovery, of costs associated with the provision of Wholesale Distribution Service (“WDS”) to customers who own electric energy storage systems (“ESS”) connected to their respective distribution systems.<sup>86</sup> As previously

<sup>85</sup> The third amendments to the 7 TSAs were separately docketed as follows: Eversource (ER21-2738); National Grid (ER21-2739); Unitil (ER21-2742); HQUS/Eversource (ER21-2743); HQUS/National Grid (ER21-2744); HQUS/Unitil (ER21-2745); and HQUS Additional (ER21-2747).

<sup>86</sup> *Connecticut Light & Power Co. and NSTAR Electric Co.*, 189 FERC ¶ 61,152 (Nov. 27, 2024) (“Eversource WDTs Order”).

explained, each WDAT allows such customers to utilize the companies' distribution system when charging their ESS for the purpose of participating in the wholesale (New England) market. In response to comments filed by the Alliance for Climate Transition ("ACT"), the FERC noted that Eversource had met its burden to demonstrate its proposal is just and reasonable.<sup>87</sup> The WDATs were accepted effective *December 1, 2024*, as requested. Unless the Eversource WDTs Order is challenged, with any challenges due on or before **December 27, 2024**, this proceeding will be concluded. If you have any questions concerning this matter, please contact Pat Gerity ([pmgerity@daypitney.com](mailto:pmgerity@daypitney.com); 860-275-0533).

- **Construction Services Agreement Cancellation: NEP/WMECO (ER24-3056)**

On November 13, 2024, the FERC accepted NEP's notice of cancellation of its Construction Services Agreement ("CSA") with Western Massachusetts Electric Company ("WMECO") pursuant to which NEP performed work to facilitate the interconnection of a 15 MW facility to WMECO's distribution system.<sup>88</sup> As previously reported, the CSA is no longer required because all work pursuant to the CSA is complete and all invoices for that work paid. The notice of cancellation was accepted effective *November 16, 2024*, as requested. Unless the November 16 order is challenged, this proceeding will be concluded. If you have any questions concerning this matter, please contact Pat Gerity ([pmgerity@daypitney.com](mailto:pmgerity@daypitney.com); 860-275-0533).

- **Wholesale Distribution Tariff – UI (ER24-2939)**

On August 30, 2024, UI filed a new Wholesale Distribution Access Tariff ("WDAT") to provide for UI's recovery of costs associated with the provision of Wholesale Distribution Service ("WDS") to customers who own front-of-the-meter ("FTM"), distribution-connected battery energy storage systems ("BESS") connected to UI's distribution systems and participate in the ISO-NE markets. The proposed Wholesale Distribution Tariff will enable UI to provide the WDS necessary to facilitate BESS resources' participation in the ISO-NE markets via distribution facilities owned by UI, consistent with FERC *Orders 841* and *2222* and Connecticut's ESS Program.<sup>89</sup> An October 30, 2024 effective date was requested. Comments on the UI WDAT were due on or before September 20, 2024. Supportive comments and were filed by [ACT](#) (but requesting clarifications, supporting data, and additional information as to how UI proposes to measure and bill for demand-related charges when a BESS is providing ancillary services in response to ISO-NE dispatch instructions) and [Elevate Renewable F7, LLC](#) (but offering proposed clarifications to improve customer understanding). Interventions were filed by Agilitas, Eversource, and New Leaf. On October 7, 2024, UI answered the comments submitted by ACT and Elevate.

**Deficiency Letter.** On October 29, 2024, the FERC issued a deficiency letter, seeking additional information required to process this filing, including information regarding the workpapers provided and an explanation as to how UI intends to apply the WDAT's terms and conditions to distribution customers that take service thereunder. UI filed its responses to the deficiency letter on November 27, 2024. Comments on UI's deficiency letter responses are due on or before **December 18, 2024**. If you have any questions concerning this matter, please contact Pat Gerity ([pmgerity@daypitney.com](mailto:pmgerity@daypitney.com); 860-275-0533).

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<sup>87</sup> *Eversource WDTs Order* at P 31. The FERC did not accept ACT's arguments for a seasonal differentiated rate derived using a probability-of-peal methodology, disagreed that the FERC should direct a uniform method for allowing ESS to participate in wholesale markets, noted that the FERC had not exempted ESS from wholesale distribution charges, and found that arguments regarding interconnection costs were outside the scope of this proceeding. *Id.* at PP 32-36.

<sup>88</sup> *New England Power Co.*, Docket No. ER24-3056-000 (Nov. 13, 2024) (unpublished letter order).

<sup>89</sup> The ESS Program provides incentives for residential and commercial customers to install energy storage systems at their homes or businesses. See State of Conn. Pub. Utils. Regul. Auth., PURA Investigation into Distrib. Sys. Plan. of the Elec. Distrib. Cos. – Elec. Storage, Decision, CT PURA Docket No. 17-12-03RE03 at 5, 50 (July 28, 2021), <https://portal.ct.gov/-/media/pura/electric/final-decision-17-12-03re03.pdf>.

- **PJM/PPL/Susquehanna ISA Amendments Related to Increased Co-Located Load (ER24-2172)**

Many have found interesting an order issued by the FERC rejecting, in a 2-1 decision,<sup>90</sup> an amended Interconnection Service Agreement (“ISA”) among PJM, PPL (the interconnected TO) and Susquehanna Nuclear (the interconnection customer).<sup>91</sup> The amended ISA, covering the interconnection of Sesquehana’s 2,520 MW nuclear facility, proposed modifications to increase the amount of co-located load from 300 MW to 480 MW and to make revisions related to the treatment of the co-located load.<sup>92</sup>

Opponents of the proposed ISA changes (Exelon and AEP, among others) argued that the proposed changes would raise unresolved questions, could have resulted in unfair cost burdens on ratepayers, and could have negatively impacted market operations and reliability. Notably, Exelon and AEP argued the AWS data center could derive benefits from the transmission system without paying for them (the co-located data center would not be classified as “network load” and therefore would not have been required to pay PJM transmission fees). They also cited previous unplanned outages at the Susquehanna station that led to unintended power withdrawals from the PJM system, such as one from November 2023, questioning how such a withdrawal of power would be properly metered and accurately billed if or when it does occur.

FERC largely agreed with the concerns raised, and rejected PJM’s filing without prejudice, ruling that PJM had not provided sufficient justification for the proposed changes to the ISA (i.e. that the proposed non-conforming provisions in the Amended ISA were necessary deviations from the *pro forma* ISA due to specific reliability concerns, novel legal issues, or other unique factors.)<sup>93</sup> It is notable that on the same day the *Susquehanna Co-Located Load Order* was issued, the FERC convened its technical conference on Large Loads Co-Located at Generating Facilities (AD24-11). Challenges to the *Susquehanna Co-Located Load Order* were due on or before December 2, 2024. Susquehanna Nuclear requested rehearing and Vistra requested clarification of the *Susquehanna Co-Located Load Order*. Those requests are pending, with FERC action on the pending requests required on or before **December 20, 2024**, or the requests will be deemed denied by operation of law. If you have any questions concerning this matter, please contact or Sebastian Lombardi (860-275-0663; [slombardi@daypitney.com](mailto:slombardi@daypitney.com)) or Pat Gerity ([pmgerity@daypitney.com](mailto:pmgerity@daypitney.com); 860-275-0533).

