

142 FERC ¶ 61,024
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
Cheryl A. LaFleur, and Tony T. Clark.

ISO New England Inc. and New England Power Pool Docket No. ER13-323-000

ORDER ON PROPOSED TARIFF REVISIONS

(Issued January 9, 2013)

1. On November 6, 2012, ISO New England Inc. (ISO-NE) and the New England Power Pool Participants Committee (together, Filing Parties) submitted, pursuant to section 205 of the Federal Power Act (FPA),¹ proposed revisions to the ISO-NE Transmission, Markets and Services Tariff (Tariff) relating to auditing of generation resources that participate in New England's energy, reserve and capacity markets (Generator Audit Revisions).² For the reasons discussed below, the Commission accepts the proposed Generator Audit Revisions, to become effective June 1, 2013, as requested, subject to submission of a compliance filing.

I. The Generator Audit Revisions

2. As detailed below, the Generator Audit Revisions include: changes to the manner in which the fast-start capabilities of off-line reserve resources are audited (off-line reserve auditing); a new set of rules that memorialize in the Tariff the requirements and procedures for auditing the maximum claimed capability of generation resources (claimed capability or capacity auditing); and a series of parameter audits, which audit a number of generator operating parameters that ISO-NE relies upon in making generator commitment and operational decisions (on-line reserve auditing).

¹ 16 U.S.C. § 824d (2006).

² The revised Tariff provisions include: I.2 Rules of Construction; Definitions, 39.0.0; III.1 Market Operations, 8.0.0; III.9 Forward Reserve Market, 8.0.0; and Appendix F Net Commitment Period Compensation Accounting.

3. The Filing Parties assert that the Generator Audit Revisions are necessary, because an examination of dispatch response performance following the 36 largest system contingency events over the last three years indicates that, on average, the response rate for New England's non-hydro generation resources was less than 60 percent of the amount requested during the events.³ The Filing Parties state that, at times of the greatest need, many resources delivered below the performance ability represented in their accepted offer data.⁴

4. The Filing Parties further state that increased demand for natural gas in New England has increased competition for use of natural gas pipelines, and that in various instances, natural-gas fueled generators failed to provide energy when dispatched, claiming that they were unable to procure natural gas or transportation services or that the gas was too expensive in real-time.⁵ The Filing Parties assert that such incidents raise reliability concerns that the Generator Audit Revisions are intended to address.

5. ISO-NE explains that part of its existing generator audit provisions are included in the Tariff,⁶ while the remainder of the existing provisions are set forth in an ISO-NE manual that was reviewed in the stakeholder process but not filed at the Commission.⁷ The Generator Audit Revisions would modify existing Tariff provisions, include in the Tariff those provisions that are currently in the manuals, and add to the Tariff entirely new generator audit procedures.⁸

6. Specific aspects of the Generator Audit Revisions follow.

³ The Filing Parties explain that these shortcomings became evident in operational events on June 24, 2010, September 2, 2010, and January 24, 2011. *See* Filing Parties November 6 Filing at 2-3.

⁴ *Id.* at 3.

⁵ *Id.* at 3-4.

⁶ Filing Parties November 6 Filing, Brandien-Harris Testimony at 8 (stating that “[t]he Tariff provisions for the Forward Reserve Market contain audit requirements for off-line reserve values (CLAIM10 and CLAIM30)”).

⁷ *Id.* (stating that apart from the Tariff requirement that generating resources must perform capacity audits, an ISO-NE manual contains the provisions for claimed capability auditing).

⁸ *Id.* at 9 (stating that “[ISO-NE] does not currently have formalized procedures for auditing the full range of generator operating parameters that are utilized in resource commitment, dispatch and operation”).

A. Off-Line Reserve Capacity Auditing

7. With regard to the off-line reserve capacity auditing revisions, the Filing Parties explain that the current method for calculating 10 minute and 30 minute reserve capability values (referred to as CLAIM10 and CLAIM30, respectively) for off-line, fast-start resources allow a generator to be credited for a full reserve value if, during an audit, it reaches 90 percent of that value within 10 or 30 minutes.⁹ They state that this 10 percent tolerance has resulted in an overstatement of the actual capacity available during disturbance events.

