

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

ISO New England Inc.	)	Docket No. ER14-1639-000
	)	
New England Power Pool	)	
Participants Committee	)	
	)	

**MOTION TO INTERVENE AND COMMENTS OF  
THE NEW ENGLAND STATES COMMITTEE ON ELECTRICITY**

Pursuant to Rules 212 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”) and the Commission’s April 2, 2014 Notice of Filings #1, the New England States Committee on Electricity (“NESCOE”) hereby files this Motion to Intervene and Comments in the above-captioned proceeding.<sup>1</sup>

NESCOE, representing the unanimous view of the six New England states, supports the April 1, 2014 joint ISO New England Inc. (“ISO-NE”) and New England Power Pool (“NEPOOL”) Participants Committee (the “Filing Parties”) filing of proposed tariff revisions to establish a system-wide demand curve associated with the Forward Capacity Market (“FCM”) (“Demand Curve Filing”).<sup>2</sup> As discussed below, the interrelated package of market reforms comprising the Demand Curve Filing presents an opportunity to improve outcomes for both supply resources and electricity customers, as well as resolve an issue of great importance to the New England states and the long-term sustainability of the market.

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<sup>1</sup> 18 C.F.R. §§ 385.212 and 385.214 (2013).

<sup>2</sup> Capitalized terms not defined in this filing are intended to have the meaning given to such terms in the ISO-NE Transmission, Markets and Services Tariff.

## I. COMMUNICATIONS

Pursuant to Rule 203,<sup>3</sup> the persons to whom correspondence, pleadings, and other papers in regard to this proceeding should be addressed and whose names are to be placed on the Commission's official service list are designated as follows:

Benjamin S D'Antonio\*  
Counsel & Analyst  
New England States Committee  
on Electricity  
655 Longmeadow Street  
Longmeadow, MA 01106  
Tel: (603) 828-8977  
Email: [BenDAntonio@nescoe.com](mailto:BenDAntonio@nescoe.com)

Jason Marshall  
Senior Counsel  
New England States Committee  
on Electricity  
655 Longmeadow Street  
Longmeadow, MA 01106  
Tel: (617) 913-0342  
Email: [JasonMarshall@nescoe.com](mailto:JasonMarshall@nescoe.com)

\* Person designated for service.

## II. MOTION TO INTERVENE

NESCOE is the Regional State Committee for New England. It is governed by a board of managers appointed by the Governors of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont and is funded through a regional tariff that ISO New England administers.<sup>4</sup> NESCOE's mission is to represent the interests of the citizens of the New England region by advancing policies that will provide electricity at the lowest reasonable cost over the long term, consistent with maintaining reliable service and environmental quality.

This proceeding is related to the FCM, New England's resource adequacy market. The proposed tariff revisions, if accepted, will affect the prices that capacity resources are paid and the costs ultimately charged to electric consumers. Moreover, the outcome of this proceeding will determine the extent to which renewable resources constructed in furtherance of state laws

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<sup>3</sup> 18 C.F.R. § 385.203 (2013).

<sup>4</sup> *ISO New England, Inc.*, 121 FERC ¶ 61,105 (2007).

and regulations will be counted toward the region's resource adequacy goals. This proceeding has system reliability, consumer cost, and environmental implications. NESCOE has a direct, immediate, and substantial interest in this proceeding, which will not be adequately represented by any other party. In addition, NESCOE's participation in this proceeding as the representative of the New England Governors will serve the public interest. NESCOE respectfully requests leave to intervene in this matter.

### **III. BRIEF DESCRIPTION OF THE DEMAND CURVE FILING**

The Filing Parties have submitted to the Commission proposed tariff revisions that, among other things, would amend: (1) the market rules for the FCM to incorporate a system-wide downward-sloping demand curve (the "Demand Curve") and associated net cost-of-new-entry value ("Net CONE"), and (2) the market monitoring rules to establish a limited exemption for certain renewable resources from buyer-side mitigation (the "Renewables Exemption").<sup>5</sup> The Filing Parties have requested that the proposed tariff revisions become effective on June 1, 2014, in time for the ninth Forward Capacity Auction ("FCA") corresponding to the 2018-2019 capacity commitment period.

