

To: Cross Sound Cable Company, LLC (“Cross Sound Cable”)
From: New England States Committee on Electricity (“NESCOE”)
Date: May 5, 2021
Subject: Schedule 17 Process – Follow-up to April 13, 2021 Communication

NESCOE appreciates Cross Sound Cable’s April 13, 2021 response to NESCOE’s March 26, 2021 information requests (“March 26 IRs”). The response included helpful clarifications in some areas and has narrowed the issues that NESCOE may identify in response to the Federal Power Act Section 205 filing that Cross Sound Cable has stated it will submit with the Federal Energy Regulatory Commission (“FERC”) at the conclusion of this Schedule 17 pre-filing process.

NESCOE sets forth below high-level descriptions of some remaining categories of open issues.¹ NESCOE welcomes continued discussions with Cross Sound Cable on these issues. Please contact jasonmarshall@nescoe.com to schedule a time to meet if you are interested in having those discussions.

As a starting point, NESCOE reiterates its view that Schedule 17 seeks to achieve a balance between a subset of asset owners and the customers that ultimately will pay the costs that FERC allows to be recovered under this out-of-market construct. It is a novel mechanism. There is no experience in New England or other regions with a rate schedule for reimbursing incremental IROL-CIP costs in the context of a wholesale market structure. The proposed costs that Cross Sound Cable and other asset owners may seek to recover under Schedule 17 require close scrutiny. This is especially the case as our region implements Schedule 17 for the first time through this pre-filing process and other such processes that certain asset owners are expected to initiate over the next several years.

Categories of Open Issues

- 1. Regulatory Asset:** NESCOE repeats the objection it raised at the March 11, 2021 interactive briefing session regarding Cross Sound Cable’s proposed “Regulatory Asset” cost recovery, which Cross Sound Cable described as costs incurred from January 1, 2016 to May 31, 2021. Multiple FERC orders in connection with Schedule 17 have made clear that it is a forward-looking cost recovery mechanism. Accordingly, assets owners seeking to use Schedule 17 are precluded from recovering costs incurred before the

¹ NESCOE reserves the right to modify its positions on these issues and to raise other issues not identified here in connection with a Cross Sound Cable Section 205 filing.

effective date that FERC accepts in response to a Section 205 filing. Cost recovery of Cross Sound Cable’s asserted Regulatory Asset is not allowed under Schedule 17.

2. **Estimated Costs and True-Up:** Cross Sound Cable’s responses to questions five and six of the March 26 IRs indicate that it may include estimated costs in a Section 205 filing and “true-up” those costs in a subsequent filing. NESCOE would object to such a modification of the Schedule 17 process, which allows recovery of costs actually incurred on or after the relevant effective date that FERC has accepted. Moreover, converting the mechanism to a true-up structure, which ISO-NE considered and rejected during the stakeholder process that informed Schedule 17, is contrary to FERC’s express finding that Schedule 17 does not establish a formula rate.

3. **Administrative and Regulatory Costs:** As NESCOE has noted, Schedule 17 allows certain asset owners the opportunity to recover some indirect costs, such as administrative and regulatory costs. However, the same requirement described above also applies to this category of costs: recovery is prospective and thus limited to costs incurred after effective date that FERC accepts in response to a Section 205 filing. Cross Sound Cable has yet to make its Section 205 filing and no effective date has been established. Accordingly, its response to question eight of the March 26 IRs identifies purported regulatory-related costs arising from the development of Schedule 17 that are not recoverable.

Furthermore, NESCOE would object to cost recovery in connection with participation in the stakeholder process that preceded FERC’s acceptance of Schedule 17, which does not qualify as an incremental cost to comply with NERC’s CIP reliability standards corresponding to the designation of a facility as medium impact. The subject matter of those stakeholder discussions concerned a rate recovery mechanism, and participation in those meetings was not necessary for compliance with the medium impact designation.

Cross Sound Cable’s demarcation of administrative and regulatory costs is also opaque. Worksheets 11, 15, 19, 23, and 27 provide a basic list of these costs without further definition. In sum:

	2016	2017	2018	2019	2020	Total
Consulting Expenses	\$ 10,000	\$ 15,000	\$ 16,000	\$ 21,300	\$ 19,400	\$ 81,700
Legal Expenses	\$ -	\$ -	\$ -	\$ 76,981	\$ 95,322	\$ 172,303
	\$ 10,000	\$ 15,000	\$ 16,000	\$ 98,281	\$ 114,722	\$ 254,003

Cross Sound Cable’s response to question eight provides insufficient information to understand the nature of the specific administrative and regulatory work performed. That response includes a blanket objection to sharing invoices without offering alternative support to justify costs. The absence of any further cost breakdown provides no basis for

NESCOE, ISO-NE, or eventually FERC in a Section 205 proceeding to understand whether the costs were prudently incurred and are consistent with Schedule 17.

4. **Cost Tracking:** Cross Sound Cable’s response to question 12 of the March 26 IRs indicates that it has recently implemented a tracking system for costs it will seek to recover under Schedule 17, but that historically it did not record such costs “with charges to a specific account.” As described above, cost recovery under Schedule 17 is prospective only. That requirement obviates the need for Cross Sound Cable to have tracked, and for FERC to verify, past costs that truly were incremental to the designation of its facility as medium impact. However, to the extent Cross Sound Cable seeks recovery for past costs incurred—which, as discussed above, is not permitted—it will need to demonstrate with specificity how it segregated incremental IROL-CIP costs from other compliance costs.