

designation of RCA as an “Anchor Project” in its April 2022 Updated 2022 Work Plan.³ The RCA project could inform ISO-NE’s rules for operating reserve designations. ISO-NE has held two technical sessions on resource capacity accreditation, and it plans to begin stakeholder discussions in June.⁴ ISO-NE plans to present a detailed proposal to states and stakeholders by the end of 2022.⁵ ISO-NE intends to file the proposal with the Commission by late 2023 for implementation in the nineteenth Forward Capacity Auction.⁶

The Complaint appropriately highlights the importance of capacity accreditation and operating reserves rules to a broad class of resource technology types. Our region’s market resources, like New England’s grid, are tightly integrated. The capacity value and dispatch of one resource affects the participation and economics of another. These outcomes help shape the resource mix that serves consumers and materially affect the price of electricity that residents, businesses, and institutions rely upon. RCA in particular can play an important role in providing greater specificity to the definition of the wholesale capacity product that is intended to provide regional resource adequacy. It is critical that we get these and other foundational rules right: our region’s successful transition to a clean, affordable, and reliable power grid depends on it.

Getting the rules right on resource capacity accreditation requires, at minimum, a holistic consideration of the implications that any potential rule adjustments would have for system reliability, consumer costs, and state-sponsored clean energy resources. A necessary vehicle for

³ ISO New England, Updated 2022 Annual Work Plan, NEPOOL Participants Committee, April 7, 2022 (“Updated 2022 Work Plan”), at Slide 5, available at https://www.iso-ne.com/static-assets/documents/2022/04/2022_awp_update_for_04_07_22_pc.pdf.

⁴ ISO New England Inc., Revisions to ISO New England Transmission, Markets and Services Tariff of Buyer-Side Market Power Review and Mitigation Reforms, Docket No. ER22-1528-000, Transmittal Letter at 40 (filed Mar. 31, 2022).

⁵ Updated 2022 Work Plan at Slide 5.

⁶ *Id.*

understanding these implications is a free-flowing exchange of information, with robust and fluid discussions among ISO-NE, states, and stakeholders on the merits of any proposal.⁷ A Federal Power Act (“FPA”) section 206 litigated proceeding is not conducive to such a multilateral information-sharing process. By its nature, a section 206 case imposes formal, adversarial procedures. Section 206 procedures are designed to help the decision-maker (i.e., the Commission) make findings of fact and law related to the specific dispute and the complainants. For example, section 206 rules require that a complaint “[m]ake a good faith effort to quantify the financial impact or burden (if any) created *for the complainant* as a result of the action or inaction”⁸—with no showing required in the record to describe quantitatively or qualitatively the cost impact that the requested relief would have on a relevant market or consumers.

Here, the Complaint is asking the Commission to act on issues raised in a vacuum that should be considered holistically as part of a larger market rule assessment. In particular, the issues identified for the Commission’s adjudication are narrowly focused on a single resource type (what the Complaint refers to as “gas-only resources”), despite the fact that ISO-NE has already identified a need to consider broader market rule reforms affecting all resource types as a near-term priority. A siloed consideration of the market rule changes at issue in the Complaint for one resource type could lead to unintentional consequences for other market rules, the broad

⁷ While beyond the scope of this proceeding, NESCOE underscores the *Vision Statement*’s identification of the importance of public access to such discussions. See *New England States’ Vision for a Clean, Affordable, and Reliable 21st Century Regional Electric Grid* (Oct. 2020), at 6-7, available at <https://nescoe.com/resource-center/vision-stmt-oct2020/>.

⁸ 18 CFR § 385.206(b)(4) (emphasis supplied). See also 18 CFR § 385.206(b)(3) (requiring complainants to “[s]et forth the business, commercial, economic or other issues presented by the action or inaction as such relate to or affect the complainant.”).

resource classes that participate in the markets, and consumers. On consumer costs alone, the requested relief could lead to substantial wholesale price increases.⁹

Given the importance of the rules involved in this proceeding for system reliability, cost, and the participation of state-sponsored clean energy resources in the ISO-NE markets, the New England states need to be actively involved in the development of any problem statement and solution options, which cannot effectively be accomplished in the context of the relief sought in the Complaint. Commission-imposed rule changes in response to the Complaint would short-circuit the participation of states in this process.

