

M E M O R A N D U M

TO: NEPOOL Participants Committee Members and Alternates
FROM: Sebastian M. Lombardi, NEPOOL Counsel
DATE: September 27, 2018
RE: Delayed Commercial Operation of New Capacity Resources

At the October 4, 2018 Participants Committee meeting, you will be asked to consider supporting Markets Committee-recommended revisions to Market Rule 1 regarding the treatment of delayed commercial operation of new capacity resources in the Forward Capacity Market. A copy of these recommended changes are included with this memorandum as Attachment A.

The ISO has explained that this proposal contains two core design changes: (1) the removal of ISO mandatory demand bids for new resources that are unable to satisfy all Critical Path Schedule milestones by the start of the Capacity Commitment Period; and (2) a new incentive structure that determines a monthly charge rate for new resources that have not fully demonstrated their Capacity Supply Obligation. Further detail on this proposal is provided in the ISO's supporting materials included with this memorandum as Attachment B.

The Markets Committee, at its September 12-13, 2018 meeting, recommended Participants Committee support for these changes based on a show of hands vote, with 23 oppositions and 33 abstentions noted.¹ This matter was initially included as Item #2 on the October 4 Consent Agenda, but has been removed at the request of PSEG. We understand that PSEG plans to provide a brief memo, for inclusion with next week's additional meeting materials, explaining the reason for the removal of this item from the Consent Agenda and which may also include a PSEG-sponsored amendment to the Markets Committee-recommended Tariff revisions.

The following form of resolution may be used for Participants Committee action:

RESOLVED, that the Participants Committee supports revisions to Market Rule 1 to improve incentives for a Participant to cover its Capacity Supply Obligation if a new resource is or may be delayed, as recommended by the Markets Committee, and circulated to this Committee in advance of this meeting, together with [any changes agreed to by the Participants Committee at this meeting and] such other non-substantive changes as may be approved by the Chair and Vice-Chair of the Markets Committee.

¹ The 23 oppositions were: 1 – Generation Sector, 2 – Supplier Sector, 20 – Publicly Owned Entity Sector; and the 33 abstentions were: 2 – Generation Sector, 6 – Supplier Sector, 3 – AR Sector, 22 – Publicly Owned Entity Sector.

- III.13.1.4 Demand Capacity Resources.
- III.13.1.4.1 Definition of New Demand Capacity Resource.
 - III.13.1.4.1.1 Qualification Process for New Demand Capacity Resources.
 - III.13.1.4.1.1.1 New Demand Capacity Resource Show of Interest Form.
 - III.13.1.4.1.1.2 New Demand Capacity Resource Qualification Package.
 - III.13.1.4.1.1.2.1 Source of Funding.
 - III.13.1.4.1.1.2.2 Measurement and Verification Plan.
 - III.13.1.4.1.1.2.3 Customer Acquisition Plan.
 - III.13.1.4.1.1.2.4 Critical Patch Schedule for a Demand Capacity Resource with a Demand Reduction Value of at Least 5 MW at a Single Retail Delivery Point.
 - III.13.1.4.1.1.2.5 Critical Path Schedule for a Demand Capacity Resource with All Retail Delivery Points Having a Demand Reduction Value of Less Than 5 MW.
 - III.13.1.4.1.1.2.6 Additional Critical Path Schedule Requirement For Project Sponsors Proposing Total Demand Reduction Value of 30 Percent or Less by the Second Target Date.[RESERVED]
 - III.13.1.4.1.1.2.7 Capacity Commitment Period Election.
 - III.13.1.4.1.1.2.8 Offer Information From New Demand Capacity Resources.
 - III.13.1.4.1.1.3 Initial Analysis for Active Demand Capacity Resources.
 - III.13.1.4.1.1.4 Consistency of New Demand Capacity Resource Qualification Package and New Demand Capacity Resource Show of Interest Form.
 - III.13.1.4.1.1.5 Evaluation of New Demand Capacity Resource Qualification Materials.
 - III.13.1.4.1.1.6 Qualification Determination Notification for New Demand Capacity Resources.

- III.13.3.1.1 New Resources Clearing in the Forward Capacity Auction.
- III.13.3.1.2 New Resources Not Offering or Not Clearing in the Forward Capacity Auction.
- III.13.3.2 Quarterly Critical Path Schedule Reports.
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- III.13.3.3 Failure to Meet Critical Path Schedule.
- III.13.3.4 Covering Capacity Supply Obligations. ~~Where Resource Will Not Achieve All Critical Path Schedule Milestones by the Capacity Commitment Period.~~
- III.13.3.4A Termination of Capacity Supply Obligations.
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- III.13.4 Reconfiguration Auctions.
 - III.13.4.1 Capacity Zones Included in Reconfiguration Auctions.
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 - III.13.4.2.1.1 Amount of Capacity That May Be Submitted in a Supply Offer in an Annual Reconfiguration Auction.
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 - III.13.4.2.1.2.1 First Annual Reconfiguration Auction and Second Annual Reconfiguration Auction.
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III.13.7.5.5 Forward Capacity Market Net Charge Amount.

III.13.8 Reporting and Price Finality.

III.13.8.1 Filing of Certain Determinations Made By the ISO Prior to the Forward Capacity Auction and Challenges Thereto.

III.13.8.2 Filing of Forward Capacity Auction Results and Challenges Thereto.

III.14 Regulation Market.

III.14.1 Regulation Market System Requirements.

III.14.2 Regulation Market Eligibility.

(b) [Reserved.]

(c) Where a New Capacity Generating Resource was accepted for participation in the qualification process for a previous Forward Capacity Auction, but cleared less than its summer Qualified Capacity in that previous Forward Capacity Auction and is having its critical path schedule monitored by the ISO in accordance with Section III.13.3, the portion of the resource that did not clear in the previous Forward Capacity Auction shall be a New Generating Capacity Resource in the subsequent Forward Capacity Auction. Such a New Generating Capacity Resource must satisfy all of the qualification process requirements applicable to a New Generating Capacity Resource as described in Section III.13.1.1.2, except that the Project Sponsor is not required to resubmit documentation demonstrating site control (Section III.13.1.1.2.2.1) or to resubmit a critical path schedule (Section III.13.1.1.2.2.2) or to provide a new Qualification Process Cost Reimbursement Deposit (Section III.13.1.1.2.1(e)).

III.13.1.1.1.2. Resources Previously Counted as Capacity.

