UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

ISO New England Inc.	)	Docket Nos. EL18-182-000
	)	ER20-1567-000

FIRST ANSWER OF THE NEW ENGLAND STATES COMMITTEE ON ELECTRICITY

Pursuant to Rules 212 and 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("Commission" or "FERC"), 18 C.F.R. §§ 385.212 and 385.213 (2020), the New England States Committee on Electricity ("NESCOE") files this answer in the above-captioned proceeding. On May 15, 2020, NESCOE filed a protest ("NESCOE Protest") to ISO New England Inc.'s ("ISO-NE") energy security improvements ("ESI") filing.[1] The ISO-NE Filing proposed the ESI program, a suite of new day-ahead reserve products designed to procure options on real-time energy ("ESI Proposal"), in response to the Commission's July 2018 order.[2] The ISO-NE Filing included a description of three proposed New England Power Pool ("NEPOOL") modifications to the ESI program ("NEPOOL Proposal").

I. MOTION FOR LEAVE TO ANSWER

This answer responds in part to certain pleadings that were filed, or the Commission may consider to be filed, as protests or answers. To the extent necessary, NESCOE seeks leave to answer these filings. The Commission can allow a party to answer protests or answers where

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1 ISO New England Inc., Compliance Filing of Energy Security Improvements Addressing New England's Energy Security Problems, Docket Nos. EL18-182-000 and ER20-1567-000 (filed April 15, 2020) ("ISO-NE Filing"). Attachment B of the ISO-NE Filing included an April 15, 2020 internal report, Energy Security Improvements: Creating Energy Options for New England ("ESI White Paper"). Attachment C of the ISO-NE Filing included an April 2020 report from the Analysis Group, Inc., the Energy Security Improvements Impact Analysis ("Impact Assessment").

2 *ISO New England Inc.*, 164 FERC ¶ 61,003 at P 2 (2018) ("July 2018 Order").

good cause is shown. *See* 18 C.F.R. §§ 385.213(a)(2) and 385.101(e) (2020). NESCOE's answer meets this standard because it provides the Commission with a more complete and accurate record upon which to base its decision.[3] NESCOE's answer corrects inaccuracies and clarifies the record in this proceeding. Accordingly, there is good cause for the Commission to accept this answer.

II. ANSWER

A. ESI Presents an Inherent Risk of Uncompetitive Offers and a Unique Challenge to Mitigating Market Power

ISO-NE's Internal Market Monitor ("IMM") identifies concerns regarding the "unique challenge for market participants and market monitors alike" in valuing supply offers for the energy call option because "it is not only more complex than variable costs estimates, but it also does not lend itself neatly to the application of standard financial option valuation approaches."[4] The IMM discusses some of the factors, such as risk premiums, that contribute to the challenge in valuing, and thereby monitoring, ESI supply offers.[5] Mr. Wilson expressed similar concerns, explaining how ISO-NE's proposed design may lead to a wide range of valuations and risk premiums that would create risks of economic and physical withholding.[6]

These concerns are compounded by what appears to be continued, but understandable, confusion around ESI's novel core design element: the energy call option. At various points, the

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[3] *See, e.g., ISO New England Inc.,* 171 FERC ¶ 61,160 at P 25 (2020) (accepting answers because they provided information that assisted the Commission in its decision-making process); *HORUS Central Valley Solar 1, LLC, et al. v. California Independent System Operator Corp.*, 157 FERC ¶ 61,085 at P 29 (2016) (same); *PJM Interconnection, L.L.C.*, 139 FERC ¶ 61,165 at P 24 (2012) (same).

[4] Comments of the Internal Market Monitor of ISO New England Inc. on Energy Security Improvements, Docket Nos. EL18-182-000 and ER20-1567-000 (filed May 15, 2020) ("IMM Comments"), at 8 (footnote omitted).

[5] *Id.* at 9.

[6] NESCOE Protest, Attachment A, Prepared Testimony of James F. Wilson in Support of the Protest of the New England States Committee on Electricity ("Wilson Testimony"), at 49-50.

IMM characterizes the energy call option as a "real option,"[7] apparently viewing it as distinct from a financial option. However, the IMM also indicates, as did ISO-NE,[8] that the energy option is only a financial, and not a physical, obligation,[9] and cautions that the ESI design presents an "inherent risk" that suppliers could submit offers "with no intent and/or ability to cover their option position in real-time by providing energy and, instead, take the financial risk of an unfavorable closeout."[10] During discussion of the ESI design, stakeholders expressed uncertainty around what obligation ISO-NE's proposal imposed on suppliers.[11] The lack of a consistent, shared, and clear understanding of the energy call option undermines confidence in the oversight of the ESI products.