8. Additionally, the Filing Parties state that the current auditing methods establish 10 and 30 minute reserve capability values based on the maximum real power output achieved at any time prior to the 10 or 30 minute period, regardless of whether the resources have the ability to sustain that maximum value up to the 10 or 30 minute point. The Filing Parties explain that since off-line reserve resources are dispatched based on their ability to achieve their claimed 10 or 30 minute capability, it is important that the audit values reflect the capability of resources for those specific time intervals.¹⁰

9. Further, the Filing Parties state that the current auditing methods for CLAIM10 and CLAIM30 values permit a participant to request additional audits if they are not satisfied with performance during an audit. This allows a participant to erase a bad performance, and therefore, historical performance trending is currently not factored into the reserve audit values.¹¹

10. Moreover, the Filing Parties state that the current CLAIM10 and CLAIM30 audit rules do not audit reserve sustainability and that this has raised concern because the applicable reliability standards require that reserve resources be capable of fully performing for at least an hour following activation.¹²

11. To resolve the above issues, the Filing Parties propose that a generator that receives startup dispatch be evaluated to determine whether it reached 100 percent of its target output level by either the 10 or 30 minute point. This evaluation will be used to calculate an individual performance factor for the unit, which will reflect the historical performance of the generator in delivering the requested reserves over its last 10 starts. The performance factor will then be applied against the maximum output that the

⁹ The existing cost allocation methodology for generator-initiated audits is in the manuals, and ISO-NE proposes to add it to the Tariff. *See supra* paragraph 7.

¹⁰ Filing Parties November 6 Filing at 9.

¹¹ *Id.*

¹² *Id.* at 10.

generator has reached during a startup at the 10 or 30 minute point in the current reserve delivery period or in the previous like-season period, and the result will represent the CLAIM10 or CLAIM30 value of the resource.¹³

12. The Filing Parties also propose to require that a generator remain in service for at least 60 minutes after activation, in order to measure the historical performance of an off-line reserve resource in delivering, in full, requested reserve capability, and sustaining dispatch availability once started.¹⁴ The Filing Parties state that this requirement meets the Northeast Power Coordinating Council (NPCC) and ISO-NE standards for reserve activation and ensures that the resource has the ability to meet environmental, fuel availability, and other factors that may limit the run time of the unit. The Filing Parties state that adding the sustainability auditing measure will provide additional assurance that ISO-NE will be able to recover fully from a Disturbance Control Standard (DCS)¹⁵ event and activate longer lead time capacity to replace the energy lost due to the contingency.¹⁶

B. On-Line Reserve Auditing

13. With regard to on-line reserve auditing, the Generator Audit Revisions would allow ISO-NE to call unannounced audits, as well as audits based on an evaluation of historical performance for a number of generator operating parameters, including: economic maximum limit; manual response rate; start-up time; notification time; a generator's ability to reach its CLAIM10 or CLAIM30 value; and automatic response rate. Additionally, if ISO-NE has a concern that the operating parameter values included in a participant's supply offer for a generator are not reflective of the resource's capabilities, parameter auditing will permit ISO-NE to verify the accuracy of the operating parameter values included in the participant's supply offer for a generator and adjust parameters accordingly.

¹³ *Id.* at 11.

¹⁴ *Id.* at 11-12.

¹⁵ Under NERC Reliability Standard BAL-002-0, the purpose of the DCS is to ensure the Balancing Authority is able to utilize its Contingency Reserve to balance resources and demand and return Interconnection frequency within defined limits following a Reportable Disturbance. Because generator failures are far more common than significant losses of load and because Contingency Reserve activation does not typically apply to the loss of load, the application of DCS is limited to the loss of supply and does not apply to the loss of load.

¹⁶ Filing Parties November 6 Filing at 11-12.