- **Wholesale Distribution Tariffs – National Grid (ER24-2796; ER24-2795)**

On August 16, 2024, National Grid filed two new Wholesale Distribution Tariffs (one for Massachusetts Electric Company (ER24-2796); the other for Nantucket Electric Company (ER24-2795), together the “WDTs”)) to provide for National Grid’s recovery of costs associated with the provision of Wholesale Distribution Service to customers who own qualifying standalone electric energy storage systems connected to National Grid’s distribution system and who charge those resources via deliveries over National Grid’s distribution system for purposes of making wholesale sales through the ISO-NE markets. The proposed WDTs will enable National Grid to provide the services necessary to facilitate ESS resources’ participation in the ISO-NE markets via distribution facilities owned by National Grid, consistent with FERC *Order 841* and the Massachusetts Clean Energy Act. A March 1, 2025 effective date was requested. Comments on these Tariffs were due on or before September 6, 2024. Protests and comments were filed by the MA AG and the Alliance for Climate Transition (“ACT”) (formerly known as the Northeast Clean Energy Council). Agilitas, BlueWave, Engie, Eversource, New Leaf, MA DPU, and MA

<sup>90</sup> Commissioners Christie and See in favor, Chairman Phillips dissenting, and Commissioners Chang and Rosner not participating.

<sup>91</sup> PJM Interconnection, L.L.C., 189 FERC ¶ 61,078 (Nov. 1, 2024) (“*Susquehanna Co-Located Load Order*”).

<sup>92</sup> Co-located load refers to end-use customer load that is physically connected to the facilities of an existing or planned customer facility at the point of interconnection to the PJM transmission system. In March, Talen announced the sale of its 960 MW Cumulus data center campus in northeast Pennsylvania to Amazon Web Services (“AWS”), with a long-term agreement to provide power from its Susquehanna plant. The Cumulus campus is directly connected to the two-unit nuclear power plant.

<sup>93</sup> *Id.* at P 85.

DOER intervened. On September 23, 2024, National Grid answered the ACT and MA AG comments. On October 4, 2024, ACT answered National Grid's September 23 answer.

**WDT Amendments.** On November 13, 2024, National Grid filed amendments to each of the WDTs ("WDT Amendments"). The WDAT Amendments include clarifications and update the proposed WDS rates to reflect the retail revenue requirement and Allocated Cost of Service Study approved by the MA DPU in the Companies' retail rate proceeding and subsequent revenue requirement recalculations approved by the MA. Comments on the WDT Amendments are due on or before December 4, 2024; none were filed. This matter is again pending before the FERC. If you have any questions concerning this matter, please contact Pat Gerity ([pmgerity@daypitney.com](mailto:pmgerity@daypitney.com); 860-275-0533).

- **Order 2023 Compliance Filing: Versant MPD OATT (ER24-2035)**

Versant Power's MPD OATT Order 2023 Compliance filing remains pending. As previously reported, Versant Power proposed revisions to its *pro forma* LGIP, Large Generator Interconnection Agreement ("LGIA"), SGIP and Small Generator Interconnection Agreement ("SGIA") in the MPD OATT in compliance with *Orders 2023* and *2023-A* in a May 16, 2024 filing. The revised LGIP contains two deviations from *Order 2023-A*. Versant proposes (i) to eliminate the reference to when the transition process will commence and, instead, only reference when it plans to hold its first Cluster Study process on January 1, 2025 language that was previously approved by the FERC in Versant Power's Order No. 845 compliance filing and (ii) to limit the use of surety bonds to those where the surety bond is "issued by an insurer reasonably acceptable to the Transmission Provider" and that "specify a reasonable expiration date." An effective date of January 1, 2025 was requested. Comments were due on or before June 6, 2024; none were filed. As noted, this matter remains pending before the FERC. If you have any questions concerning this matter, please contact Pat Gerity ([pmgerity@daypitney.com](mailto:pmgerity@daypitney.com); 860-275-0533).

- **CMP ESF Rate (ER24-1177)**

As previously reported, the FERC accepted, subject to refund and settlement judge procedures, CMP's rate schedule for distribution services for electric storage facilities ("ESFs") seeking to participate in the ISO-NE Market ("ESF Rate").<sup>94</sup> CMP filed the ESF Rate following re-consideration by the MPUC of the jurisdictional applicability of the ESF rate (which, while it recovers costs associated with the use of local the distribution network, the MPUC found upon re-consideration to include charges related to a FERC-jurisdictional wholesale transaction per *Order 841*). CMP sought in this proceeding to obtain FERC approval of a modified version of the MPUC Rate, with the primary difference between the MPUC Rate and the ESF Rate being the removal of state benefit charges. In the *CMP ESF Rate Order*, the FERC found that CMP's filing had not been shown to be just and reasonable, and raised issues of material fact that could not be resolved based on the record and would be more appropriately addressed in hearing and settlement judge procedures.<sup>95</sup> Accordingly, the FERC accepted the filing, subject to refund, and established hearing and settlement judge procedures. The FERC denied CMP's request for waiver of the FERC's 60-day prior notice requirement, and accepted the ESF Rate effective April 2, 2024, though, as noted, subject to refund and hearing and settlement judge procedures.<sup>96</sup> The FERC encouraged efforts to reach settlement before hearing procedures commence and will hold the hearing in abeyance pending the outcome of settlement judge procedures.

**Settlement Judge Proceedings.** As directed, the Chief ALJ appointed a settlement judge, Judge Jeremy Hessler, to assist participants in settling the issues in this proceeding, and deemed the settlement proceedings continued without further action.<sup>97</sup> There have been three settlement conferences (May 3, July 17, and September 19, 2024); a fourth settlement conference is scheduled to take place over two days from **December 10-**

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<sup>94</sup> *Central Maine Power Co.*, 187 FERC ¶ 61,002 (Apr. 1, 2024) ("*CMP ESF Rate Order*").

<sup>95</sup> *Id.* at P 29.

<sup>96</sup> *Id.*

<sup>97</sup> *Central Maine Power Co.*, Docket No. ER24-1177-000 (Apr. 5, 2024) (unpublished letter order).



**11, 2024.** Judge Hessler issued a fourth status report on November 26, 2024, recommending that settlement judge procedures continue. If you have any questions concerning this matter, please contact Pat Gerity ([pmgerity@daypitney.com](mailto:pmgerity@daypitney.com); 860-275-0533).

## XII. Misc. - Administrative & Rulemaking Proceedings<sup>98</sup>

- **Large Loads Co-Located at Generating Facilities (AD24-11)**

On November 1, 2024, the FERC held a Commissioner-led technical conference to explore whether co-located loads require the provision of wholesale transmission or ancillary services, related cost allocation issues, and potential resource adequacy, reliability, affordability, market, and customer impacts. The agenda consisted of 3 panels: Overview of Large Co-Located Load Issues (Panel 1); Exploration of Issues Presented by Large Co-Located Loads (Panel 2); and Roundtable with State Representatives (Panel 3). The list of panelists was included in the third and fourth supplemental notices of the technical conference, issued October 10 and 22, respectively. Speaker statements have been posted to eLibrary. A [recording of the technical conference](#) is available from the FERC's Calendar of Events. Since the last Report, the FERC invited post-technical conference comments to be submitted on or before **December 9, 2024**. A final transcript of the conference was posted to eLibrary on December 3, 2024.