A resource that has previously been counted as a capacity resource, including a deactivated or retired capacity resource, may elect to participate in the Forward Capacity Auction as a New Generating Capacity Resource, as described in this Section III.13.1.1.1.2. The incremental expenditure required to reactivate a resource that previously has been deactivated or retired pursuant to Section I.3.9 of the Transmission, Markets and Services Tariff (or its predecessor provisions) may be included in the calculation of the dollar per kilowatt thresholds in this Section III.13.1.1.1.2. A resource accepted for participation in the Forward Capacity Auction as a New Generating Capacity Resource pursuant to this Section III.13.1.1.1.2 shall participate in the Forward Capacity Auction pursuant to Section

III.13.2.3.2(e). A Market Participant that elects to have a resource that has previously been counted as a capacity resource participate in the Forward Capacity Auction as a New Generating Capacity Resource, must notify the ISO when the existing resource ceases to operate and the New Generating Capacity Resource commences operation. If a Market Participant with a resource that has previously been counted as a capacity resource elects, pursuant to Section III.13.3.4(a)(iii), to have the resource that has previously been counted as a capacity resource cover the Capacity Supply Obligation of a New Generating Capacity Resource and the resource that has previously been counted as a capacity resource must take an outage in order for the New Generating Capacity Resource to commence Commercial Operation (as defined in Schedule 22, 23, or 25 of Section II of the Transmission, Markets and Services Tariff), then the Market Participant must notify the ISO that the outage is for the purpose of the New Generating Capacity Resource commencing Commercial Operation (as defined in Schedule 22, 23, or 25 of Section II of the

Transmission, Markets and Services Tariff . A resource shall be accepted for participation as a new resource if it complies with one of the following three subsections:

(a) Where investment in the resource will result, by the commencement of the Capacity Commitment Period, in an increase in output by an amount exceeding the greater of: (i) 20 percent of the summer Qualified Capacity of the resource at the time of the qualification process for the Forward Capacity Auction; or (ii) 40 MW above the summer Qualified Capacity of the resource at the time of the qualification process for the Forward Capacity Auction, the whole resource shall participate in the Forward Capacity Auction as a New Generating Capacity Resource; or

(b) Where investment in the resource subsequent to January 1, 2007 and prior to the conclusion of the first Capacity Commitment Period associated with the Capacity Supply Obligation for which treatment as a new resource may be applied, for the purposes of re-powering will be equal to or greater than \$200 per kilowatt of the whole resource's summer Qualified Capacity after re-powering, the owner of the resource may elect that the whole resource participate in the Forward Capacity Auction as a New Generating Capacity Resource. The \$200 threshold (in base year 2008 dollars) shall be adjusted annually in accordance with the Handy-Whitman Index of Public Utility Construction Costs reflecting data for the period ending January 1 of the year preceding the start of the qualification process for the relevant Forward Capacity Auction; or

(c) Where investment in the resource subsequent to January 1, 2007 and prior to the conclusion of the first Capacity Commitment Period associated with the Capacity Supply Obligation for which treatment as a new resource may be applied, for the purpose of compliance with environmental regulations or permits will be equal to or greater than \$100 per kilowatt of the whole resource's summer Qualified Capacity after the investment, the owner of the resource may elect that the whole resource participate in the Forward Capacity Auction as a New Generating Capacity Resource. The \$100 threshold (in base year 2008 dollars) shall be adjusted annually in accordance with the Handy-Whitman Index of Public Utility Construction Costs reflecting data for the period ending January 1 of the year preceding the start of the qualification process for the relevant Forward Capacity Auction.

III.13.1.1.1.3. Incremental Capacity of Resources Previously Counted as Capacity.

The owner of a resource previously counted as a capacity resource may elect to have the incremental amount of capacity above the summer Qualified Capacity of the resource at the time of the qualification

reduction value achieved on target date 1 occurring five weeks prior to the first annual Forward Capacity Auction after the Forward Capacity Auction in which the Project Sponsor's capacity award was made; (ii) the cumulative percentage of total demand reduction value achieved on target date 2 occurring five weeks prior to the second annual Forward Capacity Auction after the Forward Capacity Auction in which the Project Sponsor's capacity award was made; and (iii) target date 3 which is the date by which the Project Sponsor expects to be ready to demonstrate to the ISO that the Demand Capacity Resource described in the Project Sponsor's New Demand Capacity Resource Qualification Package has achieved its full demand reduction value, which must be on or before the first day of the relevant Capacity Commitment Period and by which date 100% of total demand reduction value must be complete.

III.13.1.4.1.1.2.6. _____ [Reserved.]

~~**Additional Critical Path Schedule Requirement For Project Sponsors Proposing Total Demand Reduction Value of 30 Percent or Less by the Second Target Date.**~~

~~If a Project Sponsor proposes in its New Demand Capacity Resource Qualification Package a cumulative percentage of demand reduction value achieved that is 30 percent or less by the second critical path schedule target date, then a pipeline analysis must be submitted to the ISO five weeks prior to the second annual Forward Capacity Auction after the Forward Capacity Auction in which the award was made. A pipeline analysis demonstrates the Project Sponsor's ability to fulfill its obligation to deliver capacity that cleared in a Forward Capacity Auction by the relevant Capacity Commitment Period. Such an analysis must list the customers that have made a commitment to participate in the Project Sponsor's program to deliver capacity to meet the Project Sponsor's Forward Capacity Auction obligations, and must include each customer's projected summer and winter demand reduction value, and expected measure installation date; provided, however, that a Project Sponsor targeting customer facilities with under 10 kW of demand reduction value per facility shall have the option of using a targeting and marketing plan based on past performance in that market to determine the Project Sponsor's ability to fulfill its obligation by the relevant Capacity Commitment Period. To the extent that the Project Sponsor is unable to demonstrate through its pipeline analysis that it has sufficient customers to meet its Capacity Supply Obligation by the beginning of the relevant Capacity Commitment Period, the Project Sponsor shall be subject to the ISO's critical path schedule monitoring procedures, as specified in Section III.13.3 of Market Rule 1.~~

III.13.1.4.1.1.2.7. Capacity Commitment Period Election.

In the New Demand Capacity Resource Qualification Package, the Project Sponsor must specify whether, if its New Demand Capacity Resource offer clears in the Forward Capacity Auction, the associated

III.13.1.9.2. Financial Assurance for New Generating Capacity Resources and New Demand Capacity Resources Clearing in a Forward Capacity Auction.

Where a New Generating Capacity Resource's offer or a New Demand Capacity Resource's offer is accepted in a Forward Capacity Auction, that resource must provide financial assurance as described in the ISO New England Financial Assurance Policy.

III.13.1.9.2.1. Failure to Provide Financial Assurance or to Meet Milestone.

If a New Generating Capacity Resource or New Demand Capacity Resource: (i) fails to provide the required financial assurance as described in the ISO New England Financial Assurance Policy or (ii) has its Capacity Supply Obligation terminated by the ISO pursuant to Section III.13.3.4A(e), it shall lose its Capacity Supply Obligation and its right to any payments associated with that Capacity Supply Obligation, and it shall forfeit any financial assurance provided with respect to that Capacity Supply Obligation.

III.13.1.9.2.2. Release of Financial Assurance.

Once a New Generating Capacity Resource or New Demand Capacity Resource achieves FCM Commercial Operation, its financial assurance obligation shall be released pursuant to the terms of the ISO New England Financial Assurance Policy and it shall have the same financial assurance requirements as an Existing Generating Capacity Resource, as governed by the ISO New England Financial Assurance Policy. If a New Generating Capacity Resource or New Demand Capacity Resource is only capable of delivering less than the amount of capacity that cleared in the Forward Capacity Auction, then the portion of its financial assurance associated with the shortfall shall be forfeited.

III.13.1.9.2.2.1. [Reserved.]

III.13.1.9.2.3. Forfeit of Financial Assurance.

Where any financial assurance is forfeited pursuant to the provisions of Section III.13, there shall be no further coverage for such forfeit under the ISO New England Billing Policy. Any financial assurance that is forfeited pursuant to Section III.13 shall be used to reduce charges incurred by load in the relevant Capacity Zone.

III.13.1.9.2.4. Financial Assurance for New Import Capacity Resources.

A New Import Capacity Resource that is backed by a new External Resource or will be delivered over an Elective Transmission Upgrade with a Capacity Network Import Interconnection Service Interconnection

III.13.3. Critical Path Schedule Monitoring.