14. The revisions also permit a participant to submit a restoration plan to explain the discrepancy between the offered value and the audited value, as well as the steps it will take to re-establish the parameter's value.¹⁷

C. Claimed Capability Auditing

15. Regarding claimed capability (i.e., capacity) auditing, the Filing Parties state that the current auditing methodology for determining the capability of a resource permits a generator to be audited during periods when ambient conditions are not indicative of unusual seasonal weather conditions, such as extreme weather conditions, when a generator's reliable performance might be of particular importance in New England.¹⁸ Therefore, the Generator Audit Revisions introduce new winter and summer temperature requirements into the current Seasonal Claimed Capability Audit procedures, and permit such audits to be performed at any time during the year as long as the ambient temperature requirements are met during the audit. Because New England is a summer-peaking region, a summer seasonal audit would be performed every year at a temperature greater than 80 degrees Fahrenheit; the winter audit would be conducted at a temperature of 32 degrees Fahrenheit or below. Additionally, winter audits would be conducted "at least once in the previous three 'Capability Demonstration Years'¹⁹ instead of every year, as is the current practice."²⁰ The Capability Demonstration Year means "the one year period from September 1 through August 31."²¹ The Generator Audit Revisions would also allow ISO-NE to initiate an audit when it believes verification of the claimed capability for the generator is warranted.

D. Cost Allocation For Audits

16. In addition to ISO-NE's new proposal to allow it to conduct audits to verify the claimed capability of a generator and certain operating parameters of a generator (hereafter referred to as ISO-NE-initiated audits), the Generator Audit Revisions also propose new provisions to allocate out-of-market costs related to ISO-NE-initiated audits. These new provisions are included in the proposed Tariff revisions to Appendix F

¹⁷ *Id.* at 13.

¹⁸ *Id.* at 10.

¹⁹ The proposed Tariff provision, in section III.1.5.1.3(d), states that: "A winter Seasonal Claimed Capability Audit must be conducted: (i) At least once in the previous three Capability Demonstration Years."

²⁰ Filing Parties November 6 Filing, Brandien-Harris Testimony at 11.

²¹ Tariff, section I.2.2, Definitions.

of Market Rule 1, which addresses Net Commitment Period Compensation for the New England markets.

17. The testimony of Mr. Aleksander Mitreski, ISO-NE's Lead Analyst for Market Development, describes the proposed cost allocation methodology for out-of-market costs related to ISO-NE-initiated audits, and it compares and contrasts the cost allocation methodology for ISO-NE-initiated audits with the cost allocation methodology for the participant-initiated Established Claimed Capability Audits and winter/summer Seasonal Claimed Capability Audits (hereafter referred to as the participant-initiated audits).²² Under the existing cost allocation methodology for participant-initiated audits, the generator receives the clearing prices from the ISO-NE market during the time that it is operating for the audit. If the generator's costs are higher than the clearing prices from the ISO-NE market during the time that it is operating for the audit, the generator bears those costs. ISO-NE explains that a participant-initiated audit may be performed at a time of the participant generator's own choosing.²³ Therefore, the participant generator may choose to perform its audit during opportune times when ISO-NE commits and dispatches the generator in economic merit (e.g., for energy or reserves).²⁴ In these cases, the ISO-NE market's compensation might be sufficient to cover the generator's costs to perform the audit.²⁵ ISO-NE's proposal here does not propose any change to the existing cost allocation methodology for participant-initiated audits.

18. For ISO-NE's proposed cost allocation for the new ISO-NE-initiated audits, the generator also would receive the clearing prices from the ISO-NE market during the time that it is operating for the audit. However, ISO-NE also proposes that if the generator's costs are higher than the clearing prices from the ISO-NE market during the time that it is operating for the audit, the out-of-market costs would not be borne by the generator; rather, those costs would be allocated to market participants with Real-Time Load Obligations, consistent with the Net Commitment Period Compensation rules under Appendix F of Market Rule 1.²⁶ ISO-NE states that "the Real-Time Load Obligations are based on the MWhs of load during a given hour at a specific location (e.g., a Node, in

²² Filing Parties November 6 Filing, Mitreski Testimony at 2-5.

²³ *Id.* at 2.

²⁴ *Id.* at 3.

²⁵ *Id.*

²⁶ ISO-NE's proposal does include exceptions to the generator's eligibility to receive its out-of-market costs for ISO-NE-initiated audits through the Net Commitment Period Compensation. These exceptions include when ISO-NE initiates an audit to verify the capabilities of the generator because the generator did not conduct a required participant-initiated audit. *Id.*