- **Annual Reliability Technical Conference (AD24-10)**

On October 16, 2024, the FERC convened its annual Commissioner-led Reliability Technical Conference to discuss policy issues related to the reliability and security of the Bulk-Power System. The agenda consisted of panels on two topics: Managing Reliability Risks and Challenges (Panel 1); and Resource Adequacy and Expected Load Growth (Panel 2). The technical conference will be open to the public. Advance registration is not required, and there is no fee for attendance. Information will also be posted on the Calendar of Events on the FERC's website prior to the event. In a notice issued on October 28, 2024, the FERC invited those interested to submit post-technical conference comments, on or before November 27, 2024, on the questions presented in the technical conference agenda or on issues raised during the technical conference. Comments were filed by [EPSA](#) and [Tri-State Generation and Transmission Association](#). A final transcript of the October 16 conference was posted to eLibrary on November 19, 2024.

- **Innovations and Efficiencies in Generator Interconnection (AD24-9)**

On September 10-11, 2024, the FERC held a workshop for the presentation and discussion of opportunities for further innovation and increased efficiency in the generator interconnection process. The three September 10 panels addressed: Integrated Transmission Planning and Generator Interconnection, Exploring Different Approaches to Processing and Studying Generator Interconnection Requests, and Prioritizing Certain Generator Interconnection Requests. The three September 11 panels addressed: Further Efficiencies in the Generator Interconnection Process, Automation and Advanced Computing Technologies, and Post-Generator Interconnection Agreement Construction Phase. Panelists materials are posted in the FERC's eLibrary. The FERC invited post-workshop comments and comments were filed by 23 Entities, including by: ISO-NE, AEU, Constellation, Dominion, EEI, Elevate Renewables F7, ENGIE, Environmental Law and Policy Center, Invenergy Transmission, National Grid, New Leaf Energy, Public Interest Organizations, Vistra Corp, RWE Clean Energy, Shell, and SEIA.

- **Joint Federal- State Current Issues Collaborative (AD24-7)**

On November 12, 2024, the Federal and State Current Issues Collaborative ("Collaborative")<sup>99</sup> held its first public meeting in Anaheim, California. The agenda for the first public meeting included a presentation on

<sup>98</sup> Reporting on the following administrative proceedings have been suspended and will be continued if and when there is new activity to report: ACPA Petition for Capacity Accreditation Technical Conference (AD23-10); and Reliability Technical Conference (AD23-9).

<sup>99</sup> *Joint Federal-State Task Force on Elec. Transmission and Federal and State Current Issues Collaborative*, 186 FERC ¶ 61,189 (Mar. 21, 2024) ("*Order Establishing Collaborative*"). The Collaborative will provide a venue for federal and state regulators to share



NARUC's Gas-Electric Alignment for Reliability ("GEAR") Taskforce. On December 4, 2024, the FERC issued a notice inviting all interested persons to file, on or before **January 3, 2025**, post-meeting comments to address issues raised during the meeting. A final transcript of the meeting was also posted on December 4, 2024.

- **ANOPR: Implementation of Dynamic Line Ratings (RM24-6)**

On June 27, 2024, the FERC issued an advanced notice of proposed rulemaking ("ANOPR")<sup>100</sup> seeking comments on both the need for a dynamic line ratings ("DLRs")<sup>101</sup> requirement and proposed framework of DLR reforms to improve the accuracy of transmission line ratings. Proposed reforms would require transmission providers to implement, on all transmission lines, DLRs that reflect solar heating, based on the sun's position and forecastable cloud cover, and on certain transmission lines, DLRs that reflect forecasts of wind speed and wind direction. The FERC seeks comments about whether to reflect hourly solar conditions and wind conditions in all transmission line ratings, how transmission congestion levels and environmental factors could identify locations of transmission lines that would most benefit from DLR, and what other technical details of transmission line ratings reflect wind conditions. A more detailed summary of the ANOPR was provided to and reviewed with the Transmission Committee. Comments in response to the ANOPR were due **October 15, 2024**<sup>102</sup> and were filed by nearly 70 parties, including by the following New England parties: [ISO-NE](#), [AEU](#), [Avangrid](#), [Dominion](#), [Eversource](#), [MA AG](#), [National Grid](#), [NESCOE](#), [NextEra](#) (on October 22), [EEI](#), [EPSA](#), [NASUCA](#), [NERC](#), [PIOs](#), [Public Power](#),<sup>103</sup> [TAPS](#), and [R Street Institute](#). Nine sets of reply comments were filed, including from: [ISO-NE](#), [DC Energy](#), and the [US DOE](#).

- **NOPR: EQR Filing Process and Data Collection (RM23-9)**

On October 19, 2023, the FERC issued a NOPR<sup>104</sup> proposing various changes to current Electric Quarterly Report ("EQR") filing requirements, including both the method of collection and the data being collected. The proposed changes are designed to update the data collection, improve data quality, increase market transparency, decrease costs, over time, of preparing the necessary data for submission, and streamline compliance with any future filing requirements. Among other things, the FERC proposes to implement a new collection method for EQR reporting based on the eXtensible Business Reporting Language ("XBRL")-Comma-Separated Values standard; amend its regulations to require ISO/RTOs to produce reports containing market participant transaction data; and modify or clarify EQR reporting requirements. Requests for additional time to comment on the *EQR NOPR* were filed by EEI/EPSA, the IRC and the Bonneville Power Administration ("BPA"). On December 7, 2023, the FERC extended the deadline for submitting comments to and including February 26, 2024. Comments on the NOPR

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perspectives, increase understanding, and, where appropriate, identify potential challenges and coordination on matters that impact specific state and federal regulatory jurisdiction, including (but not limited to) the following: electric reliability and resource adequacy; natural gas-electric coordination; wholesale and retail markets; new technologies and innovations; and infrastructure. The Collaborative will be comprised of all FERC Commissioners as well as representatives from 10 state commissions, who will be nominated for and serve one-year terms from the date of appointment by the FERC. The FERC will issue notices announcing the time, place and agenda for each meeting of the Collaborative, after consulting with members of the Collaborative and considering suggestions from state commissions. Collaborative meetings will be on the record, and open to the public for listening and observing. The Collaborative will expire 3 years after its first public meeting, but may be extended for an additional period of time prior to its expiration by agreement of both FERC and NARUC.

<sup>100</sup> *Implementation of Dynamic Line Ratings*, 187 FERC ¶ 61,201 (Jun. 27, 2024) ("DLR ANOPR"). The ANOPR reflects public comments in response to the FERC's February 17, 2022, Notice of Inquiry ("NOI") on DLRs. The NOI, in turn, found its roots in *Order 881*, which required transmission line ratings to reflect ambient air temperatures to improve efficiency in operating transmission lines.

<sup>101</sup> DLRs, are transmission line ratings that reflect up-to-date forecasts of weather conditions, such as ambient air temperature, wind, cloud cover, solar heating, and precipitation, in addition to transmission line conditions such as tension or sag.

<sup>102</sup> The ANOPR was published in the *Fed. Reg.* on July 15, 2024 (Vol. 89, No. 135) pp. 57,690-57,716.

<sup>103</sup> "Public Power" is: The National Rural Elec. Coop. Assoc. ("NRECA"), the American Public Power Assoc. ("APPA"), and the Large Public Power Council ("LPPC").

<sup>104</sup> *Revisions to the Filing Process and Data Collection for the Electric Quarterly Report*, 185 FERC ¶ 61,043 (Oct. 19, 2023) ("*EQR NOPR*").

were filed by [ISO-NE](#), [CAISO](#), [MISO](#), [NYISO](#), [PJM](#), [BPA](#), [EEI](#), [Energy Compliance Consulting](#), [EPSA](#), [Interstate Gas Supply](#), [Macquarie](#), [PG&E](#), [Systrends](#), [Tri-State](#), [XBRL US](#). This matter remains pending before the FERC.