III.13.3.1. Resources Subject to Critical Path Schedule Monitoring.

III.13.3.1.1. New Resources Electing Critical Path Schedule Monitoring.

A Project Sponsor that submits a critical path schedule for a New Capacity Resource in the qualification process may request that the ISO monitor that resource's compliance with its critical path schedule in accordance with the provisions of this Section III.13.3. The ISO will monitor the New Capacity Resource's compliance from the time the ISO approves the request until the resource achieves FCM Commercial Operation, loses its Capacity Supply Obligation pursuant to Section III.13.3.4~~(e)~~, or withdraws from critical path schedule monitoring pursuant to Section III.13.3.6.

In addition, a Lead Market Participant with a New Import Capacity Resource backed by one or more existing External Resources seeking to qualify for Capacity Commitment Period(s) prior to the Capacity Commitment Period associated with the Forward Capacity Auction for which it is qualifying must request monitoring under this Section III.13.3.1.1.

A request under this Section III.13.3.1.1 must be made in writing no later than five Business Days after the deadline for submission of the FCM Deposit pursuant to Section III.13.1.9.1.

III.13.3.1.2. New Resources Clearing in the Forward Capacity Auction.

For each new resource required to submit a critical path schedule in the qualification process, including but not limited to a New Generating Capacity Resource (pursuant to Section III.13.1.1.2.2), a New Import Capacity Resource backed by a new External Resource (pursuant to Section III.13.1.3.5), or a New Demand Capacity Resource (pursuant to Section III.13.1.4), if capacity from that resource clears in the Forward Capacity Auction, then the ISO shall monitor that resource's compliance with its critical path schedule in accordance with the provisions of this Section III.13.3 (regardless of whether the Project Sponsor requested monitoring pursuant to Section III.13.3.1.1) from the time that the Forward Capacity Auction is conducted until the resource achieves FCM Commercial Operation, loses its Capacity Supply Obligation pursuant to Section III.13.3.4~~(e)~~, or withdraws from critical path schedule monitoring pursuant to Section III.13.3.6.

III.13.3.1.3. New Resources Not Offering or Not Clearing in the Forward Capacity Auction.

If no capacity from a new resource that was required to submit a critical path schedule in the qualification process clears in the Forward Capacity Auction, or if such a resource does not submit an offer in the Forward Capacity Auction, then the ISO shall not monitor that resource's compliance with its critical path schedule after the Forward Capacity Auction unless the Project Sponsor previously requested pursuant to Section III.13.3.1.1 that the ISO continue to monitor that resource's compliance with its critical path schedule. However, if a New Generating Capacity Resource participated but did not clear in the Forward Capacity Auction either as: (i) a Conditional Qualified New Resource, or (ii) a New Generating Capacity Resource with a higher priority in the queue and overlapping interconnection impacts with a Conditional Qualified New Resource, the ISO will not continue to monitor that resource's compliance with its critical path schedule even if that resource requested critical path schedule monitoring pursuant to Section III.13.3.1.1.

III.13.3.2. Quarterly Critical Path Schedule Reports.

For each new resource that is being monitored for compliance with its critical path schedule, the Project Sponsor for that resource must provide a written critical path schedule report to the ISO no later than five Business Days after the end of each calendar quarter. If the Project Sponsor does not provide a written critical path schedule report to the ISO by the fifth Business Day after the end of the calendar quarter, then the ISO shall issue a notice thereof to the Project Sponsor. If the Project Sponsor fails to provide the critical path schedule report within five Business Days of issuance of that notice, then the resource will be subject to termination pursuant to Section III.13.3.4A(e). Each critical path schedule report shall include the following:

III.13.3.2.1. Updated Critical Path Schedule.

The critical path schedule report must include a complete updated version of the critical path schedule as described in Section III.13.1.1.2.2.2, dated contemporaneously with the submission of the critical path schedule report. The updated critical path schedule should clearly indicate if the Project Sponsor is proposing to change any of the milestones or dates from the previously submitted version of the critical path schedule, and must include an explanation of any such proposed changes. In the critical path schedule report, the Project Sponsor should also explain in detail any proposed changes to the project design and the potential impact of such changes on the amount of capacity the resource will be able to provide.

III.13.3.2.2. Documentation of Milestones Achieved.

(a) For all new resources except for Demand Capacity Resources installed at multiple facilities and Demand Capacity Resources from a single facility with a demand reduction value of less than 5 MW (discussed in Section III.13.3.2.2(b)), for each critical path schedule milestone achieved since the submission of the previous critical path schedule report, the Project Sponsor must include in the critical path schedule report documentation demonstrating that the milestone has been achieved by the date indicated and as otherwise described in the critical path schedule, as follows:

(i) **Major Permits.** For each major permit described in the critical path schedule, the Project Sponsor shall provide documentation showing that the permit was applied for and obtained as described in the critical path schedule. For permit applications, this documentation could include a dated copy of the permit application or cover letter requesting the permit. For approved permits, this documentation could include a dated copy of the approved permit or letter granting the permit from the permitting authority.

(ii) **Project Financing Closing.** The Project Sponsor shall provide documentation showing that the sources of financing identified in the critical path schedule have committed to provide the amount of financing described in the critical path schedule. This documentation could include copies of commitment letters from the sources of financing.

(iii) **Major Equipment Orders.** For each major component described in the critical path schedule, the Project Sponsor shall provide documentation showing that the equipment was ordered as described in the critical path schedule. This documentation should include a copy of a dated confirmation of the order from the manufacturer or supplier. This documentation should confirm scheduled delivery dates consistent with milestone Section III.13.3.2.2(a)(vi).

(iv) **Substantial Site Construction.** The Project Sponsor shall provide documentation showing that the amount of money expended on construction activities occurring on the project site has exceeded 20 percent of the construction financing costs.

(v) **Major Equipment Delivery.** For each major component described in the critical path schedule, the Project Sponsor shall provide documentation showing that the equipment was delivered to the project site and received as preliminarily acceptable as described in the critical

path schedule. This documentation should include a copy of a dated confirmation of delivery to the project site.

(vi) **Major Equipment Testing.** For each major component described in the critical path schedule, the Project Sponsor shall provide documentation showing that the component was tested, including major systems testing as appropriate for the specific technology as described in the critical path schedule, and that the test results demonstrate the equipment's suitability to allow, in conjunction with other major components, subsequent operation of the project in accordance with the amount of capacity obligated from the resource in the Capacity Commitment Period in accordance with Good Utility Practice. This documentation could include a dated copy of the satisfactory test results.

(vii) **Commissioning.** The Project Sponsor shall provide documentation showing that the resource has demonstrated a level of performance equal to or greater than the amount of capacity obligated from the resource in the Capacity Commitment Period. This documentation should include a copy of a dated letter of confirmation from the applicable manufacturer, contractor, or installer.

(viii) **Commercial Operation.** The Project Sponsor is not required to provide documentation of Commercial Operation (as defined in Schedule 22, 23, or 25 of Section II of the Transmission, Markets and Services Tariff) to the ISO as part of the ISO's critical path schedule monitoring. The ISO shall confirm that the resource has achieved Commercial Operation (as defined in Schedule 22, 23, or 25 of Section II of the Transmission, Markets and Services Tariff) as described in the critical path schedule through the resource's compliance with the other relevant requirements of the Transmission, Markets and Services Tariff and the ISO New England System Rules.