Load Zone) within New England.”²⁷ As its basis for allocating these out-of-market costs to participants with Real-Time Load Obligations, ISO-NE explains that an ISO-NE-initiated audit is unannounced and, therefore, the audit may not be initiated at a time when it is cost-effective for the participant generator.²⁸ Indeed, the objective of the ISO-NE-initiated audit is for the participant generator to demonstrate, without prior notice, the physical capability of the resource.²⁹ ISO-NE argues that allocating the out-of-market costs associated with ISO-NE-initiated audits to participants with Real-Time Load Obligations is consistent with the principles of cost causation and “beneficiary pays.” ISO-NE explains that the objective of ISO-NE-initiated audits, whether for capability or operating parameters, is to ensure that ISO-NE maintains accurate information on the ability of a generator to start, serve load, and follow ISO-NE’s dispatch signals in real-time and that the need to serve real-time load on a reliable basis drives the need to provide ISO-NE with this audit capability.³⁰ Because participants with Real-Time Load Obligations are the beneficiaries of reliable real-time load service, it is appropriate that they pay for those audit costs.³¹ In addition, participants with Real-Time Load Obligations further benefit because accurate information that characterizes the capacity and dispatch capability of resources enables ISO-NE to dispatch the system at least cost, which inherently contributes to reducing the overall cost of serving real-time load.³²

²⁷ *Id.* at 4. Real-Time Load Obligation is defined in Section III.3.2.1(b)(i) of Market Rule 1, which states as follows:

Real-Time Load Obligation – Each Market Participant shall have for each hour a Real-Time Load Obligation for energy at each Location equal to the MWhs of load, where such MWhs of load shall include External Transaction sales and shall have a negative value, at that Location, adjusted for any applicable internal bilateral transactions which transfer Real-Time load obligations.

²⁸ Filing Parties November 6 Filing, Mitresky Testimony at 3.

²⁹ *Id.*

³⁰ *Id.* at 4.

³¹ *Id.* at 5.

³² *Id.*

E. Requested Effective Date and Waiver

19. The Filing Parties seek a waiver of section 35.3(a) of the Commission's Regulations³³ to permit the Generator Audit Revisions to become effective on June 1, 2013. However, because the modified auditing rules permit a participant to initiate an audit of the winter seasonal capability of a generator once every three years rather than annually, the Filing Parties request Commission action on the Generator Audit Revisions on or before January 9, 2013, in time for the 2012-2013 winter audit season. The Filing Parties explain that participants could then decide whether they want to utilize the 2012-2013 winter auditing season to perform a claimed capability audit that will meet the new audit requirements contained in the Generator Audit Revisions, which would count toward the three-year audit requirement once the new rules become effective.³⁴

II. Notice of Filing and Responsive Pleadings

20. Notice of the Filing Parties' Generator Audit Revisions was published in the *Federal Register*, 77 Fed. Reg. 68,761 (2012), with interventions and protests due on or before November 27, 2012. Northeast Utilities Service Company (NUSCO)³⁵ submitted a timely motion to intervene. The New Hampshire Public Utilities Commission (NHPUC) submitted a notice of intervention and supportive comments. In addition, a notice of intervention, motion to intervene and comments in support of the filing were jointly filed by the Maine Public Utilities Commission, New England Conference of Public Utilities Commissioners, and NHPUC (collectively, Joint Filers). NRG Companies³⁶ submitted a timely motion to intervene and protest.

21. On November 28, 2012, GenOn Parties³⁷ submitted an untimely motion to intervene.

³³ 18 C.F.R § 35.3(a)(2012).

³⁴ Filing Parties November 6 Filing at 6-7.

³⁵ NUSCO is a subsidiary of Northeast Utilities and the agent for the Northeast Utilities Companies, which include: The Connecticut Light and Power Company; Western Massachusetts Electric Company; Public Service Company of New Hampshire; and NSTAR Electric Company.

³⁶ NRG Companies include: NRG Power Marketing LLC; Connecticut Jet Power LLC; Devon Power LLC; Middletown Power LLC; Montville Power LLC; and Norwalk Power LLC.

³⁷ The GenOn Parties include: GenOn Energy Management; GenOn Canal, LLC; and GenOn Kendall, LLC.

22. On December 12, 2012, ISO-NE filed an answer to NRG Companies' protest.

A. Comments and Protests

23. Joint Filers state that the Generator Audit Revisions will help ensure reliability by providing a clearer, short-term picture of the performance capability of existing units, which in turn should increase the response rate to ISO-NE's dispatch instructions under stressed system conditions.³⁸ They further state that the changes will help verify that compensated reserve and capacity resources perform to their promised levels when needed and that customers actually receive reliability benefits they paid for.