Moreover, the ESI Proposal contains no plan for addressing the "inherent risk" that the IMM identifies in connection with ISO-NE's novel design.[12] The IMM notes that the ability of ESI's financial consequences to induce performance in real-time remains to be seen, stating that the efficacy of ESI "in practice under various market conditions will need to be closely monitored and evaluated, including on a case-by-case basis, with the possible development of *ex*

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7 IMM Comments at 2, 4-5, 7-8, 10, 23; *see also id.* at 15 (ISO-NE's "design rests on a physical delivery obligation, performance of which likely will be incented by the adverse financial consequences of non-performance — i.e., paying the higher replacement costs of performance by an available resource as reflected in the real-time energy option closeout.").

8 *See, e.g.,* ISO-NE Filing at 52.

9 *See* IMM Comments at 6 ("[I]n offering and clearing ancillary services options in the day-ahead market, the participant has a financial position linked to delivering energy in real-time when the resource's energy is called upon (i.e. is dispatched), otherwise it is subject to potentially high financial settlement charges for not 'covering' its option obligation.") and 12-15 (discussing financial consequences of not physically delivering power in real-time).

10 *Id.* at 15; *see id.* at 11.

11 *See* Memo from ISO-NE Market Development to NEPOOL Markets Committee, Clarification of Day-Ahead Ancillary Service Award Obligation, Mar. 4, 2020, available at https://www.iso-ne.com/static-assets/documents/2020/03/a5_a_ii_iso_memo_clarification_on_da_ancillary_service_obligation.pdf.

12 IMM Comments at 11, 15.

ante rules or conducting of *ex post* investigations."[13] However, no assessment of market power or rules to effectively mitigate the exercise of such power accompany the ISO-NE Filing.[14]

Some market participants downplay the absence of a market power assessment and mitigation plan from the ESI Proposal.[15] Tellingly, while stating in general terms that the Commission can accept a section 206 filing subject to a further compliance filing, the Calpine/Vistra Filing contains no reference to a compliance proceeding where the Commission accepted as just and reasonable an entirely new market such as ESI that failed to address market power and left those core issues for a later compliance filing. The NESCOE Protest, on the other hand, demonstrates why the Commission should, consistent with its precedent and the scrutiny a reviewing court would apply, reject the ESI Proposal as premature and incomplete without rules to address market power.[16] The IMM's concerns provide further support for NESCOE's request.

In addition, while NESCOE supports the IMM's reporting commitments over the short-term of any ESI (or other major new market design) implementation,[17] such reports cannot, of course, be considered a substitute for a sufficiently developed approach for restraining the exercise of identified market power. These IMM reports would serve as a retrospective analysis of a program's competitiveness and performance. NESCOE appreciates the IMM's collaborative work with stakeholders in developing these market rule changes. However, at most, the IMM's reporting commitments would complement a program for mitigating market power and should

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13 *Id.* at 15.

14 *See* ISO-NE Filing at 70-71; *see also* IMM Comments at 19 (". . . evaluating the potential for exercise of market power and measures to mitigate will need to be addressed in a follow-up filing.").

15 *See* Comments and Answer of Calpine Corp. and Vistra Energy Corp., Docket Nos. EL18-182-000 and ER20-1567-000 (filed May 15, 2020) ("Calpine/Vistra Filing"), at 15-16.

16 NESCOE Protest at 27-32.

17 *See* IMM Comments at 19-22.

not be mistaken for the market rules that would need to be developed and filed with the Commission to address identified market power issues.

B. The Internal Market Monitor and Market Participants Raise Material Questions Regarding ESI's Ability to Address Fuel Security Issues and its Efficacy in Practice

The NESCOE Protest explains why the ESI Proposal is non-compliant with the July 2018 Order. It details why the ISO-NE Filing unilaterally changes the scope of the Commission's directive and fails to sufficiently address fuel security.[18]

Many commenters appear to share a view that ESI is an incomplete solution to fuel security without the addition of a seasonal forward market, or they seek additional analysis in connection with such a market.[19] NESCOE urges the Commission to take note of what it foreshadowed in its protest: because ESI fails to adequately address fuel security, ISO-NE will file with the Commission "yet another remedy at a later juncture, seeking to impose even more costs on consumers."[20] If that remedy is a seasonal forward procurement, that new market would be layered onto the novel and experimental ESI day-ahead reserve products that expose consumers to inefficiencies and unwarranted costs that more conventional approaches do not.[21]

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18 NESCOE Protest at 17-26.