- **Order 1977: Transmission Siting (RM22-7)**

On May 16, 2024, the FERC issued *Order 1977*<sup>105</sup> updating the regulations governing applications for permits to site electric transmission facilities under section 216 of the FPA, as amended by the Infrastructure and Jobs Act, and particularly to reflect FERC's jurisdiction over projects located in National Interest Electric Transmission Corridors that have been denied state siting authority. There is no compliance filing requirement associated with *Order 1977*, but applicants seeking to develop transmission under federal authority in a National Interest Corridor must comply with the revised and new regulations, effective *July 29, 2024*.<sup>106</sup> For example, applicants must demonstrate good faith efforts to engage with landowners in the permitting process, and develop engagement plans for outreach to environmental justice communities and Tribes. NEPOOL Counsel prepared a [summary](#) of *Order 1977* which was distributed to the Transmission Committee.

**Requests for rehearing of Order 1977** were filed by the LA PSC, NY PSC, PA PUC, and Public Interest Organizations.<sup>107</sup> On July 15, 2024, the FERC issued an "Allegheny Notice", noting that the requests for rehearing may be deemed to have been denied by operation of law, but noting that the requests will be addressed in a future order.<sup>108</sup> On October 17, 2024, the FERC issued *Order 1977-A*,<sup>109</sup> its order addressing arguments raised on rehearing, modifying the discussion in, and setting aside in part, *Order 1977*. In *Order 1977-A*, the FERC added a new requirement for applicants' engagement plans for outreach to Tribes (if a project requires a right of way on Tribal land, the applicant must describe in its Tribal engagement plan how it will work with Tribal landowners on right-of-way issues). *Order 1977-A* became effective on *November 22, 2024*.<sup>110</sup> If you have any questions concerning *Orders 1977* or *1977-A*, please contact Eric Runge (617-345-4735; [ekrunge@daypitney.com](mailto:ekrunge@daypitney.com)) or Margaret Czepiel (202-218-3906; [mczepiel@daypitney.com](mailto:mczepiel@daypitney.com)).

- **Order 904: Compensation for Reactive Power Within the Standard Power Factor Range (RM22-2)**

On October 17, 2024, the FERC issued *Order 904*,<sup>111</sup> which revises Schedule 2 of the *pro forma* OATT, § 9.6.3 of the *pro form* LGIA, and § 1.8.2 of the *pro forma* SGIA to prohibit separate compensation to generators for the provision of reactive power within the standard power factor range or "deadband."<sup>112</sup> The proposed change will affect revenues received by reactive power resources in New England.<sup>113</sup> Although compliance filings are due on or before **March 28, 2025**,<sup>114</sup> and must generally include a proposed effective date within 90 days from the date of the compliance filing, *Order 904* expressly states that ISO-NE may request a later effective date for the FERC's consideration, in order to allow any necessary market rule changes that accommodate *Order 904's*

<sup>105</sup> *Applications for Permits to Site Interstate Elec. Transmission Facilities*, 187 FERC ¶ 61,069 (May 13, 2024) ("*Order 1977*").

<sup>106</sup> *Order 1977* was published in the *Fed. Reg.* on May 29, 2024 (Vol. 89, No. 104) pp. 46,682-46,740.

<sup>107</sup> "Public Interest Organizations" are Earthjustice, Environmental Defense Fund, NRDC, Sierra Club, Sustainable FERC Project, UCS, WE ACT for Environmental Justice, and the Yurok Tribe.

<sup>108</sup> *Applications for Permits to Site Interstate Elec. Transmission Facilities*, 188 FERC ¶ 61,027 (July 15, 2024).

<sup>109</sup> *Applications for Permits to Site Interstate Elec. Transmission Facilities*, Order No. 1977-A, 189 FERC ¶ 61,033 (Oct. 17, 2024) ("*Order 1977-A*").

<sup>110</sup> *Order 1977-A* was published in the *Fed. Reg.* on Oct. 23, 2024 (Vol. 89, No. 205) pp. 84,465-84,472.

<sup>111</sup> *Compensation for Reactive Power Within the Standard Power Factor Range*, Order No. 904, 189 FERC ¶ 61,034 (Oct. 17, 2024) ("*Order 904*").

<sup>112</sup> *Reactive Power NOPR* PP 51-53.

<sup>113</sup> Generating facilities in New England are currently compensated for reactive power under a flat, inflation-adjusted rate design. In *Order 904*, the FERC rejected the requests by ISO-NE and NEPOOL for the flexibility to retain the current Schedule 2.

<sup>114</sup> *Order 904* will become effective on *Jan. 27, 2025*. *Order 904* was published in *Fed. Reg.* on Nov. 26, 2024 (Vol. 89, No. 228) pp. 93,410-93,456.

elimination of compensation for the provision of reactive power within the standard power factor range to be developed and proposed.<sup>115</sup> A summary of *Order 904* was provided to the Transmission Committee. Challenges to *Order 904* were due on or before November 18, 2024 and were filed by: [D. E. Shaw Renewable Investments](#), [Invenergy Nelson](#), [NYISO](#), the [PSEG Companies](#),<sup>116</sup> and [Vistra](#). Those challenges are pending, with FERC action required by **December 16, 2024**,<sup>117</sup> or the challenges will be deemed denied by operation of law. If you have any questions concerning this matter, please contact Pat Gerity ([pmgerity@daypitney.com](mailto:pmgerity@daypitney.com); 860-275-0533).

- **Orders 1920 and 1920-A: Transmission Planning Reforms (RM21-17)**

On May 13, 2023, the FERC issued *Order 1920*,<sup>118</sup> its final rule on proposed reforms to existing the transmission planning and cost allocation requirements. In *Order 1920*, the FERC explained that under existing processes, transmission providers are not required to: (i) perform a sufficiently long-term assessment of transmission needs identifying Long-Term Transmission Needs; (ii) adequately account for known determinants of Long-Term Transmission Needs prospectively; and (iii) consider the broader benefits of regional transmission facilities planned to meet Long-Term Transmission Needs. The existing processes result in less efficient and cost-effective investment in transmission infrastructure and higher costs to customers and, therefore, unjust and unreasonable rates and need for reforms. *Order 1920* requires all transmission providers, *inter alia*, to

- (i) conduct Long-Term Regional Transmission Planning to identify, evaluate and select Long-Term Regional Transmission Facilities to address Long-Term Transmission Needs;
- (ii) to evaluate for selection regional transmission facilities that will address identified interconnection-related transmission needs through the existing Order No. 1000 processes;
- (iii) to include in their compliance filings one or more default ex ante Long Term-Regional Transmission Cost Allocation Methods to allocate costs for Long-Term Regional Transmission Facilities (or a portfolio of such Facilities) that are selected for regional cost allocation; and
- (iv) revise their existing interregional transmission coordination procedures to reflect the long-term regional transmission planning reforms adopted in *Order 1920*.

*Order 1920* adopts a number of reforms from the *Transmission NOPR*,<sup>119</sup> but also declines to adopt several reforms, including the NOPR proposal to restrict the availability of the construction-work-in-progress (“CWIP”) incentive for Long-Term Regional Transmission Facilities and to establish a federal rights of first refusal (“ROFR”) for incumbent transmission providers, conditioned on the incumbent transmission provider establishing joint ownership of the transmission facilities. Although the FERC did not adopt a federal ROFR, it did adopt a limited ROFR applicable only to certain “right-sized” replacement transmission facilities. In addition, the FERC noted a willingness to consider the CWIP and ROFR issues in future proceedings.