24. While NRG Companies generally support the Generator Audit Revisions, they raise concerns with two aspects of the filing. Regarding the proposed three-year frequency of winter Seasonal Capability Audits, NRG Companies point out that while ISO-NE's transmittal letter suggests that the winter seasonal capability must be done "once every three years,"³⁹ the proposed Tariff section III.1.5.1.3(d)(i) states: "A winter Seasonal Claimed Capability Audit must be conducted: At least once in the previous three Capability Demonstration Years...."⁴⁰ NRG Companies seek confirmation that under the proposed Tariff language, qualifying 2010/2011 audits may satisfy the 2013/2014 requirements.⁴¹

25. NRG Companies also take issue with the existing cost allocation for participant-initiated audits and the proposed cost allocation for ISO-NE-initiated audits. NRG Companies argue that, under both kinds of audits, ISO-NE, not the generator, should be responsible for paying for any out-of-market costs incurred by the generator during the audit. NRG Companies state that, if the intent of the audit requirements is to ensure that ISO-NE has the information to serve load reliably, load should bear these costs because load benefits from the audits.⁴²

³⁸ Joint Filers November 27, 2012 Comments at 6-7.

³⁹ NRG Companies November 27, 2012 Limited Protest and Motion to Intervene at 3.

⁴⁰ *Id.* at 2.

⁴¹ *Id.* at 2-4. NRG Companies also note that "Capability Demonstration Year" is used throughout the proposed Tariff language, but it is not defined. However, the term "Capacity Demonstration Year" has been added to the definitions in the proposed Tariff language, but it is not used. *Id.* at 2 n.6.

⁴² *Id.* at 5-6.

26. They further argue that the out-of-market costs of both participant-initiated audits and ISO-NE-initiated audits should be allocated to all Network Load and not only to the participants with Real-Time Load Obligations. NRG Companies define “Network Load” as “all connected load.”⁴³ NRG Companies assert that, consistent with cost-causation and “beneficiary pays” principles, all Network Load, not only the entities serving load at the time the audits occur, should bear the cost of the audits because the audits result in reliability benefits that inure to all connected load.⁴⁴

B. Answer

27. In its answer, ISO-NE clarifies that, under the proposed Tariff requirement for winter Seasonal Claimed Capability Audits, a winter Seasonal Claimed Capability audit performed during the 2010/2011 Capability Demonstration Year would satisfy the three-year audit requirement specified in section III.1.5.1.3(d) for the 2013/2014 Capability Demonstration Year.⁴⁵ ISO-NE further explains that describing the new rule as requiring a winter Seasonal Capability Audit “once every three years” is accurate, because to remain compliant for the 2014/2015 Capability Demonstration Year, a generator must perform a winter audit once in every three-year period.⁴⁶ For example, a winter audit performed in the 2010/2011 Capability Demonstration Year would satisfy

⁴³ *Id.* at 5. We note that, under the ISO-NE Tariff, the appropriate term is “Regional Network Load,” which is defined as follows:

Regional Network Load is the load that a Network Customer designates for Regional Network Service under Part II.B of the OATT. The Network Customer’s Regional Network Load shall include all load designated by the Network Customer (including losses) and shall not be credited or reduced for any behind-the-meter generation. A Network Customer may elect to designate less than its total load as Regional Network Load but may not designate only part of the load at a discrete Point of Delivery. Where a Transmission Customer has elected not to designate a particular load at discrete Points of Delivery as Regional Network Load, the Transmission Customer is responsible for making separate arrangements under Part II.C of the OATT for any Point-To-Point Service that may be necessary for such nondesignated load.

Tariff, I.2, I.2 Rules of Construction; Definitions, 37.0.0.

⁴⁴ NRG Companies November 27, 2012 Limited Protest and Motion to Intervene at 6.

⁴⁵ ISO-NE’s December 12, 2012 Answer at 3-4.