In response to the Commission's January 24, 2014 order,<sup>6</sup> ISO-NE accelerated the stakeholder process initiated in January 2014 to develop a downward-sloping demand curve.<sup>7</sup> Ultimately, ISO-NE, NESCOE, and just over 74% of NEPOOL market participants coalesced around a system-wide demand curve designed to achieve, over the long-term, a one-in-ten-years loss of load expectation ("1-in-10 LOLE"), with the following parameters: (a) a price cap of 1.6x

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<sup>5</sup> *ISO New England Inc., New England Power Pool Participants Committee; Demand Curve Changes to be effective 6/1/2014 (April 1, 2014) ("Demand Curve Filing").*

<sup>6</sup> *ISO New England Inc.*, 146 FERC ¶ 61,038 (January 24, 2014).

<sup>7</sup> January 29, 2014 NEPOOL Markets Committee Memorandum, available at [http://www.iso-ne.com/committees/comm\\_wkgrps/mrkt comm/mrkt/mtrls/2014/feb62014/a02\\_fcm\\_demand\\_curve\\_mc\\_proposed\\_schedule.pdf](http://www.iso-ne.com/committees/comm_wkgrps/mrkt comm/mrkt/mtrls/2014/feb62014/a02_fcm_demand_curve_mc_proposed_schedule.pdf).

Net CONE, subject to a minimum of the gross cost-of-new-entry (“Gross CONE”);<sup>8</sup> (b) an intersection with the price cap at a one-in-five-years loss of load expectation (“1-in-5 LOLE”); and (c) an intersection with the price floor (\$0/kW-month) at a one-in-eighty-seven-years loss of load expectation (“1-in-87 LOLE”).<sup>9</sup> The proposed system-wide Demand Curve intersects with New England’s Installed Capacity Requirement net of Hydro Quebec Interconnection Capability Credits (“NICR”) at \$13.20/kW-month, based on the Net CONE value.

The Renewables Exemption would permit a limited quantity of certain new renewable resources to offer their capacity in the FCA at prices below the associated Offer Review Trigger Prices (“ORTP”). To qualify for the exemption, resources must be eligible under any New England state’s renewable and alternative portfolio standards (or, in the case of a New England state with goals rather than a standard, the resource must qualify as renewable under such goals), as in effect on January 1, 2014.<sup>10</sup> The resource must also be geographically located in a state in which it is qualified as renewable. In addition to resource type and geographic location, eligibility for the exemption is based on: (i) the resource’s receipt of out-of-market revenues, and (ii) the resource’s election to be exempt from the market monitor’s minimum offer price rules (“MOPR”).<sup>11</sup>

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<sup>8</sup> The CONE value is based on a combined-cycle natural gas-fired electric generator reference technology. The Gross CONE for a 2x1 combined-cycle generator hypothetically located in Lowell, Massachusetts is \$14.04/kW-month. After subtracting estimated energy and ancillary services market revenues from the Gross CONE value, the resulting Net CONE value is \$11.08/kW-month. This value will be recalculated at least every three years, and a selection of the inputs to this calculation will be automatically updated each year based on corresponding index values. Demand Curve Filing, Transmittal Letter at 8-10 and Tariff Section III.13.2.4.

<sup>9</sup> See Demand Curve Filing, Transmittal Letter at 6-8 and Tariff Section III.13.2.2.

<sup>10</sup> *Id.*, Transmittal Letter at 12-13, Testimony of Robert G. Ethier (“Ethier Testimony”) at Section VII, and Tariff Section III.13.1.1.7.

<sup>11</sup> *Id.* See also Demand Curve Filing, Tariff Section III.13.1.1.2.9 and ISO-NE Market Rule 1 Appendix A Section III.A.21.2.

The Renewables Exemption is bounded by a MW cap, with provisions for handling surplus and unused cap space. Absent a limited provision for situations in which there is unused cap space (described below), the Renewables Exemption would only allow 200 MWs of resources meeting eligibility criteria to offer below the respective resource type's ORTP in any given FCA.<sup>12</sup> If more than 200 MWs of new, eligible resources elect for the exemption in an auction cycle, then the resources electing exemption treatment for that auction will be MW-prorated down to 200 MWs.<sup>13</sup> Such resources can obtain a Capacity Supply Obligation for their prorated MWs through bilateral contracts or annual FCM reconfiguration auctions and/or offer their prorated MWs in the subsequent FCA.<sup>14</sup> If less than 200 MWs elect exemption treatment in a given FCA, such unused cap space will roll over to the following FCA, but will expire after two years and in no event can exceed 600 MWs.<sup>15</sup> For example, if no eligible resources elect exemption treatment for two consecutive auction cycles, the Renewables Exemption cap would be limited to 600 MWs in the next auction.