19 *See, e.g.,* Initial Comments of Avangrid Service Company, Docket Nos. EL18-182-000 and ER20-1567-000 (filed May 15, 2020), at 3-4, 6-11; Comments of NRG Power Marketing LLC, Docket Nos. EL18-182-000 and ER20-1567-000 (filed May 15, 2020) ("NRG Comments"), at 7-10; Limited Protest of the Exelon Corporation, Docket Nos. ER20-1567-000 and EL18-182-000 (filed May 15, 2020) ("Exelon Protest"), at 12; IMM Comments at 4, 6-8; *see also* Comments of Advanced Energy Economy, Docket No. ER20-1567-000 (filed May 15, 2020) ("AEE Comments"), at 6 ("Without a clear sense of what a seasonal forward market will look like—or even a definitive signal that such a forward market will be incorporated in the future—it is impossible to analyze its effect on the overall cost and efficacy of the ESI proposal, its relative impact on different market participants, or the secondary impact it might have on other ISO-NE markets.")

20 NESCOE Protest at 25.

21 *See id.* at 46.

In addition, the IMM identifies why the asserted purity of ESI's market design—a contention Mr. Wilson rebuts[22]—is of little consequence if the program does not work in practice. For example, the IMM states that the ability of ESI "to be a viable market-based solution to regional energy security" cannot be answered until the program is tested.[23] The IMM further explains that ESI's success "is difficult to predict."[24] Once again, the IMM's doubts appear largely tied to the inherent risk in ESI's design that suppliers will not make competitive option offers and would instead "elect to sell energy options 'naked' without making additional fuel arrangements and just assume the closeout price risk, or find ways to hedge the closeout risk other than through fuel arrangements[.]"[25] This IMM analysis confirms the substantial leap of faith that ISO-NE asks the Commission to take in approving the ESI experiment as the long-term and high-cost market solution to address regional fuel security concerns.

NESCOE does not oppose ISO-NE working with stakeholders to explore the development of an appropriate seasonal forward market, but that process is flawed at the outset without a meaningful opportunity to consider whether such a market, together with a conventional day-ahead ancillary service approach (e.g., forward sales of reserves), is a more viable and cost-effective alternative to addressing fuel security.[26] Moreover, if ESI's success "likely depends" on the implementation of a seasonal forward market, which "may well be the *primary market* for clearing ancillary service obligations,"[27] then the Commission cannot

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22 *See id.* at 23-24, citing Wilson Testimony.

23 IMM Comments at 5, 19.

24 *Id.* at 3.

25 *Id.*; *see id.* at 11, 15.

26 *See id.* at 46-47.

27 *Id.* at 4, 7 (emphasis added).

sufficiently evaluate ESI's compliance with the July 2018 Order absent a more complete record.[28]

C. Suppliers' Claim that Services are Uncompensated Is Incorrect

Some generator interests complain that suppliers are providing free or uncompensated call option services or reserves.[29] Those assertions, however, start with the false premise that ISO-NE is required to secure commitments from every resource it may choose to call in real-time.[30] It is not. Mr. Wilson testifies that ISO-NE's operating plan "is reliable based on [day-ahead] commitments and expectations of load and supply" conditions in real-time.[31] Mr. Bergeron, a member of the Northeast Power Coordinating Council ("NPCC") Board of Directors, also testifies that mandatory reliability standards do not require ISO-NE to develop an operating plan that "account[s] for all the off-line resources it might have to commit if a contingency occurred or if reserves were depleted."[32]

Moreover, even accepting the premise of a "day-ahead service" under today's markets, generators do not explain what service consumers would in fact be paying to receive. Generators claiming that they are providing a "free" call option service fail to demonstrate how ISO-NE could be assured that suppliers are offering anything more than a "naked" option that, similar to the ESI design's "inherent risk," lacks assurance of advance fuel supply arrangements.

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28 *See* AEE Comments at 6-7.