(ix) **Transmission Upgrades.** If during the qualification process it was determined that transmission upgrades (including any upgrades identified in a re-study pursuant to Section 3.2.1.3 of Schedule 22, Section 1.7.1.3 of Schedule 23, or Section 3.2.1.3 of Schedule 25 of Section II of the Transmission, Markets and Services Tariff) are needed for the new resource to complete its interconnection, then the Project Sponsor shall provide documentation showing that the transmission upgrades have been completed.

(b) For Demand Capacity Resources installed at multiple facilities and Demand Capacity Resources from a single facility with a demand reduction value of less than 5 MW, for each critical path schedule milestone achieved since the submission of the previous critical path schedule report, the Project Sponsor must include in the critical path schedule report documentation demonstrating that the milestone has been achieved by the date indicated and as otherwise described in the critical path schedule, as follows:

(i) **Substantial Project Completion.** The Project Sponsor shall provide documentation showing the total offered demand reduction value achieved as of target dates which are: (a) the cumulative percentage of total demand reduction value achieved on target date 1 occurring five weeks prior to the first Forward Capacity Auction after the Forward Capacity Auction in which the Demand Capacity Resource supplier's capacity award was made; (b) the cumulative percentage of total demand reduction value achieved on target date 2 occurring five weeks prior to the second Forward Capacity Auction after the Forward Capacity Auction in which the Demand Capacity Resource supplier's capacity award was made; and (c) target date 3 which is the date the resource is expected to be ready to demonstrate to the ISO that the Demand Capacity Resource described in the Project Sponsor's New Demand Capacity Resource Qualification Package has achieved its full demand reduction value, which must be on or before the first day of the relevant Capacity Commitment Period and by which date 100 percent of the total demand reduction value must be complete.

~~(ii) **Pipeline Analysis.** If the Project Sponsor proposes in its New Demand Capacity Resource Qualification Package a cumulative percentage of demand reduction value achieved that is 30 percent or less by the second critical path schedule target date, then the Project Sponsor shall provide a pipeline analysis to the ISO as specified in Section III.13.1.4.1.1.2.6 of Market Rule 1.~~

(iii) **Additional Requirements.** For each customer and each prospective customer the Project Sponsor shall provide: name, location, MW amount, and description of stage of negotiation. If the customer's Asset has been registered with the ISO, then the Project Sponsor shall also provide the Asset identification number.

III.13.3.2.3. **Additional Relevant Information.**

The Project Sponsor must include in the critical path schedule report any other information regarding the status or progress of the project or any of the project milestones that might be relevant to the ISO's

evaluation of the feasibility of the project being built in accordance with the critical path schedule or the feasibility that the project will achieve all its critical path schedule milestones no later than the start of the relevant Capacity Commitment Period.

III.13.3.2.4. Additional Information for Resources Previously Counted As Capacity.

For each resource participating in the Forward Capacity Auction as a New Generating Capacity Resource pursuant to Sections III.13.1.1.1.2, III.13.1.1.1.3, or III.13.1.1.1.4 or New Demand Capacity Resource pursuant to Section III.13.1.4.1 and clearing in that auction, the Project Sponsor must provide information in the critical path schedule report demonstrating: (a) the shedding of the resource's Capacity Supply Obligation in accordance with the provisions of Section III.13.1.1.2.2.5(c); and (b) that the relevant cost threshold (described in Sections III.13.1.1.1.2, III.13.1.1.1.3, and III.13.1.1.1.4) is being met.

III.13.3.3. Failure to Meet Critical Path Schedule.

If the ISO determines that any critical path schedule milestone date has been missed, or if the Project Sponsor proposes a change to any milestone date in a quarterly critical path schedule report (as described in Section III.13.3.2.1), then the ISO shall consult with the Project Sponsor to determine the impact of the missed milestone or proposed revision, and shall determine a revised date for the milestone and for any other milestones affected by the change. If a milestone date is revised for any reason, the ISO may require the Project Sponsor to submit a written report to the ISO on the fifth Business Day of each month until the revised milestone is achieved detailing the progress toward meeting the revised milestone. If the Project Sponsor does not provide a written critical path schedule report to the ISO on the fifth Business Day of a month, then the ISO shall issue a notice thereof to the Project Sponsor. If the Project Sponsor fails to provide the critical path schedule report within five Business Days of issuance of that notice, then the resource will be subject to termination pursuant to Section III.13.3.4~~(e)~~. Such a monthly reporting requirement, if imposed, shall be in addition to the quarterly critical path schedule reports described in Section III.13.3.2.

III.13.3.4. Covering Capacity Supply Obligations. ~~Where Resource Will Not Achieve All Critical Path Schedule Milestones by the Capacity Commitment Period. Except as described in Section III.13.3.7, if as a result of milestone date revisions, the date by which the resource will achieve all its critical path schedule milestones is:~~

- a. ~~after the start of any Capacity Commitment Period, for Capacity Commitment Periods beginning on or before June 1, 2019, or;~~
- b. ~~after any Capacity Commitment Period, for Capacity Commitment Periods beginning on or after June 1, 2020;~~

~~in which the resource has a Capacity Supply Obligation, then the Project Sponsor~~

(a) If a capacity supplier determines that a resource may not be able to demonstrate its ability to deliver the full amount of its Capacity Supply Obligation, the capacity supplier may ~~must~~ take actions to cover ~~the entire~~ all or part of the Capacity Supply Obligation for ~~the any~~ portion of the Capacity Commitment Period ~~for which the project will not have achieved all its critical path schedule milestones,~~ as follows:

- (ia) ~~The Project Sponsor~~ A capacity supplier may cover its Capacity Supply Obligation through reconfiguration auctions as described in Section III.13.4.
- (ii) A capacity supplier may cover its Capacity Supply Obligation through ~~or~~ one or more Capacity Supply Obligation Bilaterals, subject to the satisfaction of the requirements in Section III.13.5.
- (iii) A capacity supplier that has qualified a resource pursuant to Section III.13.1.1.1.2 may cover its Capacity Supply Obligation by electing, no later than ten Business Days prior to the offer and bid deadline for the third annual reconfiguration auction prior to the start of the applicable Capacity Commitment Period, to have the resource that was previously counted as a capacity resource cover the Capacity Supply Obligation of the New Generating Capacity Resource for up to two Capacity Commitment Periods. If an election is made to have the resource that was previously counted as a capacity resource cover the Capacity Supply Obligation of the New Generating Capacity Resource, the capacity supplier with the resource that was previously counted as a capacity resource shall be required to comply with the requirements set forth in Section III.13.6.1 so long as it continues to cover for the New Generating Capacity Resource.

~~(b) — If, by the time demand bids are due for the third annual reconfiguration auction for the Capacity Commitment Period in which the resource has a Capacity Supply Obligation, the Project Sponsor has not covered its full Capacity Supply Obligation for the portion of the Capacity Commitment Period for which~~

~~the project will not have achieved all its critical path schedule milestones, then the ISO shall submit a demand bid in that annual reconfiguration auction on the Project Sponsor's behalf for a quantity equal to:~~

~~(i) for Capacity Commitment Periods beginning on or before June 1, 2019, the largest monthly Capacity Supply Obligation for the Capacity Commitment Period that has not been covered,~~

~~or;~~

~~(ii) for Capacity Commitment Periods beginning on or after June 1, 2020, the smallest monthly Capacity Supply Obligation for the Capacity Commitment Period that has not been covered;~~

~~at the Forward Capacity Auction Starting Price, with all payments, charges, rights, obligations, and other results associated with such demand bid applying to the Project Sponsor as if the Project Sponsor itself had submitted the demand bid.~~

(b) During a Capacity Commitment Period, a failure to cover charge will apply to any capacity resource that has not demonstrated the ability to deliver the full amount of its Capacity Supply Obligation by the end of an Obligation Month. The failure to cover charge is the difference between a resource's monthly Capacity Supply Obligation and its Maximum Demonstrated Output, multiplied by the Failure to Cover Charge Rate, where:

Maximum Demonstrated Output Period

Maximum Demonstrated Output Period is the period beginning six years prior to the start of the applicable Capacity Commitment Period and ending with the most recently completed calendar month in the Capacity Commitment Period, including all prior months in the Capacity Commitment Period.