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<sup>115</sup> *Order 904* at P 224. “With any such request, [ISO-NE] must affirmatively demonstrate why such a requested effective date is necessary, given, for example, its existing market rules, and what market rule changes [ISO-NE] believes may be needed to accommodate [*Order 904*].”

<sup>116</sup> The “PSEG Companies” are: Public Service Electric and Gas Co., PSEG Power LLC, and PSEG Energy Resources & Trade LLC, each wholly-owned, direct or indirect subsidiaries of Public Service Enterprise Group Inc.

<sup>117</sup> 30 days from the first (PSEG Companies) challenge.

<sup>118</sup> *Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection*, 187 FERC ¶ 61,068 (May 13, 2024) (“*Order 1920*”).

<sup>119</sup> *Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection*, 179 FERC ¶ 61,028 (Apr. 21, 2022) (“*Transmission NOPR*”).

*Order 1920* took effect on August 12, 2024.<sup>120</sup> Transmission providers must submit compliance filings by **June 12, 2025** with respect to most of the Order’s requirements, while filings to comply with the interregional transmission coordination requirements are due by **August 12, 2025**.

A detailed [high-level summary](#) of *Order 1920* was distributed to, and was reviewed with, the Transmission Committee. NEPOOL counsel will coordinate with ISO-NE counsel on stakeholder engagement to develop a compliance filing in response to *Order 1920*.

**Requests for Clarification and/or Rehearing.** Over 50 parties filed requests for clarification and/or rehearing, including requests by: [AEU](#), [Dominion](#), [Invenergy](#), [NESCOE](#) (with [VT PUC](#) supporting), [Versant](#), [APPA](#), [EEI](#), [Large Public Power Council](#), [NARUC](#), [NRECA](#), [TAPS](#), [WIRES](#), [Consumer Advocates](#), and [Harvard Electricity Institute](#). On July 15, 2024, the FERC issued an “Allegheny Notice”, noting that the requests for rehearing may be deemed to have been denied by operation of law, but noting that the requests will be addressed in a future order.<sup>121</sup>

**Order 1920-A.** On November 21, 2024, the FERC issued *Order 1920-A*, its order on rehearing and clarification.<sup>122</sup> In Order No. 1920-A, the FERC states that it is refining and improving Long-Term Regional Transmission Planning (“LTRTP”) “by building on the reforms adopted in Order No. 1920, with a particular focus on ensuring that states have a robust role” in LTRTP and cost allocation processes established in the rule. *Order 1920-A* largely sustains and further justifies the findings and reforms of *Order 1920*, but grants several requests for rehearing and clarification. A significant focus of the modifications to *Order 1920* pertains to the role of the states in LTRTP and the related cost allocation requirements. *Order 1920-A* maintains the **June 12, 2025** compliance filing deadline for regional requirements and the **August 12, 2025** deadline for interregional requirements. Any deviations from the final rule proposed on compliance must be justified under the “consistent with or superior to” standard. A memorandum providing a brief summary of the more important features of *Order 1920-A*, including a list and more detailed summary of the key modifications and clarifications made by the FERC in *Order 1920-A* was provided by NEPOOL Counsel to the Transmission Committee (and can be found [here](#)).

**Petitions for Federal Court Review.** *Order 1920* has been challenged in several federal circuits, including the DC, First, Fourth, Fifth, Sixth, Ninth, Tenth, and Eleventh Circuits. Further developments on the federal court appeals will be reported in Section XVI below.

If you have any questions concerning *Orders 1920* or *1920-A*, please contact Eric Runge (617-345-4735; [ekrunge@daypitney.com](mailto:ekrunge@daypitney.com)) or Margaret Czepiel (202-218-3906; [mzczepiel@daypitney.com](mailto:mzczepiel@daypitney.com)).

### XIII. FERC Enforcement Proceedings

#### Electric-Related Enforcement Actions

- **Ketchup Caddy / Phillip Mango (MISO DR Program Violations) (IN23-14)**

On February 21, 2024, the FERC directed Ketchup Caddy, LLC (“Ketchup Caddy”) and Phillip Mango, Ketchup Caddy’s CEO and co-owner (together, “Respondents”), to show cause why they should not be found to have violated FPA section 222, along with section 1c.2 of the FERC’s regulations, Sections 69A.3.5 and 69A.7.1 of the MISO Tariff by offering uncontracted resources into the annual Planning Resource Auctions (“PRAs”) that MISO uses to procure capacity necessary to maintain the reliability of the MISO grid.<sup>123</sup> The FERC directed Ketchup

<sup>120</sup> *Order 1920* was published in the Fed. Reg. on Jun. 11, 2024 (Vol. 89, No. 113) pp. 49,280-49,586.

<sup>121</sup> *Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection*, 188 FERC ¶ 62,025 (July 15, 2024).

<sup>122</sup> *Building for the Future Through Electric Regional Transmission Planning and Cost Allocation*, Order on Reh’g, Order No. 1920-A, 189 FERC ¶ 61,126 (Nov. 21, 2024) (“Order No. 1920-A”).

<sup>123</sup> *Ketchup Caddy, LLC and Philip Mango*, 186 FERC ¶ 61,132 (Feb. 21, 2024) (“*Ketchup Caddy Show Cause Order*”).

Caddy and Mango to show cause why they should not be assessed **civil penalties of \$25 million and \$1.5 million**, respectively, and why **Mango** should not **disgorge \$506,502, plus interest**, in unjust profits. Enforcement alleges that “Ketchup Caddy operated as a fraudulent enterprise with no legitimate market activity, registering and clearing demand response resources without their knowledge or consent and collecting capacity payments in turn, without making payments to the registered resources. Mango ... made no attempt to contract with—or even to contact—legitimate customers, and the purported customers Ketchup Caddy registered with MISO would not have responded if dispatched. Collectively, Mango and his co-owner received \$1,013,004 in capacity payments paid to Ketchup Caddy by MISO during the Relevant Period. Staff’s recommended penalties are predicated on its finding that Respondents caused \$17,639,142.07 in losses to other suppliers because Ketchup Caddy’s fraudulent offers lowered capacity prices in the 2019/20, 2020/21, and 2021/22 MISO PRAs.”<sup>124</sup>

On September 4, 2024, the FERC Secretary issued a notice that Respondents were served with a copy of the *Ketchup Caddy Show Cause Order* on July 26, 2024. Respondents have still not responded to the *Ketchup Caddy Show Cause Order*. If you have any questions concerning this matter, please contact Pat Gerity (860-275-0533; [pmgerity@daypitney.com](mailto:pmgerity@daypitney.com)).

### Natural Gas-Related Enforcement Actions

- **Rover Pipeline, LLC and Energy Transfer Partners, L.P. (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,<sup>125</sup> 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 FERC issued an Order on Presiding Officer Reassignment,<sup>126</sup> 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.

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

On December 16, 2021, the FERC issued a show cause order<sup>127</sup> 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,<sup>128</sup> 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

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<sup>124</sup> *Id.* at P 3.

<sup>125</sup> 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.

<sup>126</sup> *Rover Pipeline, LLC, and Energy Transfer Partners, L.P.*, 183 FERC ¶ 61,190 (June 14, 2023) (“*June 14 Order*”).

<sup>127</sup> *Rover Pipeline, LLC, and Energy Transfer Partners, L.P.*, 177 FERC ¶ 61,182 (Dec. 16, 2021) (“*Rover/ETP Tuscarawas River HDD Show Cause Order*”).