29 *See* The New England Power Generators Association, Inc.'s Comments in Support of ISO New England Inc.'s Energy Security Improvements Proposal, Docket No. ER20-1567-000 (filed May 15, 2020) ("NEPGA Comments"), at 5, 9; Calpine/Vistra Filing at 12; Exelon Protest at 7; Motion to Intervene and Comments of FirstLight Power Inc., Docket Nos. EL18-182-000 and ER20-1567-000 (filed May 15, 2020) ("FirstLight Comments") at 9.

30 *See* Wilson Testimony at 74.

31 *Id.*

32 NESCOE Protest, Attachment B, Affidavit of Denis Bergeron in Support of the Protest of the New England States Committee on Electricity ("Bergeron Testimony"), at 6.

In any event, as the NESCOE Protest explains, suppliers are currently paid many mechanisms over for providing energy and reserves in real-time.[33] This existing suite of incentives includes capacity payments, compensation for energy and reserves, and bonus payments that may be substantially higher than the incentives needed to induce performance for most scarcity events.[34] ISO-NE's proposal to provide *additional* revenue to suppliers providing ancillary services under ESI should not be confused with an *absence* of revenue opportunities in the current markets for resources to provide energy and reserves.

D. ISO-NE's Impact Assessment Discredits Claims that the NEPOOL Proposal Undermines Incentives

The NESCOE Protest explained how the ESI Proposal failed to comply with the July 2018 Order and does not constitute a just and reasonable replacement rate. For those reasons, NESCOE asked the Commission to reject the ISO-NE Filing. Alternatively, if the Commission does not reject ESI, NESCOE expressed its support for the NEPOOL Proposal "as one way to mitigate some of the harm from a program that unnecessarily exposes consumers to excessive costs."[35]

Notwithstanding efforts to recast the magnitude of ESI's costs to consumers,[36] some commenters attack the NEPOOL Proposal as going too far in seeking to achieve a better balance between program costs and asserted benefits.[37] The record ISO-NE provides in support of ESI,

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33 NESCOE Protest at 51-54.

34 *Id.*

35 *Id.* at 7.

36 *See* NEPGA Comments at 8 (stating that ISO-NE provided evidence that ESI would work "at a modest cost to consumers relative to total wholesale costs.") (footnote omitted).

37 *See, e.g., id.* at 12; Calpine/Vistra Filing at 17-26; FirstLight Comments at 12-14; IMM Comments at 22-24; Cogentrix Energy Power Management, LLC's Intervention and Comments in Support of ISO New England Inc.'s Energy Security Improvements Design, Docket No. ER20-1567-000 (filed May 15, 2020), at 8-10.

however, demonstrates that the NEPOOL Proposal does not undermine ESI's incentives. One by one, the NESCOE Protest walks through each of the features of the NEPOOL Proposal and explains how the Impact Assessment shows, with "much room to spare," that the NEPOOL improvements would have little to no effect on ESI's generous revenues.[38] Far from "turning off" the ESI design,[39] the NEPOOL changes help restrain excessive revenues that are not just and reasonable.[40]

The Impact Assessment also fails to support generators' claim that ESI is designed to "produce a level of incentive approximately sufficient to permit a generator to enter a 10-day LNG call option contract" and that "ISO-NE's proposed market design meets that objective if averaged year-over year."[41] ISO-NE describes ESI's objective as providing a market structure to, more broadly, "create incentives for its fleet to invest in the energy supply arrangements and technologies on which the region depends."[42] Moreover, in none of the cases studied in the Impact Assessment did ESI provide incentives sufficient to "close the gap" between the cost of entering into a contract to provide LNG and the additional revenues provided by ESI.[43] The Impact Assessment does not support the characterization that ESI is designed to cover the full cost of LNG contracts.

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38 NESCOE Protest at 62-64.

39 IMM Comments at 22-23.

40 *See* NESCOE Protest at 33-47.

41 Calpine/Vistra Filing at 17-18.

42 ISO-NE Filing at 1 (footnote omitted).

43 Impact Assessment at 61 ("Incremental revenues are $2,066 per MW in the Frequent Case and $1,511 per MW in the Extended Case, as compared to an estimated gap of $2,705 per MW. Thus, these incremental revenue streams due to ESI would potentially incent some resources toward entering into such contracts that they otherwise would not enter into.").