The proposed tariff revisions also include an extension to the period of time that new resources may elect to receive the clearing price associated with their first auction.<sup>16</sup> Currently, new resources may elect to receive the FCM clearing price associated with the FCA in which the resource first clears for up to five capacity commitment periods, a so-called "locked-in" rate for this number of years. The Filing Parties propose to increase the potential timeframe for new resources to receive this clearing price to seven years ("Seven Year Lock-in").

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<sup>12</sup> *Id.*, at Tariff Section III.13.1.1.2.10 and Ethier Testimony at Section VII.

<sup>13</sup> *Id.*, at Tariff Section III.13.1.1.2.10(a).

<sup>14</sup> See Minutes of the March 19, 2014 NEPOOL Markets Committee meeting at 7, available at [http://www.iso-ne.com/committees/comm\\_wkgrps/mrks\\_comm/mrks/mins/2014/mc\\_minutes\\_140319.doc](http://www.iso-ne.com/committees/comm_wkgrps/mrks_comm/mrks/mins/2014/mc_minutes_140319.doc).

<sup>15</sup> Demand Curve Filing, at Tariff Section III.13.1.1.2.10(d).

<sup>16</sup> *Id.*, Transmittal Letter at 10-11 and Tariff Sections III.13.1.1.2.2.4 and III.13.1.4.2.2.5.

## IV. COMMENTS

### A. The Demand Curve Filing Reflects an Interrelated Package of Changes

NESCOE supports the Demand Curve Filing. NESCOE worked with ISO-NE and its technical advisors, NEPOOL market participants, and other stakeholders to collectively develop this broadly supported proposal over the last several months. As a whole, the Demand Curve Filing represents a reasonably balanced package of proposed market rule changes. For this reason, while the Demand Curve Filing includes elements that NESCOE would be unlikely to support if viewed in isolation, all six New England states join ISO-NE and a majority and significant cross-section of NEPOOL market participants and stakeholders in supporting the Demand Curve Filing.

The Filing Parties describe a number of positive outcomes expected from the implementation of the proposed tariff revisions.<sup>17</sup> These include reduced price volatility in the FCM resulting from employment of a sloped curve, thereby providing a measure of revenue stability for capacity resources and moderating consumer cost impacts. The Net CONE value should provide adequate incentives for retaining existing resources and, in combination with the Seven Year Lock-in, attracting new resources. The Renewables Exemption increases the likelihood that resources built to meet state laws and regulations will be counted toward the region's resource adequacy goals. In turn, both the Demand Curve itself and the bounds placed around the Renewables Exemption should mitigate any price impacts associated with the exemption, achieving a reasonable balance between efficient markets and state public policies.

In short, these capacity market reforms work together to align the incentives for resource adequacy, financial stability, consumer cost impacts, market power mitigation, and state

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<sup>17</sup> Demand Curve Filing, Transmittal Letter at 7-8.

statutory requirements.<sup>18</sup> Indeed, NESCOE would not likely support core features of the Demand Curve Filing if viewed in isolation and not as part of an overall balanced design.

For example, the proposed Net CONE value is higher than all of the zones in PJM and NYISO, except for New York City. Table 1 below compares Net CONE values in the eastern ISO/RTOs.