Provided that, for a resource that has previously been counted as a capacity resource and for which an election has been made to participate as a New Generating Capacity Resource pursuant to Section III.13.1.1.1.2, and for which a cover election has been made pursuant to Section III.13.3.4(a)(iii), then: (1) the Maximum Demonstrated Output Period will be the Maximum Demonstrated Output Period of the resource that has been previously counted as capacity, and; (2) the Maximum Demonstrated Output Period of the New Generating Capacity Resource will begin on the earlier of: (i) the date that the resource that has previously been counted as a capacity resource began any outage as provided in Section III.13.1.1.1.2, and; (ii) the date that the New

Generating Capacity Resource commenced Commercial Operation (as defined in Schedule 22, 23, or 25 of Section II of the Transmission, Markets and Services Tariff).

Failure to Cover Charge Rate

For Capacity Commitment Periods beginning prior to June 1, 2022, the Failure to Cover Charge Rate for a Capacity Zone is the higher of the Capacity Clearing Price and the clearing price in any annual reconfiguration auction for that Capacity Commitment Period.

For Capacity Commitment Periods beginning on or after June 1, 2022, the Failure to Cover Charge Rate for a Capacity Zone is the price determined by a second clearing of the third annual reconfiguration auction prior to the start of the Capacity Commitment Period in which the aggregated zonal quantities of undemonstrated Capacity Supply Obligation, as of the completion of the third annual reconfiguration auction, and as determined pursuant to Section III.13.3.4 (b), are included as demand bids at the Forward Capacity Auction Starting Price for each applicable Capacity Zone.

Provided that, if an existing resource is covering for a New Generating Capacity Resource pursuant to Section III.13.3.4(a)(iii), then the undemonstrated Capacity Supply Obligation for the New Generating Capacity Resource is the difference between the existing resource's Maximum Demonstrated Output and the new resource's Capacity Supply Obligation.

Maximum Demonstrated Output

The Maximum Demonstrated Output is the sum of the highest output levels achieved by each Generator Asset associated with a Generating Capacity Resource, each Demand Response Asset associated with an Active Demand Capacity Resources, and assets associated with a Seasonal Peak Demand Resource or On-Peak Demand Resource, during the Maximum Demonstrated Output Period as specified below. The minimum Maximum Demonstrated Output for all assets is zero.

Provided that, if a resource that was previously counted as capacity is covering for a New Generating Capacity Resource pursuant to Section III.13.3.4(a)(iii), then the Maximum Demonstrated Output is the sum of the highest aggregate output level achieved by each asset

associated with the resource that has previously been counted as capacity during the Maximum Demonstrated Output Period.

At the asset level, Maximum Demonstrated Output is calculated as follows:

Demand Response Assets associated with an Active Demand Capacity Resource: The Maximum Demonstrated Output for dates occurring prior to June 1, 2018 is the highest audit value in the Maximum Demonstrated Output Period increased by average avoided peak transmission and distribution losses. The Maximum Demonstrated Output for dates occurring on or after to June 1, 2018 will be equal to the highest demand reduction calculated, pursuant to Section III.8.4, in the Maximum Demonstrated Output Period increased by average avoided peak transmission and distribution losses for non-Net Supply.

Distributed Generation associated with a Seasonal Peak Demand Resource or an On-Peak Demand Resource: The Maximum Demonstrated Output is the highest hourly metered output in the Maximum Demonstrated Output Period after the resource has completed testing and has achieved commercial operation, increased by average avoided peak transmission and distribution losses for non-Net Supply.

Load Management associated with a Seasonal Peak Demand Resource or an On-Peak Demand Resource: The Maximum Demonstrated Output is the highest hourly demand reduction value in the Maximum Demonstrated Output Period increased by average avoided peak transmission and distribution losses for non-Net Supply.

Energy Efficiency associated with a Seasonal Peak Demand Resource or an On-Peak Demand Resource: The Maximum Demonstrated Output is the highest reported monthly performance value in the Maximum Demonstrated Output Period increased by average avoided peak transmission and distribution losses.

Generator Assets: The Maximum Demonstrated Output for dates occurring prior to March 1, 2017 is the highest hourly Revenue Quality Metering in the Maximum Demonstrated Output Period beginning on or after Commercial Operation (as defined in Schedule 22, 23, or 25 of Section II of the Transmission, Markets and Services Tariff). The Maximum Demonstrated

Output for dates occurring on or after March 1, 2017 is the highest Metered Quantity for Settlement in the Maximum Demonstrated Output Period beginning on or after Commercial Operation (as defined in Schedule 22, 23, or 25 of Section II of the Transmission, Markets and Services Tariff).

If a single Generator Asset is split into two or more new Generator Assets, the Maximum Demonstrated Output associated with the single Generation Asset will be prorated among the new assets based on their summer maximum net output. If multiple Generator Assets are consolidated to fewer assets, the Maximum Demonstrated Output of the Generator Assets that are being consolidated will be allocated to the consolidated assets based on the summer maximum net output.

Import Capacity Resources: For an Import Capacity Resource that is backed by external generation that has not achieved commercial operation at the time of qualification, in part or entirely, the Maximum Demonstrated Output is the highest revenue quality metered output for a five-minute or greater interval after the resource has completed testing and has achieved commercial operation. Provided that, the Maximum Demonstrated Output of an Import Capacity Resource associated with an Elective Transmission Upgrade may be limited by the highest demonstrated capability of the Elective Transmission Upgrade after the Elective Transmission Upgrade has completed testing and has achieved commercial operation.

III.13.3.4A Termination of Capacity Supply Obligations.

~~(e)~~ — If ~~the a~~ Project Sponsor fails to comply with the requirements of Sections III.13.3.2 or III.13.3.3, ~~or if the Capacity Supply Obligation is not covered as described in Sections III.13.3.4(a) and III.13.3.4(b),~~ or if ~~the a~~ Project Sponsor covers ~~the a~~ Capacity Supply Obligation for two Capacity Commitment Periods, or if, as a result of milestone date revisions, the date by which a resource will have achieved all its critical path schedule milestones is more than two years after the beginning of the Capacity Commitment Period for which the resource first received a Capacity Supply Obligation, then the ISO, after consultation with the Project Sponsor, shall have the right, through a filing with the Commission, to terminate the resource's Capacity Supply Obligation for any future Capacity Commitment Periods and the resource's right to any payments associated with that Capacity Supply Obligation in the Capacity Commitment Period, and to adjust the resource's qualified capacity for participation in the Forward Capacity Market; provided that, where a Project Sponsor voluntarily withdraws its resource from critical path schedule monitoring in accordance with Section III.13.3.6, no filing with the Commission shall be

necessary to terminate the resource's Capacity Supply Obligation. Upon Commission ruling, the Project Sponsor shall forfeit any financial assurance provided with respect to that Capacity Supply Obligation. If in these circumstances, however, the ISO does not take steps to terminate the resource's Capacity Supply Obligation and instead permits the Project Sponsor to continue to cover its Capacity Supply Obligation, such continuation shall be subject to the ISO's right to revoke that permission and to file with the Commission to terminate the resource's Capacity Supply Obligation, and subject to continued reporting by the Project Sponsor as described in this Section III.13.3.