E. Criticisms of the Strike Price Adder are Unsupported and Based on Flawed Analysis

The IMM claims that a $10/MWh adder to the strike price ("Strike Price Adder") would cause consumers to "pay a little less for a lot less" based on a hypothetical example provided in the ESI White Paper and an earlier ISO-NE presentation.[44] The IMM's discussion of the example, however, reveals a fundamental factual misunderstanding and leaps to an unsupported conclusion.

Contrary to the IMM's description, the ESI White Paper does not include a risk premium in any of the many examples discussed and neither does the presentation. In fact, the Wilson Testimony notes the absence in the ESI White Paper of discussion regarding how offers to provide the energy option will be formulated and is silent on risk premiums.[45] For clarity, the $3.5 included in the offer price in the example that the IMM cites is the *expected cost* of the settlement, not a risk premium.[46]

The IMM provides an abrupt conclusion regarding the Strike Price Adder that is entirely unsupported: "So a $10 increase in the strike price would result in only a $3.5 decrease in the resource's option offer price. In other words, consumers would pay a little less for a lot less (and sellers would be paid a little less for taking on a lot less risk)."[47] The IMM makes no case for this wide claim (or the statement about seller risk and expected revenue). The Wilson Testimony also undercuts the claim's validity. As Mr. Wilson testifies, the reduction in settlement should reduce energy option offer prices and clearing prices in a similar manner, resulting in what is

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[44] IMM Comments at 23-24.

[45] Wilson Testimony at 33-34.

[46] ESI White Paper at 89 ("The assumptions about the offer prices for day-ahead ancillary services from Generators 2, 3, and 4 are consistent with profitable offers for those services from each generator . . . .").

[47] IMM Comments at 24.

"likely almost a wash."[48] In addition, lower option clearing prices can, through co-optimization, also lead to lower day-ahead energy prices for which the volumes are much larger.[49] This can result in substantial consumer savings that the IMM's example fails to recognize.

The IMM also repeats ISO-NE's false assertion that the Strike Price Adder could have a greater impact under stressed market conditions.[50] The Wilson Testimony addressed in detail the faulty analysis underlying this claim.[51]

The New England Power Generators Association ("NEPGA") cites to the same ISO-NE analysis of the potential impact of the Strike Price Adder that the Wilson Testimony proves to be flawed.[52] NEPGA provides no new information, simply arguing that less money is less incentive, and the corollary that more money ensures a greater incentive.[53] But paying a resource more than is needed to provide a service does not mean that consumers are getting more reliability.[54] In any case, NEPGA ignores the fact that ESI's incentive levels with the modest Strike Price Adder remain strong. ISO-NE's evidence in support of ESI shows only a *de minimis* effect on revenues, with an estimated reduction of less than 1% in the severe winter case.[55]

NEPGA also asserts that "the Strike Price Adder interferes administratively with proper price formation and price signals" and contends that by reducing day-ahead option prices, "the Strike Price Adder causes the day-options [*sic*] to price not strictly on marginal costs,

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48 Wilson Testimony at 84.

49 *See id.* at 37 (noting that through co-optimization, higher energy option prices can lead to higher energy prices).

50 IMM Comments at 24-25.

51 Wilson Testimony at 87-89.

52 NEPGA Comments at 18.

53 *See id.* at 17-20.

54 *See NSTAR Elec. & Gas Corp. v. FERC*, 481 F.3d 794, 803 (D.C. Cir. 2007) (stating that reasonable rates are those "not materially exceeding the range needed to assure availability of the needed generating capacity.").

55 NESCOE Protest at 63.

opportunity costs, and risk factors, but as skewed by an arbitrary, administrative risk reduction adjustment."[56] These concerns are misplaced. As an initial matter, the proposed energy call option is a novel market design feature that seeks to create a new incentive; it is premature to claim that the price formation and price signals based on the strike price that ISO-NE proposes to set are "proper," and that any other prices and signals (such as would result from a somewhat higher strike price) are not.

In addition, as the ESI White Paper explains, with strike prices at the expected real-time energy price, or close to this level (as occurs with the Strike Price Adder), the energy option creates the intended incentives.[57] The ESI White Paper also explains that in the extreme case with a strike price higher than the highest possible real-time energy price, the energy option does nothing: settlements, offer prices, and clearing prices for the energy option would be zero.[58] But introducing the untested energy option incentive at something less than its full potential value is not the same as a "skewed" price, as NEPGA alleges without support.[59]

FirstLight Power Inc. ("FirstLight") argues that the Strike Price Adder would result in undue discrimination among resource owners.[60] The Wilson Testimony explains why that assertion fails in practice. Addressing the concern that the Strike Price Adder could affect the selection of energy and ancillary services providers, Mr. Wilson discusses how offers to provide the energy option will not strictly reflect marginal costs, due to participant-specific variations in

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56 NEPGA Comments at 20-21.