NESCOE understands the motivation to fast-forward solutions to the issues reflected in the Complaint given the many interests implicated and the weight of those interests. However, as explained above, these issues are complex and interrelated. As the Commission is aware from efforts in other regions to implement reforms to capacity accreditation rules, there are various balancing interests at play, and the solutions are neither simple nor one-tracked. Moreover, these types of deliberations take time, and they benefit from collaboration, information exchange, and input from states and stakeholders.¹⁰ NESCOE respectfully suggests that the Commission would

⁹ The Complaint distinguishes the legal claims in its pleading from those at issue in a 2013 complaint proceeding that also involved ISO-NE capacity market rules and “gas-only” generation. Complaint at n. 6 (citing *New England Power Generators Ass’n, Inc. v. ISO New England Inc.*, 144 FERC ¶ 61,157 (2013), *order on reh’g*, 145 FERC ¶ 61,206 (2013)). As the Complaint discussed, the 2013 proceeding addressed whether resources participating in the capacity market had a “firm fuel obligation.” Complaint at n. 6. The Complaint does not specifically ask the Commission to direct a firm fuel requirement as a replacement rate, although, if granted, revised Tariff rules could effectively lead to such a requirement.

The 2013 complainant, the New England Power Generators Association, did not attempt to quantify the potential consumer cost impact of a firm fuel requirement; however, it asserted that such a requirement would impose “enormous new costs” on consumers. New England Power Generators Association’s Motion for Leave and Answer, Docket No. EL13-66-000 (filed June 20, 2013), at 6.

¹⁰ *See, e.g., PJM Interconnection, L.L.C.*, 171 FERC ¶ 61,015 at P 34 (2020) (granting PJM’s motion to hold proceedings in abeyance to “permit PJM and the PJM stakeholders time to consider a methodology or methodologies to apply to all resource types while also allowing for such rules to become effective in advance of the next capacity auction”); *PJM Interconnection, L.L.C.*, 176 FERC ¶ 61,056 (2021) (accepting modified

be best positioned to make a determination on the broader set of issues implicated in the Complaint after states and stakeholders have had an opportunity to engage fully with ISO-NE on its intended design and any proposed changes that come forward through iterative discussion. Reforms to address these issues should be considered on a path that is both timely and deliberative, with opportunities for state and stakeholder engagement at all steps of the process.¹¹

For the reasons stated herein, NESCOE respectfully requests that the Commission consider the above comments in this proceeding.

Respectfully Submitted,

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Effective Load Carrying Capability proposal, developed by PJM with stakeholder input), Notice of Denial of Rehearing by Operation of Law (Sept. 30, 2021).

The New York Independent System Operator, Inc. (“NYISO”) recently submitted a proposal intended to, among other things, “improve the NYISO’s valuation of resources’ capacity contributions.” The proposal “was approved by 82.03% of NYISO stakeholders . . . with strong backing across all five stakeholder sectors, including unanimous support from New York State entities, New York City, municipal interests and the New York Transmission Owners, and significant support from both existing capacity suppliers and consumer interests” and the “independent market monitoring unit for the NYISO . . . played a major role in developing the NYISO Proposal.” New York Independent System Operator, Inc., “Excluding Certain Resources from the “Buyer-Side” Capacity Market Power Mitigation Measures, Adopting a Marginal Capacity Accreditation Market Design, and Enhancing Capacity Reference Point Price Translation,” Docket No. ER22-772-000 (filed Jan. 5, 2022), at 1. Despite broad support, the proposal triggered a deficiency letter (Feb. 9, 2022) focused primarily on the capacity accreditation design, underscoring the complexity of these issues.

¹¹ See, e.g., *Ameren Servs. Co. v. Midwest Indep. Transmission Sys. Operator*, 121 FERC ¶ 61,205 at P 93 (2007) (noting that “the Commission often indicates its expectation that stakeholders seek relief through the processes provided by the ISO or RTO itself before coming to the Commission. . . .”). While not denying the complaints on these grounds, the Commission held the hearing procedures in abeyance “to allow the stakeholder process an opportunity to complete negotiations.” *Id.* at P 94. See also *ISO New England Inc.*, 130 FERC ¶ 61,145 at P 34 (2010) (“. . .as we have stated in previous orders, we encourage parties to participate in the stakeholder process if they seek to change the market rules, and we are mindful that ISO-NE intends to file [or ‘has filed’] market design changes which may address the substance of [the articulated] concerns”).

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 14th day of April, 2022.

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