<sup>128</sup> *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*”).



Project;<sup>129</sup> (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.<sup>130</sup> This matter is pending before the FERC.

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

On April 28, 2016, the FERC issued a show cause order<sup>131</sup> in which it directed Total Gas & Power North America, Inc. ("TGPNA") and its West Desk traders and supervisors, Therese Tran f/k/a Nguyen ("Tran") and Aaron Hall (collectively, "Respondents") to show cause why Respondents should not be found to have violated NGA Section 4A and the FERC's Anti-Manipulation Rule through a scheme to manipulate the price of natural gas at four locations in the southwest United States between June 2009 and June 2012.<sup>132</sup>

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

**Hearing Procedures.** On July 15, 2021, the FERC issued an order establishing hearing procedures to determine whether Respondents violated the FERC's Anti-Manipulation Rule, and to ascertain certain facts relevant for any application of the FERC's Penalty Guidelines.<sup>133</sup> However, on September 19, 2024, in light of the Supreme Court's decision in *Jarkesy*,<sup>134</sup> the FERC terminated the since-suspended hearing procedures established

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<sup>129</sup> 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.

<sup>130</sup> *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.

<sup>131</sup> *Total Gas & Power North America, Inc.*, 155 FERC ¶ 61,105 (Apr. 28, 2016) ("*TGPNA Show Cause Order*").

<sup>132</sup> The allegations giving rise to the Total Show Cause Order were laid out in a September 21, 2015 FERC Staff Notice of Alleged Violations which summarized OE's case against the Respondents. Staff determined that the Respondents violated NGA section 4A and the Commission's Anti-Manipulation Rule by devising and executing a scheme to manipulate the price of natural gas in the southwest United States between June 2009 and June 2012. Specifically, Staff alleged that the scheme involved making largely uneconomic trades for physical natural gas during bid-week designed to move indexed market prices in a way that benefited the company's related positions. Staff alleged that the West Desk implemented the bid-week scheme on at least 38 occasions during the period of interest, and that Tran and Hall each implemented the scheme and supervised and directed other traders in implementing the scheme.

<sup>133</sup> *Total Gas & Power North America, Inc. et al.*, 176 FERC ¶ 61,026 (July 15, 2021) ("*Hearing Order*").

<sup>134</sup> *Jarkesy* was decided by the Supreme Court on June 27, 2024. *Jarkesy* held that the Seventh Amendment to the U.S. Constitution entitles a respondent in an administrative enforcement proceeding to a jury trial in a federal court organized under Article III of the Constitution when the SEC seeks civil penalties for securities fraud. Because the SEC's civil penalties for securities fraud are "designed to punish and deter, not to compensate" they are the "type of remedy at common law that could only be enforced in courts of law" with

in the *Hearing Order*. The FERC stated that “will not impose penalties against [TGPNA] for the conduct alleged in the *Show Cause Order* on the basis of an administrative enforcement proceeding before a FERC ALJ.” This proceeding will be held in abeyance until a further FERC order is issued.

#### XIV. Natural Gas Proceedings

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

##### **New England Pipeline Proceeding**

The following New England pipeline project is 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 now requested for March 25, 2027.
- ▶ 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.<sup>135</sup> 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.
- ▶ On October 28, 2024, Iroquois requested an extension of time, until **March 25, 2027**, to construct and place into service its Enhancement by Compression Project (Project) located in Greene and Dutchess Counties, New York and Fairfield and New Haven Counties, Connecticut as authorized in the *Iroquois Certificate Order*. (The *Iroquois Certificate Order* required Iroquois to complete construction of the Project and make it available for service within three years of the date of the Order or by March 25, 2025.) Iroquois stated that construction of the Project has been delayed due to pending state permit approvals, specifically air permits from the New York State Department of Environmental Conservation and the Connecticut Department of Energy and Environmental Protection. Iroquois asserts that it has been working in good faith with these agencies and expects to receive approvals for the Project in the near future.
- ▶ Comments on Iroquois’ request were due on or before November 15, 2024. Protests and comments were filed by the Sierra Club of Connecticut, Save the Sound, and nearly 20 individual citizens. A

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Seventh Amendment protections. In short, SEC civil penalty actions regarding fraud are “a common law suit in all but name” and therefore the *Jarkesy* respondents were “entitled to a jury trial in an Article III court.” The FERC is examining *Jarkesy*’s impact on the FERC’s existing enforcement procedures and expects to further address its approach to enforcement cases in light of *Jarkesy*. The FERC expects that it will issue a further order regarding the status of this proceeding.

<sup>135</sup> *Iroquois Gas Transmission Sys., L.P.*, 178 FERC ¶ 61,200 (2022) (“*Iroquois Certificate Order*”).

number of others requested an extension of time to comment, but those requests have not been (nor should be expected to be) acted on by the FERC.<sup>136</sup>

### XV. State Proceedings & Federal Legislative Proceedings

No activities to report.

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

- **TO Initial Funding Show Cause Order (8<sup>th</sup> Circuit - 24-2714)**  
**Case Title: Ameren Services Company, et al v. FERC**  
**Underlying FERC Proceeding: EL24-80 et al.<sup>137</sup>**  
**Status: Case Dismissed**

On August 23, 2024, Petitioners<sup>138</sup> filed a Petition for Review of the FERC’s *TO Initial Funding Show Cause Order and TO Initial Funding Show Cause Allegheny Notice*. Pursuant to an order of the Court issued on October 3, 2024, the Briefing Schedule in this proceeding is being held in abeyance for an initial period of 90 days (until **January 1, 2025**). On November 1, 2024, the FERC moved to dismiss the Petition on the grounds that the Court lacks jurisdiction to consider the Petition. On November 12, 2024, Petitioners and petitioner-Intervenors asked that the case continue to be held in abeyance until such time as the FERC issues a merits decision in the underlying agency proceedings. However, on November 13, 2024, the Court granted FERC’s motion and dismissed the case for lack of jurisdiction.

<sup>136</sup> The FERC will aim to issue an order acting on the request within 45 days. The FERC will address all arguments relating to whether the applicant has demonstrated there is good cause to grant the extension. The FERC will not consider arguments that re-litigate the issuance of the certificate order, including whether the Commission properly found the project to be in the public convenience and necessity and whether the Commission’s environmental analysis for the certificate complied with the National Environmental Policy Act (“NEPA”).

<sup>137</sup> *Midcontinent Indep. Sys. Op. et al.*, 187 FERC ¶ 61,170 (June 13, 2024) (“*TO Initial Funding Show Cause Order*”); *Midcontinent Indep. Sys. Op. et al.*, 188 FERC ¶ 62,084 (Aug. 15, 2024) (“*TO Initial Funding Show Cause Allegheny Notice*”); *Midcontinent Indep. Sys. Op. et al.*, 188 FERC ¶ 61,211 (Sep. 26, 2024) (“*TO Initial Funding Show Cause Allegheny Order*”).

<sup>138</sup> Petitioners are: Ameren Services Co.; Ameren Illinois Co.; Union Electric Co., d/b/a Ameren Missouri; Ameren Transmission Co. of Illinois; American Transmission Co. LLC; Duke Energy Corp.; Duke Energy Business Services, LLC; Duke Energy Ohio, Inc.; Duke Energy Kentucky, Inc.; Duke Energy Indiana, LLC; Northern Indiana Public Service Co. LLC; Xcel Energy Services Inc.; Northern States Power Co. - Minnesota; Northern States Power Co. - Wisconsin; Southwestern Public Service Co.; Exelon Corp.; Atlantic City Electric Co.; Baltimore Gas and Electric Co.; Commonwealth Edison Co.; Delmarva Power & Light Co.; PECO Energy Co.; Potomac Electric Power Co.