57 *See* ESI White Paper at 74-76.

58 *See id.* at 75.

59 NEPGA Comments at 21.

60 FirstLight Comments at 12-13.

real-time prices, expected settlements, related risk premiums, and costs to arrange fuel, among other variations.[61]

FirstLight also alleges that a Strike Price Adder would "remov[e] the opportunity" for resources with marginal cost above the forecasted real-time price but below the strike price.[62] It further asserts that the Strike Price Adder would reduce incentives because a "resource's risk of being unable to operate in real-time would be lower" if the adder is applied "since the day ahead reserve call option close-out risk does not begin until the [real-time price] exceeds the $10/MWh higher threshold."[63] These arguments, however, reflect a misunderstanding that Mr. Wilson addresses in his testimony. As he explains, reducing the settlement does not reduce the incentive created by the energy option by the same amount.[64] Mr. Wilson testifies that resources have an incentive to acquire fuel based on real-time price expectations, *without* the energy option.[65] The option creates some *additional* incentive only for resources that believe their output affects real-time prices.[66] And even for those resources, the impact on incentives of a higher strike price could be a very small fraction of the increase because only price outcomes below the strike price are involved.[67]

FirstLight attempts to discredit the Strike Price Adder by claiming that it lacks meaningful analysis in support of the change.[68] As an initial matter, neither the energy option,

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61 Wilson Testimony at 89-90.

62 FirstLight Comments at 10.

63 *Id.*

64 Wilson Testimony at 84.

65 *Id.*

66 *Id.*

67 *Id.*

68 FirstLight Comments at 11.

ISO-NE's proposed strike price, nor the Strike Price Adder are backed by any historical analysis of the operation of the novel energy call option market design feature because it does not appear to exist *in any market for any good or service anywhere.*[69] Because this market design element is novel and untested, it makes sense to proceed carefully to reduce the risk of unintended outcomes and unwarranted consumer costs, as all of the NEPOOL changes seek to accomplish.

In any case, the Strike Price Adder is backed by several independent analyses. As discussed above, the Impact Assessment included scenarios showing very little impact of the Strike Price Adder on the generous revenues ESI would provide. The Wilson Testimony provides additional detailed analysis, demonstrating how the adder helps protect consumers from excessive costs while not materially undermining ISO-NE's fuel security objectives.[70] In addition, ISO-NE's External Market Monitor ("EMM") analyzed the proposed Strike Price Adder and supported the change because it provides critical consumer protections while not undermining ESI's incentives.[71]

F. Claims that Replacement Energy Reserve is Needed Year-Round to Meet Reliability Standards or Address Non-Fuel Security Issues are Without Merit

As discussed above, ESI's experimental approach appears to be without precedent in any region and, perhaps, in any market for products or services altogether.[72] ISO-NE has elected to pursue ESI as an alternative approach to satisfy reliability standards, an option that the NESCOE

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69 *See* Wilson Testimony at 13 ("The Energy Option is a novel approach that has not been tried in any other region; nor can [ISO-NE] point to an analogous approach in a market for some other product or service.")

70 *Id.* at 76-91.

71 NESCOE Protest at 60-61, citing Memorandum from David B. Patton and Pallas LeeVanSchaick of Potomac Economics to ISO New England and NEPOOL Markets Committee, NESCOE Proposal to Raise the Strike Price of Energy Call Options, Mar. 20, 2020, available at https://www.iso-ne.com/static-assets/documents/2020/03/a2_b_vi_emm_memo_re_nescoe_strike_price_amendment.pdf.

72 *See* Wilson Testimony at 13; *see also* Motion to Intervene and Comments of the ISO-New England External Market Monitor, Docket Nos. EL18-182-000 and ER20-1567-000 (filed May 15, 2020) ("EMM Comments"), at 9-11.