III.13.3.5. Termination of Interconnection Agreement.

If the ISO terminates, or files with the Commission to terminate, a resource's Capacity Supply Obligation as described in Section III.13.3.4~~(e)~~, the ISO shall have the right to terminate the Interconnection Agreement with that resource through a filing with the Commission and upon Commission ruling. If the Project Sponsor continues to cover all of its Capacity Supply Obligations while challenging such termination before the Commission, it shall retain its Queue Position.

III.13.3.6. Withdrawal from Critical Path Schedule Monitoring.

A Project Sponsor may withdraw its resource from critical path schedule monitoring by the ISO at any time by submitting a written request to the ISO. The ISO also may deem a resource withdrawn from critical path schedule monitoring if the Project Sponsor does not adhere to the requirements of this Section III.13.3. Any resource withdrawn from critical path schedule monitoring shall be subject to the provisions of Section III.13.3.4.

III.13.3.7 Request to Defer Capacity Supply Obligation

A resource that has not yet achieved FCM Commercial Operation and that is subject to critical path schedule monitoring by the ISO pursuant to this Section III.13.3 may seek to defer the applicability of its entire Capacity Supply Obligation by one year pursuant to the provisions of this Section III.13.3.7.

A Project Sponsor seeking such a deferral must notify the ISO in writing no later than the first Business Day in September of the year prior to the third annual reconfiguration auction for the Capacity Commitment Period in which the resource has a Capacity Supply Obligation. If, after consultation with the Project Sponsor, the ISO determines that the absence of the capacity in the first Capacity Commitment Period in which the resource has a Capacity Supply Obligation, as well as in the subsequent Capacity Commitment Period, would result in the violation of any NERC or NPCC (or their successors) criteria or of the ISO New England System Rules, not solely that it may result in the procurement of less capacity

than the Installed Capacity Requirement (net of HQICCs) or the Local Sourcing Requirement for the Capacity Zone, then the ISO will review the specific reliability need with and seek feedback from the Reliability Committee and provide the Project Sponsor with a written determination to that effect within 30 days of the Project Sponsor's notification to the ISO.

If the ISO provides such a written determination, then the Project Sponsor may file with the Commission, no later than the first Business Day in November of the year prior to the third annual reconfiguration auction, a request to defer the applicability of its Capacity Supply Obligation by one year. Any such filing must include the ISO's written determination, and must also demonstrate that the deferral is critical to the resource's ability to achieve FCM Commercial Operation and that the reasons for the deferral are beyond the control of the Project Sponsor.

If the Commission approves the request, all of the rights, obligations, payments, and charges associated with the Capacity Supply Obligation described in Sections [III.13.3.4\(b\)](#), [III.13.6](#) and ~~Section~~ [III.13.7](#) shall only apply beginning one year after the start of the Capacity Commitment Period in which the resource has a Capacity Supply Obligation. Notwithstanding any other provision of this Section III.13, if the resource achieves FCM Commercial Operation prior to the deferred date, it will not be eligible to receive revenue in the Forward Capacity Market until the deferred date. Beginning on the deferred date, all of the rights, obligations, payments, and charges associated with the Capacity Supply Obligation shall apply, and the Capacity Supply Obligation and Capacity Clearing Price (indexed using the Handy-Whitman Index of Public Utility Construction Costs in effect as of December 31 of the year preceding the Capacity Commitment Period) associated with the Forward Capacity Auction in which the resource cleared as a new resource shall apply for the full duration of the Capacity Supply Obligation (including multi-year elections made pursuant to Section III.13.1.1.2.2.4 or Section III.13.1.4.1.1.2.7). ~~Neither the~~ [Project Sponsor](#), ~~nor the ISO on the Project Sponsor's behalf,~~ will not take actions to cover the resource's Capacity Supply Obligation for the deferral period as described in Section III.13.3.4(a), but the other requirements of III.13.3, including all reporting requirements and the ISO's right to seek termination, shall continue to apply during the deferral period. Upon Commission approval of the deferral, the resource may not participate in any reconfiguration auctions or Capacity Supply Obligation Bilaterals for any portion of the deferral period. Beginning at 8:00 a.m. (Eastern Time) 30 days after Commission approval of the request, the Project Sponsor shall be required to provide an additional amount of financial assurance as described in Section VII.B.2.c of the ISO New England Financial Assurance Policy.

(j) A resource that has not achieved FCM Commercial Operation may not submit a transaction as a Capacity Acquiring Resource for that Capacity Commitment Period month, unless the resource has a negative Capacity Supply Obligation, in which case it may submit a Capacity Supply Obligation Bilateral in an amount up to the absolute value of its Capacity Supply Obligation.

III.13.5.1.1. Process for Approval of Capacity Supply Obligation Bilaterals.

III.13.5.1.1.1. Timing of Submission and Prior Notification to the ISO.

The Lead Market Participant or Project Sponsor for either the Capacity Transferring Resource or the Capacity Acquiring Resource may submit a Capacity Supply Obligation Bilateral to the ISO in accordance with posted schedules. The ISO will issue a schedule of the submittal windows for Capacity Supply Obligation Bilaterals as soon as practicable after the issuance of Forward Capacity Auction results. A Capacity Supply Obligation Bilateral must be confirmed by the party other than the party submitting the Capacity Supply Obligation Bilateral to the ISO no later than the end of the relevant submittal window.

A Lead Market Participant or Project Sponsor seeking to submit a monthly Capacity Supply Obligation Bilateral pursuant to Section III.13.3.4(a)(ii) (~~covering where resource will not achieve all critical path schedule milestones by Capacity Commitment Period~~) or a monthly Capacity Supply Obligation bilateral pursuant to Section III.13.4.2.1.3(c) (significant decrease of offers composed of separate resources) must notify the ISO in writing of its intention to do so no later than four Business Days prior to the start of the relevant annual Capacity Supply Obligation Bilateral submittal window.

III.13.5.1.1.2. Application.

The submission of a Capacity Supply Obligation Bilateral to the ISO shall include the following: (i) the resource identification number of the Capacity Transferring Resource; (ii) the amount of the Capacity Supply Obligation being transferred in MW amounts up to three decimal places; (iii) the term of the transaction; and (iv) the resource identification number of the Capacity Acquiring Resource. If the parties to a Capacity Supply Obligation Bilateral so choose, they may also submit a price, in \$/kW-month, to be used by the ISO in settling the Capacity Supply Obligation Bilateral. If no price is submitted, the ISO shall use a default price of \$0.00/kW-month.

III.13.5.1.1.3. ISO Review.

applied to that resource, and the remaining deficiency will be further allocated to other resources in the same manner as described in this Section III.13.7.4(a).