**Table 1: Net CONE Values in Eastern ISO/RTO Capacity Markets**

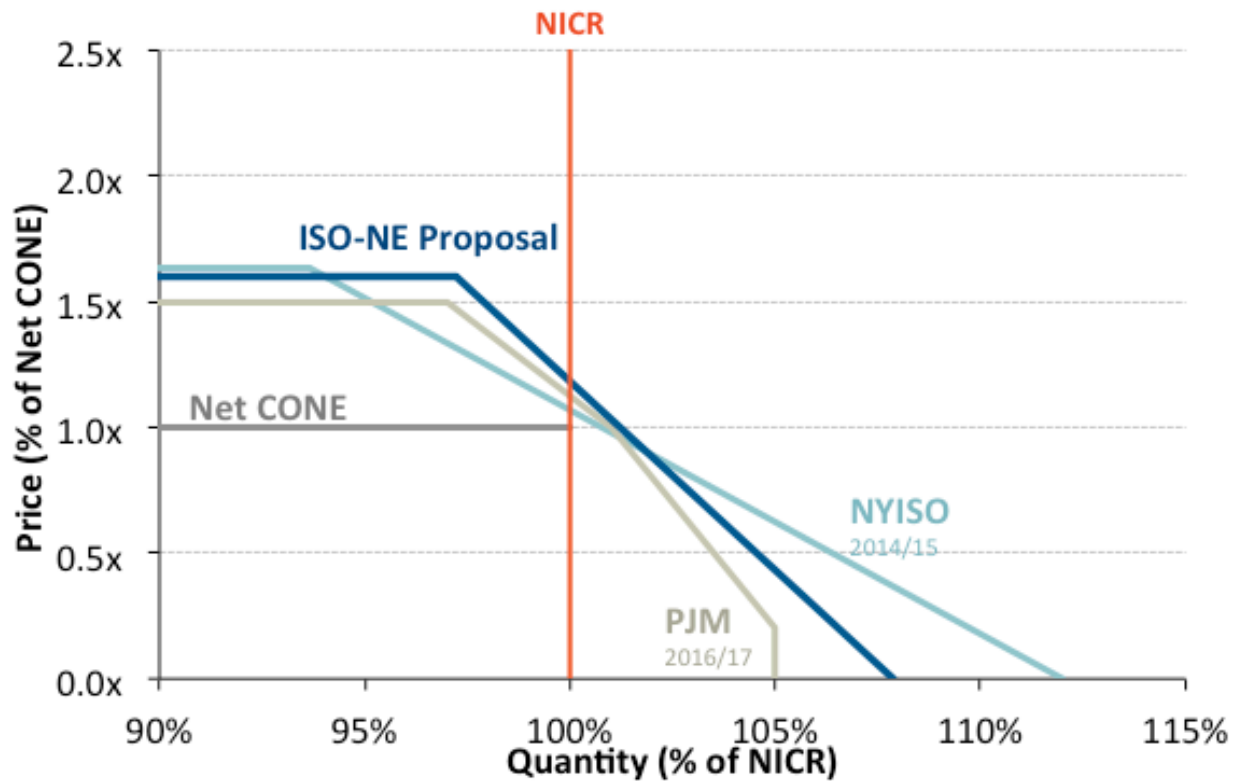
<b>ISO/RTO</b>	<b>Zone</b>	<b>Net CONE (\$ / kW-month)</b>
<b>PJM<sup>19</sup></b>	RTO	\$10.08
	MAAC	\$8.98
	EMAAC, PS, PS-N, DPL-S	\$10.50
	SWMAAC, PEPCO, BGE	\$8.98
	COMED, ATSI, Cleveland	\$10.73
<b>NYISO<sup>20</sup></b>	NYCA	\$8.14
	NYC	\$15.97
	LI	\$7.30
	NCZ	\$10.70
<b>ISO-NE</b>	Rest-of-System	\$11.08

<sup>18</sup> The system-wide downward-sloping demand curve replaces administrative pricing rules whose purpose is to protect against seller-side market power to establish just and reasonable prices for existing resources. Ethier Testimony at 27.

<sup>19</sup> PJM RPM Auction User Information 2017/2018 Planning Period Parameters Report (February 5, 2014), available at <http://www.pjm.com/~media/markets-ops/rpm/rpm-auction-info/2017-2018-rpm-bra-planning-parameters-report.ashx>. Table 4's ICAP Terms Net CONE values for 2017/2018 were converted to a \$ / kW-month basis.

<sup>20</sup> NYISO 2014-2017 Demand Curve Reset (March 3, 2014), available at [http://www.nyiso.com/public/webdocs/markets\\_operations/market\\_data/icap/Reference\\_Documents/2014-2017%20Demand%20Curve%20Reset/Demand\\_Curve\\_Reset/2014-2017%20Demand%20Curve%20Parameters%20and%20Demand%20Curves.pdf](http://www.nyiso.com/public/webdocs/markets_operations/market_data/icap/Reference_Documents/2014-2017%20Demand%20Curve%20Reset/Demand_Curve_Reset/2014-2017%20Demand%20Curve%20Parameters%20and%20Demand%20Curves.pdf). To facilitate comparison with three-year forward annual capacity commitment period markets, the Annual ICAP Revenue Requirement was converted to a \$ / kW-month basis. 2016/2017 values were extrapolated to 2018/2019 based on NYISO's 2.2% escalation factor.