Protest demonstrates is unjustified, excessive, and unlawful. The NEPOOL Proposal seeks to moderate ISO-NE's oversized program by, *inter alia*, restricting Replacement Energy Reserve ("RER") to the winter months. Despite the lack of any requirement for ISO-NE to meet reliability standards through ESI or to address fuel security outside the winter period, some commenters argue against this change. In so doing, they offer a series of false choices.

First, ESI is not a choice between satisfying mandatory reliability standards or not. Claims or suggestions that these standards require RER at all, let alone over the entire calendar year, mischaracterize the requirements.[73] As the NESCOE Protest demonstrates, there is no singular path for compliance and the flexibility accorded to satisfy such standards is not an open-ended license to overcharge consumers.[74]

Moreover, like the ISO-NE Filing, no commenter establishes a correlation between a New England shortage event and a fuel security issue.[75] Furthermore, the additional shortage event examples that commenters provide all occurred prior to the June 2018 implementation of the pay-for-performance program that ISO-NE designed and implemented to incentivize the provision of energy and reserves when the system is at greatest need.

Neither ISO-NE nor any commenter asserts that ISO-NE is currently violating applicable reliability standards without ESI.[76] RER is an extreme outlier among approaches to satisfy the

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[73] *See, e.g.,* Calpine/Vistra Filing at 13; NEGPA Comments at 17; EMM Comments at 5; Comments of Dominion Energy Services, Inc., Docket Nos. EL18-182-000 and ER20-1567-000 (filed May 15, 2020) ("Dominion Comments"), at 3-4.

[74] *See* NESCOE Protest at 33-35.

[75] *See, e.g.,* NEPGA Comments at 17; Dominion Comments at 4-5. The NESCOE Protest explains how the isolated September 3, 2018 scarcity event that ISO-NE references fails to support the expansion of ESI across all months. NESCOE Protest at 22.

[76] *See* Wilson Testimony at 71-72 (describing ISO-NE's current compliance with reserves and reserve restoration standards); Bergeron Testimony at 2 (recounting that ISO-NE confirmed during the stakeholder process that "it is already in compliance with all of these standards and procedures under its existing construct, without ESI.").

standards, with no other region appearing to procure a reserve product to address a *third* contingency event.[77] Also, contrary to NEPGA's claim, the procurement of RER (and ESI as a whole) is not "self-disciplining" and does not price reliability according to its system value.[78] The Wilson Testimony rebuts that assertion, explaining how ISO-NE overvalues ESI by failing to reflect a diminished marginal reliability value in the quantities purchased.[79] ESI overcharges consumers. ISO-NE's election to use ESI to satisfy mandatory reliability standards does not immunize it, or the Commission, from meaningfully considering program costs and associated benefits.

Second, the choice before the Commission is not a binary decision between an ESI/in-market outcome and out-of-market actions to restore reserves.[80] As a starting point, context is important. According to the EMM, because of an excess of available reserves, last year ISO-NE committed "system-level energy and reserve needs . . . on *just two days* after the day-ahead market during the months of June, July, and August."[81] Supplemental commitments occurring on just two days over the entire peak summer season hardly demonstrates the need for an entirely new seasonal (or year-round) RER market.

Nonetheless, the premise of such a binary choice is false. ISO-NE never represents that ESI would entirely eliminate out-of-market actions over any period of time, including the non-winter months. Nor has ISO-NE or any commenter—or the July 2018 Order for that matter—established that such an approach would be realistic or cost-effective. In fact, the Wilson Testimony explains that over 90% of ISO-NE's reliability commitments outside the market in

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77 *See* NESCOE Protest at 34.

78 NEGPA Comments at 15.

79 *See* NESCOE Protest at 35-37.

80 *See, e.g.,* EMM Comments at 6; NEPGA Comments at 16; Calpine/Vistra Filing at 12.

81 EMM Comments at 5 (emphasis added).

2018 were made to address local second contingencies.[82] Mr. Wilson concludes that because ESI would acquire day-ahead ancillary services "on a system-wide basis, it is not clear whether and to what extent ESI would reduce these actions that address local circumstances."[83] In any event, more conventional approaches to ancillary services may be capable of reducing out-of-market actions while guarding consumers from unwarranted costs that an experimental ESI may impose.[84]

Third, NESCOE has already explained why ISO-NE's efforts to cast RER as needed in all months to account for renewable resources are unsupported and sidestep an ongoing collaborative regional process relating to future grid needs.[85] Commenters' attempt to resuscitate these claims are similarly conclusory.[86] ISO-NE never analyzed an increased integration of clean energy generation in designing ESI and blanket statements that the program is needed to address an evolving resource mix are not substantial evidence.[87]

NEPOOL's restriction of RER to the winter months would protect consumers from unintended outcomes and unwarranted consumer costs arising from the full implementation of a

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82 Wilson Testimony at 73-74.

