

151 FERC ¶ 61,096  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, DC 20426

May 5, 2015

In Reply Refer To:  
ISO New England Inc.  
Docket No. ER15-1184-000

ISO New England Inc.  
One Sullivan Road  
Holyoke, MA 01040-2841

Attention: James H. Douglass, Esq.

Dear Mr. Douglass:

1. On March 6, 2015, ISO New England Inc. (ISO-NE), joined by the New England Power Pool Participants Committee (NEPOOL), filed revisions to ISO-NE's Transmission, Markets and Services Tariff (Tariff) to eliminate the Peak Energy Rent (PER) Adjustment feature of the Forward Capacity Market (FCM) starting with the Capacity Commitment Period that begins on June 1, 2019.<sup>1</sup> ISO-NE proposes to remove the PER Adjustment on a prospective basis, stating that it is no longer required due to recent changes to the New England region's markets that have reduced concerns about the exercise of market power, and that retaining the mechanism could result in higher capacity market costs without producing any substantial benefits.<sup>2</sup> As discussed below, we accept the proposed revisions, effective May 6, 2015, as requested.

2. The PER Adjustment is intended to act as a hedge for load against price spikes in the energy market. It is also intended to help mitigate incentives to create price spikes in the energy market through economic or physical withholding by removing any profits

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<sup>1</sup> ISO-NE, Transmission, Markets and Services Tariff, [III.13.7, III.13.7 Performance, Payments and Charges in the FCM \(40.0.0\)](#), § III.13.7.2.7.1.1; *id.* [III.13.2, III.13.2 Annual Forward Capacity Auction \(32.0.0\)](#), § III.13.2.4.

<sup>2</sup> Transmittal at 4.

gained from the rise in energy prices above a designated level.<sup>3</sup> The PER Adjustment is designed to accomplish these purposes by requiring suppliers to return “peak energy rents” (i.e., those revenues earned when real-time clearing prices exceed an administratively-determined strike price) earned in the energy market to load through rebates made by suppliers from their capacity payments.

3. ISO-NE states that the recent changes in the New England region’s markets that have reduced concerns about the exercise of market power include: (1) a very high percentage of expected real-time load clearing in the day-ahead market; (2) the two-settlement capacity market rule changes that will become effective in 2018;<sup>4</sup> and (3) improved, automated, real-time energy market mitigation measures put in place by the Internal Market Monitor. ISO-NE’s expert witness Dr. McDonough elaborates that market rule changes implemented to improve real-time price formation have caused an increase in real-time price volatility that has increased the incentive for more load to clear in the day-ahead market. Therefore, according to Dr. McDonough, suppliers that take on day-ahead obligations have a strong disincentive to seek increased prices in real-time because these suppliers lose money when there is a price spike and they do not deliver in real-time on obligations incurred in the day-ahead market.<sup>5</sup> Dr. McDonough also explains that the two-settlement capacity market rule change essentially replicates features of the PER Adjustment that would address market power, and that the Internal Market Monitor has tightened its scrutiny and mitigation of energy market offers from pivotal suppliers in recent years. Dr. McDonough also notes that ISO-NE’s External Market Monitor and Internal Market Monitor each independently reviewed the functioning and purpose of the PER Adjustment mechanism and support its removal.<sup>6</sup>

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<sup>3</sup> *Devon Power LLC*, 115 FERC ¶ 61,340, at PP 24, 29 (2006).

<sup>4</sup> *See ISO New England Inc.*, 147 FERC ¶ 61,172 (2014), *order on compliance*, *ISO New England Inc.*, 149 FERC ¶ 61,009 (2014). The two-settlement capacity market design refers to the impending market design under which a resource that produces energy or provides reserves during Capacity Scarcity Conditions in excess of a *pro rata* share of its capacity supply obligation would receive additional revenue, while a resource that produces less than its *pro rata* share would face a reduction in its net capacity revenue. According to ISO-NE, the two-settlement capacity market design will create strong financial incentives for resources to perform during scarcity conditions, when energy and reserves are most needed, and remedy the problem that many New England resources currently fail to perform during scarcity conditions.

<sup>5</sup> McDonough Testimony at 3-4.

<sup>6</sup> McDonough Testimony at 8.