**Figure 1: Demand Curves in Eastern ISO/RTO Capacity Markets<sup>21</sup>**



Moreover, the Demand Curve slope is steeper, and thus more generous to resources, than both PJM’s and NYISO’s demand curves when supply is tight and PJM’s when there is excess supply. Compared with the demand curves in other eastern ISO/RTOs, the incentives in the Filing Parties’ proposal, viewed alone, would be perceived by the States as one-sided. However, the reforms in the Demand Curve Filing interact with and complement each other, representing a suite of FCM changes that together form the region’s best opportunity for improved functioning of the wholesale electricity markets and accommodation of state policies. NESCOE’s support is grounded in this interrelated package of tariff revisions.

<sup>21</sup> Graphics provided by The Brattle Group in the NEPOOL stakeholder process. See January 14, 2014 The Brattle Group presentation to the NEPOOL Markets Committee, *Draft Recommendations for a Capacity Demand Curve in ISO-NE*, at slide 8, available at [http://www.iso-ne.com/committees/comm\\_wkgrps/mrks\\_comm/mrks/mtrls/2014/jan\\_14152014/a04\\_the\\_brattle\\_group\\_capacity\\_demand\\_curve\\_presentation\\_01\\_14\\_14.pptx](http://www.iso-ne.com/committees/comm_wkgrps/mrks_comm/mrks/mtrls/2014/jan_14152014/a04_the_brattle_group_capacity_demand_curve_presentation_01_14_14.pptx).



**B. The Demand Curve Filing Achieves a Balance Between Efficient Wholesale Markets and Accommodating Policy Objectives Codified in State Laws**

Since the introduction of the MOPR in New England, NESCOE has been concerned with unintended consequences associated with this buyer-side market mitigation design. In December 2012, NESCOE protested the MOPR’s failure to account for certain state policies and filed a Complaint with the Commission alleging that the buyer-side mitigation regime “will require electricity customers to purchase more capacity from the FCM than is necessary for resource adequacy.”<sup>22</sup> The Commission’s denial of NESCOE’s Complaint, *New England States Committee on Electricity v. ISO New England Inc.*, 142 FERC ¶61,108 (February 12, 2013) (“NESCOE Order”), articulated a need to balance two considerations: (1) the Commission’s “responsibility to promote economically efficient markets and efficient prices,” and (2) the Commission’s “interest in accommodating the ability of states to pursue other legitimate state policy objectives.”<sup>23</sup>

While the Commission had previously accepted an exemption for renewable resources in PJM’s capacity market, the NESCOE Order stated that “there are differences between PJM and ISO-NE that affect the balancing of the [relevant] considerations.”<sup>24</sup> The Commission found that renewable resource entry would have a greater impact on capacity prices in ISO-NE than in PJM, “[m]ost importantly . . . because the ISO-NE capacity market relies on a vertical demand curve while PJM’s capacity market relies on a sloped demand curve.”<sup>25</sup>

The instant Demand Curve Filing achieves a balance between the two considerations cited by the Commission, market efficiency and accommodation of legitimate state policies. As

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<sup>22</sup> *New England States Committee on Electricity v. ISO New England Inc.*, Complaint and Motion to Consolidate Proceedings (December 28, 2012) (Docket Nos. EL13-34-000 and ER12-953-001) (“NESCOE Complaint”), at 2 and Attachment B.

<sup>23</sup> NESCOE Order at P 35.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

the Commission recognized in the NESCOE Order, a downward sloping demand curve may mitigate the impact on capacity prices. According to Dr. Ethier, compared with ISO-NE's current vertical demand curve, the Filing Parties' downward sloping demand curve "will significantly reduce the expected impacts" associated with an exemption for renewable resources.<sup>26</sup> Moreover, the Net CONE value, which as detailed above is higher than all but one of the zones in NYISO and all of the zones in PJM, should also offset any downward impacts resulting from the Renewables Exemption.

In addition, the 200 MW limit on the Renewables Exemption helps to address the pricing impacts that may arise due to the relative size of ISO-NE's market. The 200 MW limit is based on: (1) an estimate of the capacity necessary to meet the states' current renewable resource targets reflected in renewable portfolio standards and comparable programs;<sup>27</sup> and (2) ISO-NE's estimate of average annual load growth net of energy efficiency plus a reserve margin adjustment.<sup>28</sup> According to Dr. Ethier, "as long as exempted renewable entry does not exceed average annual load growth, and consequent growth in the installed capacity requirement [{"ICR"}], there will not be systematic downward pressure on prices."<sup>29</sup> In total, the Demand Curve's shape and slope, the magnitude of the Net CONE value, and the features of the Renewables Exemption all work to mitigate the risks of price suppression.