83 *Id.* at 74.

84 NESCOE Protest at 46-47.

85 *See id.* at 22, 54.

86 *See, e.g.,* NEPGA Comments at 13; Calpine/Vistra Filing at 13; *see also* EMM Comments at 5.

87 *See* AEE Comments at 24-25 ("AEE agrees that creation of new ancillary services and other market products to address future system needs driven by increased adoption of cost-effective advanced energy resources like renewables is the right directional approach. Unfortunately, it has not been demonstrated that ESI, in total, is an effective or efficient solution to manage the integration of variable renewable energy resources. AEE does not refute that ESI may provide some benefits with respect to managing the day-to-day uncertainty associated with increased renewable energy penetration, but we have not seen evidence that ESI would be sufficient to fulfill this need, and we certainly have not seen evidence that ESI would be the optimal solution. The ESI proposal was not analyzed in the context of how it would help the region to integrate higher levels of variable renewable energy generation, nor was it designed to meet this need, nor even was the efficacy of the design in meeting the energy security objectives it *is* intended to address fully tested in the context of a changing resource mix, as explained above.") (emphasis in original).

novel and untested market design. ISO-NE is not precluded from making adjustments as system conditions evolve or circumstances change. Nor is the Commission without other tools. For example, if the Commission is concerned about the potential for fuel security issues in the non-winter period, it could require ISO-NE to make periodic filings identifying any specific emerging risk to inform the Commission's consideration of further action.

G. The Record Fails to Support Generators' Claims that Removing the Allowance for Load Forecast Error Undermines ISO-NE's RER Objectives

Generators attack the NEPOOL Proposal's elimination of the allowance for load forecast error because, they claim, "NEPOOL has not demonstrated that the resulting incentive would be sufficient to induce generators to make sufficient fuel arrangements."[88] To extent the Commission gives any weight to this claim, it must grant NEPOOL's proposed change. As explained in the NESCOE Protest, the Impact Assessment failed to consider the allowance for load forecast error in examining ESI's quantitative and qualitative effects.[89] NESCOE discusses how one of the Impact Assessment's scenarios is a reasonable proxy for inclusion of the load forecast error allowance, demonstrating that ISO-NE's analysis in support of ESI shows that the load forecast error allowance would provide revenues that are "an order of magnitude more than the cost of securing fuel oil."[90] Generators claiming that there is no analysis to support removing the load forecast error either ignore the "proxy" scenario or highlight the lack of evidence to support the inclusion of load forecast error in the ISO-NE Filing.

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88 Calpine/Vistra Filing at 21.

89 *See* NESCOE Protest at 56-57.

90 *Id.*

Additionally, contrary to generators' assertion, ISO-NE does not need an allowance for load forecast error to meet its RER objectives.[91] The ISO-NE Filing explains that the proposed tariff revisions would set the RER quantity to what ISO-NE has identified as needed to meet reliability standards for operating reserves and contingency reserves *without* an allowance for load forecast error.[92] The NESCOE Protest explains why supplementing ISO-NE's procurement of RER by adding quantities for load forecast error would make excessive charges even worse and is unjust and unreasonable.[93] Furthermore, while ISO-NE's current proposal exposes consumers to excessive costs, it is not foreclosed from proposing the addition of an appropriate allowance at a later time *after* meaningful stakeholder discussions and a more defined demonstration of need and how it would calculate such an allowance.[94]

III. CONCLUSION

For the reasons discussed herein, NESCOE respectfully requests that the Commission accept and consider NESCOE's answer in this proceeding.

Respectfully submitted,

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91 *See* Calpine/Vistra Filing at 21-22.

92 *See* ISO-NE Filing at 38-40, 58-59.

93 *See* NESCOE Protest at 56; *see also id.* at 35-41.

94 *See id.* at 58.

CERTIFICATE OF SERVICE

In accordance with Rule 2010 of the Commission's Rules of Practice and Procedure, I hereby certify that I have this day served by electronic mail a copy of the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Cambridge, Massachusetts this 1st day of June, 2020.

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