- **Order 1920: Transmission Planning Reforms (4<sup>th</sup> Circuit – 24-1650)**

**Case Title:** *Appalachian Voices v. FERC*

**Underlying FERC Proceeding:** RM21-17<sup>139</sup>

**Status:** Being Held in Abeyance

As previously reported, on July 18, 2024, AEU/ACPA/SEIA and Invenergy petitioned the DC Circuit Court of Appeals for review of the FERC's *Order 1920*.<sup>140</sup> Petitions were also filed in the First, Second, Fourth, Fifth, Sixth, Seventh, Ninth, and Eleventh Circuits. The Judicial Panel on Multidistrict Litigation randomly selected the Fourth Circuit as the Circuit in which to consolidate the petitions for review. The DC Circuit ordered that its cases be transferred to the 4<sup>th</sup> Circuit. The 4<sup>th</sup> Circuit lead case no. is 24-1650. On August 26, 2024, the 4<sup>th</sup> Circuit granted the FERC's motion to hold the petitions for review in abeyance, with motions to govern due **January 6, 2025**, all filing deadlines— including filing of the agency record—are deferred until the abeyance period expires. The FERC suggested that abeyance will afford the FERC time to respond to the approximately 50 applications for rehearing of *Order 1920*.

- **Mystic Second CapEx Info Filing (24-1077)**

**Case Title:** *Constellation Mystic Power, LLC v. FERC*

**Underlying FERC Proceeding:** ER18-1639-028<sup>141</sup>

**Status:** Being Held in Abeyance

On April 3, 2024, Constellation Mystic Power, LLC petitioned the DC Circuit Court of Appeals for review of the FERC's orders on Mystic's Second CapEx Info Filing. Mystic filed, on May 6, 2024, a Certificate as to Parties, Rulings, and Related Cases, 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 6. Interventions were filed by ISO-NE, NESCOE, and a collective of Massachusetts municipal utilities.<sup>142</sup> Most recently, on November 22, 2024, Mystic asked the Court to continue to hold this case in abeyance until **March 10, 2025** to allow for FERC action on the Mystic Global Settlement, which, if approved, will lead to voluntary dismissal of this proceeding.

- **Orders 2023 and 2023-A (23-1282 et al.) (consolidated)**

**Case Title:** *Advanced Energy United, et al. v. FERC*

**Underlying FERC Proceeding:** RM22-14<sup>143</sup>

**Status:** Briefing Underway

Several Petitioners have challenged *Orders 2023 and 2023-A*. Those challenges have now been consolidated, with the AEU docket (23-1282) as the lead docket. Initial Submissions and a Certified Index to the Record were filed on August 21, 2024). Joint Petitioners' Briefs were filed on October 30, 2024. The following deadlines remain: Respondent's Brief (**February 5, 2025**); Intervenor for Respondent's Brief (February 19, 2025); Petitioners' Reply Briefs (March 19, 2025); Petitioner-Intervenor Reply Brief(s) (March 19, 2025), Deferred Joint Appendix (April 2, 2025); and Final Briefs (April 16, 2025). 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 Respondent's Brief.

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<sup>139</sup> *Constellation Mystic Power, LLC*, 185 FERC ¶ 61,170 (Dec. 5, 2023) ("*Second CapEx Info Filing Order*"); *Constellation Mystic Power, LLC*, 186 FERC ¶ 62,048 (Feb. 5, 2024) ("*Second CapEx Info Filing Order Allegheny Notice*").

<sup>140</sup> Petitioners for review of *Order 1920* have also been filed in the 1<sup>st</sup>, 4<sup>th</sup>, 5<sup>th</sup>, and 9<sup>th</sup> Circuits.

<sup>141</sup> *Constellation Mystic Power, LLC*, 185 FERC ¶ 61,170 (Dec. 5, 2023) ("*Second CapEx Info Filing Order*"); *Constellation Mystic Power, LLC*, 186 FERC ¶ 62,048 (Feb. 5, 2024) ("*Second CapEx Info Filing Order Allegheny Notice*").

<sup>142</sup> Braintree, Concord, Georgetown, Hingham, Littleton (NH), Middleborough, Middleton, Norwood, Pascoag, Reading, Taunton, Wellesley, and Westfield (collectively, the "Eastern New England Consumer-Owned Systems").

<sup>143</sup> *Improvements to Generator Interconnection Procedures and Agreements*, 184 FERC ¶ 61,054 (July 28, 2023) ("*Order 2023*"); 184 FERC ¶ 62,163 (Sep. 28, 2023) (Notice of Denial of Rehearing by Operation of Law).

- **Order 2222 Compliance Orders (23-1167, 23-1168, 23-1169, 23-1170, 23-1335) (consolidated)**

**Case Title: Eversource Energy Service Company v. FERC**

**Underlying FERC Proceeding: ER22-983<sup>144</sup>**

**Status: Being Held in Abeyance**

On June 30, 2023, ISO-NE (23-1168), CMP/UI (23-1170), Eversource (23-1167), and National Grid (23-1169) petitioned the DC Circuit Court of Appeals for review of the FERC's orders related to the FERC's *Order 2222 Compliance Orders*.<sup>145</sup> On July 3, 2023, the Court consolidated the cases, with Case No. 23-1667 as the lead case. On July 24, 2023, the FERC moved to have the consolidated cases held in abeyance pending the issuance of the Commission's further order on rehearing. The Court granted that motion on July 27, 2023, with the case to be held in abeyance pending further order of the Court. On June 6, 2024, the FERC filed a status report reporting that, on May 23, 2024, the Commission issued its order on rehearing of its November 2023 order in the ER22-983 docket and that, under the Court's February 6 order, the parties had until August 5, 2024 to file motions to govern future proceedings in these consolidated appeals. However, the FERC asked that the Court continue to hold these consolidated petitions for review in abeyance until 90 days after the Commission's issuance of a final order in ER22-983, with parties to file motions to govern future proceedings at the end of the abeyance period. The FERC asked for the additional period of abeyance "because compliance filings in the ER22-983 proceeding remain pending before the Commission, and Commission action on those filings may ultimately result in further petitions for review of ER22-983 orders, or otherwise expand or reduce the issues presented for review". On July 31, 2024, the Court issued an order that these consolidated cases remain in abeyance pending further order of the court. The parties were directed to file motions to govern future proceedings within 90 days of the FERC's issuance of a final order in the ER22-983 proceeding. The FERC was also directed to file status reports at 60-day intervals beginning September 30, 2024. The FERC filed its latest status report on December 3, 2024 stating that its most recent order in ER22-983 (November 19, 2024) is still subject to rehearing and that until that rehearing period expires, these consolidated appeals should remain in abeyance.

- **Seabrook Dispute Order (23-1094, 23-1215) (consolidated)**

**Case Title: NextEra Energy Resources, LLC, et al. v. FERC**

**Underlying FERC Proceeding: EL21-6, EL 23-3<sup>146</sup>**

**Petitioner: NextEra Energy Resources, LLC and NextEra Energy Seabrook, LLC**

**Status: Petition for Review Denied; Issuance of Mandate Withheld**

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 related to the Seabrook Dispute.<sup>147</sup> NextEra subsequently petitioned the Court for review of the June 15, 2023 *Seabrook Dispute Allegheny*

<sup>144</sup> *ISO New England Inc. and New England Power Pool Participants Comm.*, 182 FERC ¶ 61,137 (Mar. 1, 2023) ("*Order 2222 Compliance Order*"); *ISO New England Inc. and New England Power Pool Participants Comm.*, 183 FERC ¶ 62,050 (May 1, 2023) ("*Order 2222 Compliance Allegheny Notice*", and together with the *Order 2222 Compliance Order*, the "*Order 2222 Compliance Orders*").