4. ISO-NE further states that the elimination of the PER Adjustment is expected to result in lower capacity prices and costs because capacity suppliers will no longer need to reflect the expected costs of monthly PER Adjustments in their offers to supply capacity. ISO-NE explains that the assumption that capacity suppliers are subject to PER Adjustments is built into the Net Cost of New Entry (Net CONE) value reflected in the FCM demand curve. Thus, as part of the elimination of the PER Adjustment, the Net CONE value used for the tenth and eleventh Forward Capacity Auctions (FCAs 10 and 11) will be reduced, and future Net CONE recalculations will no longer include estimated PER Adjustment costs.

5. Notice of the filing was published in the *Federal Register*, 80 Fed. Reg. 13,526 (2015), with interventions and protests due on or before March 27, 2015. Calpine Corporation; Exelon Corporation; NRG Companies;<sup>7</sup> Emera Energy Services Inc.; George Jepsen, Attorney General for the State of Connecticut; the New England Power Generators Association, Inc. (NEPGA); GDF SUEZ Energy Marketing NA, Inc. (GDF SUEZ); Entergy Nuclear Power Marketing, LLC (Entergy); and Dominion Resources Services, Inc. filed timely motions to intervene. PSEG Companies<sup>8</sup> and the New England States Committee on Electricity (NESCOE) filed motions to intervene out-of-time. Entergy, GDF SUEZ, and NEPGA submitted comments. On April 13, 2015, NEPOOL submitted an answer to GDF SUEZ's and NEPGA's comments.

6. Entergy, NEPGA, and GDF SUEZ support ISO-NE and NEPOOL's proposal to eliminate the PER Adjustment and make a corresponding change to lower the Net CONE in the FCM beginning June 1, 2019.<sup>9</sup> However, GDF SUEZ and NEPGA request that the Commission direct ISO-NE and NEPOOL to initiate a stakeholder process to consider proposed solutions to address the PER Adjustment mechanism for the Capacity Commitment Periods prior to June 1, 2019.<sup>10</sup>

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<sup>7</sup> The NRG Companies include NRG Power Marketing LLC and GenOn Energy Management, LLC.

<sup>8</sup> The PSEG Companies include PSEG Power LLC, PSEG Energy Resources & Trade LLC, and PSEG Power Connecticut LLC.

<sup>9</sup> Entergy Comments at 4; NEPGA Comments at 1-2; GDF SUEZ Comments at 1.

<sup>10</sup> According to NEPGA, a proposed solution that would change how the PER strike price is calculated has been presented to NEPOOL stakeholders for consideration. NEPGA requests that that proposal, or other potential proposals, should be further considered by NEPOOL stakeholders and ISO-NE. NEPGA Comments at 5.

7. In its answer, NEPOOL opposes GDF SUEZ's and NEPGA's requests for the Commission to direct further stakeholder consideration of the PER Adjustment.<sup>11</sup> It states that GDF SUEZ and NEPGA have the ability, without any Commission action, to propose tariff revisions in the stakeholder process, and it asserts that the instant proceeding is not the appropriate forum to compel stakeholders to revisit changes to the PER Adjustment.
8. Pursuant to Rule 214, 18 C.F.R. § 385.214 (2014), the unopposed, timely filed motions to intervene serve to make the entities that filed them parties to this proceeding. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2014), we will grant PSEG Companies' and NESCOE's late-filed motions to intervene given their interests in this proceeding, the early stage of this proceeding, and the absence of undue prejudice or delay.
9. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2014), prohibits answers to protests unless otherwise ordered by the decisional authority. We will accept NEPOOL's answer because it has provided information that assisted us in our decision-making process.
10. We accept the proposed revisions, effective May 6, 2015, as requested. We agree with ISO-NE and NEPOOL that the PER Adjustment does not need to be retained as a price hedge for load and is no longer needed to address market power concerns in light of recent changes to the ISO-NE energy and capacity markets. In making this determination, we note that ISO-NE's External Market Monitor and Internal Market Monitor have independently reviewed the PER Adjustment mechanism and they, as well as all parties to this proceeding, support its removal.
11. We find NEPGA's and GDF SUEZ's requests to direct ISO-NE and NEPOOL to initiate further stakeholder discussion regarding the PER Adjustment to be beyond the scope of this proceeding. We encourage stakeholders to utilize the stakeholder process to consider whether further market rule revisions are necessary.

By direction of the Commission.

Kimberly D. Bose,  
Secretary.

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<sup>11</sup> NEPOOL Answer at 2.