(b) If the sum of all Capacity Performance Payments to all resources subject to the Capacity Scarcity Condition in the Capacity Zone in an Obligation Month is negative, the excess will be credited to all such resources in proportion to each resource's Capacity Supply Obligation for the Obligation Month. For a resource subject to the stop-loss mechanism described in Section III.13.7.3 for the Obligation Month, any such credit shall be reduced (though not to less than zero) by the amount not charged to the resource as a result of the application of the stop-loss mechanism described in Section III.13.7.3, and the remaining excess will be further allocated to other resources in the same manner as described in this Section III.13.7.4(b)

III.13.7.5. Charges to Market Participants with Capacity Load Obligations.

III.13.7.5.1. Calculation of Capacity Charges Prior to June 1, 2022.

The provisions in this subsection apply to charges associated with Capacity Commitment Periods beginning prior to June 1, 2022. A load serving entity with a Capacity Load Obligation as of the end of the Obligation Month shall be subject to a charge equal to the product of: (a) its Capacity Load Obligation in the Capacity Zone; and (b) the applicable Net Regional Clearing Price. The Net Regional Clearing Price is defined as the sum of the total payments as defined in Section III.13.7 paid to resources with Capacity Supply Obligations in the Capacity Zone (excluding any capacity payments and charges made for Capacity Supply Obligation Bilaterals and excluding any Capacity Performance Payments), less PER adjustments for resources in the zone as defined in Section III.13.7.1.2, and including any applicable export charges or credits as determined pursuant to Section III.13.7.1.3 divided by the sum of all Capacity Supply Obligations (excluding (i) the quantity of capacity subject to Capacity Supply Obligation Bilaterals and (ii) the quantity of capacity clearing as Self-Supplied FCA Resources) assumed by resources in the zone. A load serving entity satisfying its Capacity Load Obligation by a Self-Supplied FCA Resource shall not receive a credit for any PER payment for its Capacity Load Obligation so satisfied. A load serving entity with a Capacity Load Obligation as of the end of the Obligation Month may also receive a failure to cover credit equal to the product of: (a) its Capacity Load Obligation in the Capacity Zone, and; (b) the sum of all failure to cover charges in the Capacity Zone calculated pursuant to Section III.13.3.4(b), divided by total Capacity Load Obligation in the Capacity Zone.

III.13.7.5.1.1. Calculation of Capacity Charges On and After June 1, 2022.

The provisions in this subsection apply to charges associated with Capacity Commitment Periods beginning on or after June 1, 2022. A Market Participant with a Capacity Load Obligation as of the end of the Obligation Month shall be subject to the following charges and adjustments:

III.13.7.5.1.1.1 Forward Capacity Auction Charge.

The FCA charge, for each Capacity Zone, is: (a) Capacity Load Obligation in the Capacity Zone; multiplied by (b) Capacity Zone FCA Costs divided by Zonal Capacity Obligation.

Where

Capacity Zone FCA Costs, for each Capacity Zone, are the Total FCA Costs multiplied by the Zonal Peak Load Allocator and divided by the Total Peak Load Allocator.

Total FCA Costs are the sum of, for all Capacity Zones, Capacity Supply Obligations in each zone (the total obligation awarded to resources in the Forward Capacity Auction for the Obligation Month in the zone, excluding any additional obligations awarded to Intermittent Power Resources pursuant to Section III.13.2.7.6 that exceed the FCA Qualified Capacity procured in the Forward Capacity Auction and excluding any obligations procured in the Forward Capacity Auction that are terminated pursuant to Section III.13.3.4(c)) multiplied by the Capacity Clearing Price.

Zonal Peak Load Allocator is the Zonal Capacity Obligation multiplied by the zonal Capacity Clearing Price.

Total Peak Load Allocator is the sum of the Zonal Peak Load Allocators.

III.13.7.5.1.1.2 Annual Reconfiguration Auction Charge.

The total annual reconfiguration auction charge, for each Capacity Zone and each associated annual reconfiguration auction, is: (a) Capacity Load Obligation in the Capacity Zone; multiplied by (b) Capacity Zone Annual Reconfiguration Auction Costs divided by Zonal Capacity Obligation.

Where

Capacity Zone Annual Reconfiguration Auction Costs, for each Capacity Zone, are the Total Annual Reconfiguration Costs multiplied by the Zonal Peak Load Allocator and divided by the Total Peak Load Allocator.

III.13.7.5.1.1.9 CTR Pool-Planned Unit Charge.

The CTR Pool-Planned Unit charge is: (a) the Capacity Load Obligation in the Capacity Zone less the amount of any CTRs specifically allocated pursuant to Section III.13.7.5.4.5, multiplied by (b) CTR Pool-Planned Unit Cost divided by Total Zonal Capacity Obligation less the amount of any CTRs specifically allocated pursuant to Section III.13.7.5.4.5.

Where

The CTR Pool-Planned Unit Cost for each Capacity Zone is the sum of the amounts calculated pursuant to Section III.13.7.5.4.5 (b).

Total Zonal Capacity Obligation is the total of the Zonal Capacity Obligation in all Capacity Zones.

III.13.7.5.1.1.10. Failure to Cover Charge Adjustment.

The failure to cover charge adjustment, for each Capacity Zone, is (a) Capacity Load Obligation in the Capacity Zone; multiplied by (b) Zonal Failure to Cover Charges divided by Zonal Capacity Obligation.

Where:

Zonal Failure to Cover Charges are the product of: (1) the sum, for all Capacity Zones, of the failure to cover charges calculated pursuant to Section III.13.3.4(b), and; (2) the Zonal Peak Load Allocator and divided by the Total Peak Load Allocator.

Zonal Peak Load Allocator is the Zonal Capacity Obligation multiplied by the zonal annual reconfiguration auction clearing price as determined pursuant to Section III.13.3.4.

Total Peak Load Allocator is the sum of the Zonal Peak Load Allocators.

III.13.7.5.2. Calculation of Capacity Load Obligation and Zonal Capacity Obligation.

The ISO shall assign each Market Participant a share of the Zonal Capacity Obligation prior to the commencement of each Obligation Month for each Capacity Zone established in the Forward Capacity Auction pursuant to Section III.13.2.3.4.



memo

To: NEPOOL Markets Committee
From: Ryan McCarthy
Date: September 12-13, 2018
Subject: Delayed Commercial Resource Treatment

The ISO is requesting a vote on revisions to Market Rule 1 for the Delayed Commercial Resource project. The proposal contains two core design changes: 1) the removal of ISO mandatory demand bids for resources that are unable to satisfy all Critical Path Schedule (CPS) milestones by the start of the Capacity Commitment Period and 2) a new incentive structure that determines a monthly charge rate for resources that have not fully demonstrated their Capacity Supply Obligation (CSO).

The proposal recognizes that participants have the best information about the project development schedule and any associated risks or delays. This proposal appropriately shifts the responsibility of the decision to cover CSO to the participant and strengthens the incentives for participants to cover CSO as appropriate.

The specific proposal for the committee's consideration today has been presented during the meeting dates outlined below.

- June 6, 2018, agenda item #8
 - [Presentation 1](#)
- July 18, 2018, agenda item #8
 - [Presentation 2](#)
- August 15, 2018, agenda item #5
 - [Presentation 3](#)
 - [Redline Presentation](#)

TO: NEPOOL Participants

DATE: October 3, 2018

FROM: Joel Gordon
PSEG Energy Resources & Trade LLC

RE: **REVISED PROPOSAL** to Address Incentives to Cover Capacity Supply Obligations (CSO) for Delayed Projects. Agenda Item 6A

Following the distribution of the PSEG proposal earlier this week, we have received a significant amount of feedback which has caused us to rethink our approach. As noted in our earlier memo, our amendment does not seek to change the mechanism proposed or the ultimate objectives of this rule change, but offers a transitional mechanism as a compromise to address the fairness and equity of implementing these rules which would impose new costs and risk on resources *after* commitments had been obtained.