The New England approach of exempting a certain amount of renewable resources from the MOPR differs significantly to PJM's treatment of renewable resources. In PJM, the MOPR

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<sup>26</sup> Demand Curve Filing, Ethier Testimony at 40.

<sup>27</sup> NESCOE Complaint, Attachment A, Affidavit of Jeffrey W. Bentz, at 23-24.

<sup>28</sup> Demand Curve Filing, Ethier Testimony at 41.

<sup>29</sup> *Id.*

applies only to gas-fired generation,<sup>30</sup> and accordingly the ability of renewable resources to clear in the capacity market, and to further legitimate state policies, is not as constrained.

Importantly, the Renewables Exemption also helps address a fundamental concern that the Commission has repeatedly raised in other proceedings – the potential for over-procurement of capacity.<sup>31</sup> By enabling renewable resources constructed pursuant to state laws and regulations to count toward the region’s ICR, the Renewables Exemption “acknowledges that these state-sponsored resources do or will exist and reasonably addresses the inherent conflict between certain legitimate state actions and setting appropriate prices in the FCM.”<sup>32</sup>

### **C. Significant Implementation Details Remain Outstanding**

While NESCOE supports the Demand Curve Filing, there are details associated with implementing a sloped demand curve that must be addressed. In the near term, ISO-NE and NEPOOL stakeholders will develop approaches for implementing sloped demand curves in New England’s import- and export-constrained zones and other conforming changes.<sup>33</sup> For example, one of the theoretical precepts of a sloped demand curve is the possibility for procuring less than the ICR. If the FCM were to procure less capacity than the amount estimated to achieve a 1-in-10 LOLE, it is unclear whether ISO-NE will, in practice, enter the deliverability period without conducting supplemental, out-of-market capacity procurements. NESCOE understands that ISO-NE will be addressing this issue in forthcoming stakeholder discussions around reconfiguration auctions in the context of the demand curve. The New England States expect

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<sup>30</sup> *PJM Interconnection, L.L.C.*, 143 FERC ¶ 61,090 at P 145, 146, and 166 (2013).

<sup>31</sup> See NESCOE Order at P 34; 135 FERC ¶ 61,029 at PP 160, 164, 167-8 (2011); and 138 FERC ¶ 61,027 (2012).

<sup>32</sup> Demand Curve Filing, Ethier Testimony at 39.

<sup>33</sup> Until NESCOE is able to evaluate how the forthcoming zonal demand curves work in conjunction with a system-wide Net CONE value, it is unclear whether the proposed system-wide Net CONE value is appropriate for use in the import- and export-constrained zones.

that any subsequent proposals by ISO-NE will acknowledge that any shortages in meeting capacity requirements must be balanced with the fact that excess capacity may be purchased in years with low capacity prices.

Also, at least every three years, the Net CONE value will be recalculated.<sup>34</sup> Over time, the extent to which the system-wide and zonal demand curves achieve their intended objectives will be evaluated.<sup>35</sup> NESCOE reserves judgment on these outstanding details and preserves any rights associated with providing comments in future proceedings.

## V. CONCLUSION

For the reasons stated herein, NESCOE respectfully requests that the Commission (i) grant its Motion to Intervene, and (ii) consider the above comments in this proceeding.

Respectfully submitted,

/s/ Benjamin S D'Antonio

Benjamin S D'Antonio, Esq.  
Counsel & Analyst  
New England States Committee  
on Electricity  
655 Longmeadow Street  
Longmeadow, MA 01106  
Tel: (603) 828-8977  
Email: [BenDAntonio@nescoe.com](mailto:BenDAntonio@nescoe.com)

Date: April 22, 2014

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<sup>34</sup> When the Net CONE recalculation process commences, and with the benefit of current information, NESCOE supports reconsideration of the appropriate reference technology in New England.

<sup>35</sup> The use of ISO-NE's discretion in balancing its roles as reliable system operator and efficient market administrator can only be evaluated over time. NESCOE will continue to monitor the performance of the demand curve in this context.

## 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 Longmeadow, Massachusetts this 22nd day of April, 2014.

Respectfully submitted,

/s/ Benjamin S D'Antonio

Benjamin S D'Antonio  
New England States Committee  
on Electricity  
655 Longmeadow Street  
Longmeadow, MA 01106  
Tel: (603) 828-8977  
Email: [BenDAntonio@nescoe.com](mailto:BenDAntonio@nescoe.com)