<sup>145</sup> In response to the region's *Order 2222 Changes*, 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*, as described in previous Reports. When filed, 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.

<sup>146</sup> *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*"); *NextEra Energy Seabrook, LLC et al.*, 183 FERC ¶ 61,196 (June 15, 2023) ("*Seabrook Dispute Allegheny Order*").

<sup>147</sup> 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



*Order*, which was consolidated with Case No. 23-1094. Oral argument was heard on February 6, 2024 by Judges Millett, Katsas and Rao. On October 4, 2024, in a 2-1 Decision, the Court denied Seabrook's Petition for review, finding that the "FERC did not exceed its statutory jurisdiction, correctly interpreted the governing tariff and LGIA, and permissibly denied Seabrook compensation for any indirect costs".

- **Mystic II (ROE & True-Up) (21-1198 et al.) (consolidated)**  
**Case Title: *Constellation Mystic Power, LLC v. FERC***  
**Underlying FERC Proceeding: ER18-1639-010, -011,<sup>148</sup> -013<sup>149</sup> -017<sup>150</sup>**  
**Petitioners: Mystic (21-1198 (lead), 22-1008, 22-1026), CT Parties,<sup>151</sup> (21-1222, 22-1001) MA AG (21-1223), ENECOS (21-1224)**  
**Status: Case Dismissed Voluntarily.**

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 were also appealed by various parties and consolidated under 21-1198. However, on November 1, 2024, the FERC approved an unopposed Settlement Agreement setting the ROE at 9.0% and mooted these appeals. Accordingly, on November 8, 2024, all Petitioners moved to dismiss these consolidated appeals. The Court granted the Petitioners' motion on November 20, 2024. Reporting on this appeal is now concluded.

- **CASPR (20-1333, 21-1031) (consolidated)\*\***  
**Case Title: *Sierra Club, et al. v. FERC***  
**Underlying FERC Proceeding: ER18-619<sup>152</sup>**  
**Petitioners: Sierra Club, NRDC, RENEW Northeast, and CLF**  
**Status: Being Held in Abeyance; Motions to Govern Future Proceedings Due Mar 2, 2026**

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

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because Seabrook has failed to comply with Schedule 25 of the ISO-NE Tariff". 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. 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. 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. 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. 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. 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.

<sup>148</sup> *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*).

<sup>149</sup> *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*).

<sup>150</sup> *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*).

<sup>151</sup> In this appeal, "CT Parties" are the CT PURA CT PURA, CT DEEP, and the CT OCC.

<sup>152</sup> *ISO New England Inc.*, 162 FERC ¶ 61,205 (Mar. 9, 2018) ("*CASPR Order*").

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 now four times. In the most recent request (filed March 1, 2024) (fourth abeyance request), Petitioners asked the Court to hold this matter in abeyance until March 1, 2026 “in light of the continued delay of the revisions to its capacity market that ISO New England previously asserted were a predicate to eliminating the market impediment that is the subject of the underlying claims before the Court”. The Court granted the request on May 12, 2024, ordering the parties to file motions to govern future proceedings by **March 2, 2026**.

- **Opinion 531-A Compliance Filing Undo (20-1329)**  
**Case Title: Central Maine Power Company, et al. v. FERC**  
**Underlying FERC Proceeding: ER15-414<sup>153</sup>**  
**Petitioners: TOs (CMP et al.)**  
**Status: Being Held in Abeyance**

On August 28, 2020, the TOs<sup>154</sup> petitioned the DC Circuit Court of Appeals for review of the FERC’s October 6, 2017 order rejecting the TOs’ filing that sought to reinstate their transmission rates to those in place prior to the FERC’s orders later vacated by the DC Circuit’s *Emera Maine*<sup>155</sup> decision. On September 22, 2020, the FERC submitted an unopposed motion to hold this proceeding in abeyance for four months to allow for the Commission to “a future order on petitioners’ request for rehearing of the order challenged in this appeal, and the rate proceeding in which the challenged order was issued remains ongoing before the Commission.” On October 2, 2020, the Court granted the FERC’s motion, and directed the parties to file motions to govern future proceedings in this case by February 2, 2021. On January 25, 2021, the FERC requested that the Court continue to hold this petition for review in abeyance for an additional three months, with parties to file motions to govern future proceedings at the end of that period. The FERC requested continued abeyance because of its intention to issue a future order on petitioners’ request for rehearing of the order challenged in this appeal, and the rate proceeding in which the challenged order was issued remains ongoing before the FERC. Petitioners consented to the requested abeyance. On February 11, 2021, the Court issued an order that that this case remain in abeyance pending further order of the court. On April 21, 2021, the FERC filed an unopposed motion for continued abeyance of this case *because* the Commission intends to issue a future order on Petitioners’ request for rehearing of the challenged *Order Rejecting Compliance Filing*, and because the remand proceeding in which the challenged order was issued remains ongoing.

On May 4, 2021, the Court ordered that this case remain in abeyance pending further order of the Court, directing the FERC to file a status report by September 1, 2021 and at 120-day intervals thereafter. The parties were directed to file motions to govern future proceedings in this case within 30 days of the completion of agency proceedings. The FERC’s last status report, indicating that the proceedings before the FERC remain ongoing and that this appeal should continue to remain in abeyance, was filed on November 20, 2024.

<sup>153</sup> *ISO New England Inc.*, 161 FERC ¶ 61,031 (Oct. 6, 2017) (“*Order Rejecting Filing*”).

<sup>154</sup> The “TOs” are CMP; Eversource Energy Service Co., on behalf of its affiliates CL&P, NSTAR and PSNH; National Grid; New Hampshire Transmission; UI; Unitil and Fitchburg; VTransco; and Versant Power.

<sup>155</sup> *Emera Maine v. FERC*, 854 F.3d 9 (D.C. Cir. 2017) (“*Emera Maine*”).

- **Chevron Doctrine (US Supreme Ct 20-1329)**<sup>156</sup>

**Status: Overturned**

On June 28, 2024, the Supreme Court overturned the *Chevron* deference doctrine in its decisions in *Loper Bright v. Raimondo* and *Relentless, Inc. v. Dep't of Commerce*.<sup>157</sup> *Chevron*, a landmark and often-cited 1984 decision, required courts to defer to a federal agency's reasonable interpretation of ambiguity in a statute.<sup>158</sup> A more fulsome summary of the *Loper Bright* and *Relentless* Decisions and some of their projected impacts are included as Appendix A to this Report.

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<sup>156</sup> *Loper Bright Enterprises v. Raimondo*, No. 22-451 at 1–2 (U.S. June 28, 2024) (citing *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U. S. 837, 842 (1984)).

<sup>157</sup> *Id.*

<sup>158</sup> *Chevron* had established a two-step framework for courts to address ambiguity and gaps in statutes. In step one, a court was required to determine whether Congress had “directly spoken to the precise question at issue” using “traditional tools of statutory construction.” If the courts could not determine a clear congressional intent, in step two, the court was required to assess whether the agency’s interpretation was a “permissible construction of the statute.”

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