First, it became apparent that the rule changes proposed impact only a relatively small handful of market participants. But to those of us who are affected, the impacts are real and significant. And while we recognize that the rule changes will also affect all future new capacity, unlike us, they will have the ability to incorporate these rule changes into their commercial decision making as they participate in those future auctions. It is for this reason that this proposal seeks a transitional grace period on the implementation of the new failure to cover charge.

Second, there was confusion with the proposal's graduated transition period structure. Recognizing the underlying principle that those who relied on the rules at the time of the auction should be treated equally under a transition mechanism, we now propose to eliminate the graduated structure and to offer a simple, single, transition period applied equally to each of the capacity commitment periods 2019-2023.

Finally, a number of participants found the length of the transition period too long given the underlying objectives of the proposal. Many thought allowing the transition period to overlap with the Winter Capacity Period would undermine the effectiveness of the new rules during the transition. To that end, we now propose to shorten the transition period to the first three months from each of the Capacity Commitment Period start dates.

We appreciate your indulgence as we seek to find a reasonable outcome in our NEPOOL process. The following tariff changes reflect the revised proposal and are redlined against the ISO-NE proposal:

III.13.3.4. Covering Capacity Supply Obligations

(b) During a each of the Capacity Commitment Periods beginning on or before June 1, 2021, a failure to cover charge will apply beginning on Septemner 1 of that Capacity Commitment Period to any capacity resource which cleared in FCA associated with the start of that Capacity Commitment period and that has not demonstrated the ability to deliver the full amount of its Capacity Supply Obligation by the end of an Obligation Month. The failure to cover charge is the difference between a resource's monthly Capacity Supply Obligation and its Maximum Demonstrated Output, multiplied by the Failure to Cover Charge Rate, where:....

TO: NEPOOL Participants

DATE: September 30, 2018

FROM: Joel Gordon
PSEG Energy Resources & Trade LLC

RE: Proposal to Address Incentives to Cover Capacity Supply Obligations (CSO) for Delayed Projects.
Agenda Item 6A

The Participants Committee is being asked to vote on an ISO-NE proposal primarily designed to create new financial consequences for newly developed resources that obtain Capacity Supply Obligations in the Forward Capacity Auction. At a high level, the proposal effectively implements a monthly deficiency charge for units that do not declare commercial operation within a committed Capacity Delivery Month. While PSEG has no issue with this proposal for units that have not yet obtained a Capacity Supply Obligation, we do take issue with the implementation timeline in that it imposes entirely new obligations, risks, and potential costs on resources that have already cleared in prior Forward Capacity Auctions to which these resources were not previously subject.

It has been a principle and the practice of NEPOOL and ISO-NE over many years that, when possible, market rule changes that impact risk/return dynamics should be implemented over a timeframe that does not undermine the original economic decision. The Supplier Sector has always supported and been a strong advocate for the principle that changes to market design should be deliberate, incremental and implemented with ample notice. We can point to a number of components in our current market design that recognize this principle, including the use of a transition demand curve, the timing of the elimination of the RTR exemption, and the phase out of PER, among others.

It is not a secret that PSEG Power Connecticut is in the last nine months of an approximately \$600 million, thirty-plus month construction effort on its 485 MW natural gas and oil-fired CCGT project in Bridgeport, Connecticut. Throughout the construction effort, the company has met or exceeded every single one of its critical milestone targets. It is currently on track to achieve its Commercial Operation Date by May 31, 2019 as scheduled. And while we fully expect to come in on time, it cannot be disputed that the proposed rules will add significant new risk exposure to this construction project that did not before exist because that is precisely what these rules are designed to do. We view this as changing the rules in the middle of the game.

Extent of Issue for FCA 10:

New Generation: FCA10 cleared a total of 1,459MW of new generating resources. Of the generating resources, three major projects made up 90% of all new generator clears: Canal 3 at 333MW, Bridgeport 5 at 484MW and Burrillville Energy Center at 485MW. At this point, ISO-NE has filed to terminate the Burrillville CSO although it has already covered its CSO for the upcoming FCA10 delivery period knowing well in advance that it would not achieve COD in its first delivery year. Of the remaining 157MW of new generators, more than 50% were uprates on existing generators.

New Demand Response: There were 26 separate demand response resources which made up the 371MW of new DR that cleared in FCA10. Of those resources, the largest six resources (all over 25MW) comprise over 70% of all new demand response resources or 263MW.

The amount of new resources that cleared in each of the three Forward Capacity Auctions that would be subject to these new rules is shown below:

| | <u>Total New</u> | <u>Generation</u> | <u>Demand Response</u> |
|--------|------------------|-------------------|------------------------|
| FCA10: | 1,830 MW | 1,459MW | 371MW |
| FCA11: | 904MW | 264MW | 640MW |
| FCA12: | 681MW | 167MW | 514MW |

While the total quantity of new resources cleared has declined in each subsequent Delivery Period, the time to completion is further out. In other words, FCA 10 resources have only nine remaining months to deliver the resources committed in February 2016; FCA 11 resources have 21 months, and FCA12 resources have thirty-three months remaining.

PROPOSAL: In order to address the concern regarding fairness, while balancing the appropriate desire to improve the incentive for resources to cover their capacity supply obligations for the months in which new developed units will not be commercial, the following implementation timeframe is being offered:

- For new resources cleared in FCA10, the deficiency charge construct will not be applied within the first nine months following the FCA10 COD of June 1, 2019.
- For new resources cleared in FCA11, the deficiency charge construct will not be applied with in the first six months following the FCA11 COD of June 1, 2020.
- For new resources cleared in FCA12, the deficiency charge construct will not be applied within the first three months following the FCA12 COD of June 1, 2021.

We believe that this proposal offers a fair, simple and balanced approach to address the desire to improve upon the incentive for new resources clearing in the FCA to cover their Capacity Supply Obligations during months in which the units are delayed past their target CODs. The following tariff changes could be used to implement the above proposal (redlines shown against the ISO-NE proposal):

III.13.3.4. Covering Capacity Supply Obligations

(b) During ~~a the~~ Capacity Commitment Period beginning June 1, 2019, a failure to cover charge will apply beginning on March 1, 2020 to any capacity resource which cleared in FCA10 that has not demonstrated the ability to deliver the full amount of its Capacity Supply Obligation by the end of an Obligation Month. During the Capacity Commitment Period beginning June 2020, a failure to cover charge will apply beginning on December 1, 2020 to any capacity resource which cleared in FCA11 that has not demonstrated the ability to deliver the full amount of its Capacity Supply Obligation by the end of an Obligation Month. During the Capacity Commitment Period beginning June 1, 2021, a failure to cover charge will apply beginning on September 1, 2021 to any capacity resource which cleared in FCA12 that has not demonstrated the ability to deliver the full amount of its Capacity Supply Obligation by the end of an Obligation Month. During any Capacity Commitment Period beginning June 1, 2022 a failure to cover charge will apply to any capacity resource that has not demonstrated the ability to deliver the full amount of its Capacity Supply Obligation by the end of an Obligation Month. The failure to cover charge is the difference between a resource’s monthly Capacity Supply Obligation and its Maximum Demonstrated Output, multiplied by the Failure to Cover Charge Rate, where:....