⁴⁶ *Id.* at 4.

the requirement for the 2013/2014 Capability Demonstration Year. However, if that generator does not perform another winter audit during the 2013/2014 Capability Demonstration Year, then, on September 1, 2014,⁴⁷ it will not have a winter audit for the 2014/2015 Capability Demonstration Year that complies with the requirement to conduct a winter audit at least once in every three-year period.⁴⁸

28. With respect to the cost allocation for participant-initiated audits, ISO-NE contends that it is entirely appropriate that participant generators share in the costs of auditing by bearing any out-of-market costs from the participant-initiated audits. ISO-NE explains that participant generators are direct beneficiaries of participant-initiated audits since the audit results determine the reserve and capacity capability of a generator for which the generator may receive compensation in the reserve and capacity markets.⁴⁹ ISO-NE reiterates that the Generator Audit Revisions permit a generator's in-merit economic dispatch to be used to perform a participant-initiated audit. Therefore, the market costs of participant-initiated audits are paid by the load-serving entities that are responsible for energy market charges and the generator's responsibility for audit costs is limited to that portion of the participant-initiated audit that requires out-of-market, or non-economic, dispatch of a generation resource.⁵⁰

29. ISO-NE asserts that, in any case, NRG Companies' argument that Regional Network Load,⁵¹ as opposed to the Real-Time Load Obligation, should pay for any out-of-market costs from participant-initiated audits, is beyond the scope of this proceeding. ISO-NE states that it has not proposed to change the cost allocation for participant-initiated audits, so that mechanism is not at issue here.⁵²

30. ISO-NE further disputes NRG Companies' argument that Regional Network Load, not Real-Time Load Obligation, should pay for any out-of-market costs from ISO-NE-initiated audits. ISO-NE states that its proposed allocation of out-of-market costs from ISO-NE-initiated audits to the Real-Time Load Obligation is consistent with its allocation of other costs associated with ISO-NE's energy, capacity and reserve markets. In addition, ISO-NE explains that there are two allocators, the Real-Time Load

⁴⁷ As previously noted, the Capability Demonstration Year means "the one year period from September 1 through August 31." Tariff, section I.2.2, Definitions.

⁴⁸ ISO-NE's December 12, 2012 Answer at 4.

⁴⁹ *Id.* at 4-5.

⁵⁰ *Id.* at 5.

⁵¹ *See supra* paragraph 26 and note 43.

⁵² ISO-NE December 12, 2012 Answer at 6.

Obligation and the Regional Network Load, that are available to assign costs to the demand side of the wholesale market equation, which ultimately represents end-use customers.⁵³ ISO-NE states that Real-Time Load Obligations are assigned to load-serving entities while Regional Network Load is assigned to transmission customers. ISO-NE asserts that, because the Real-Time Load Obligation pays the bulk of the costs for energy, capacity and reserve, and these entities benefit from increases in reliability and market efficiency gained when ISO-NE maintains effective reserve and capacity capability audit programs, this benefit justifies the allocation of out-of-market costs for ISO-NE-initiated audits to the Real-Time Load Obligation.⁵⁴ Further, ISO-NE contends that the NRG Companies have failed to explain why allocating the out-of-market costs of ISO-NE-initiated audits to Real-Time Load Obligations is an unreasonable rate design.⁵⁵

III. Discussion

A. Procedural Matters

31. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2012), the notices of intervention and timely, unopposed 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) (2012), the Commission will grant GenOn Parties' late-filed motion to intervene given its interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

⁵³ *Id.* at 5-6

⁵⁴ *Id.* at 7.

⁵⁵ *Id.* at 7 (citing “*City of Bethany v. FERC*, 727 F.2d 1131, 1136 (D.C. Cir. 1984) (explaining that, under section 205, the Commission limits its inquiry ‘into whether the rates proposed by a utility are reasonable - and [this inquiry does not] extend to determining whether a proposed rate schedule is more or less reasonable than alternative rate designs’); *Oxy USA, Inc. v. FERC*, 64 F.3d 679, 692 (D.C. Cir. 1995) (explaining that, under section 205, the proposed tariff changes ‘need not be the only reasonable methodology, or even the most accurate’”). *See also Southwest Power Pool, Inc.*, 131 FERC ¶ 61,252 at P 124 & n.154 (2010); *California Indep. Sys. Operator Corp.*, 128 FERC ¶ 61,282, at P 31 (2009); *Louisville Gas and Electric Co.*, 114 FERC ¶ 61,282, at P 29 (2006) (“the just and reasonable standard under the FPA is not so rigid as to limit rates to a ‘best rate’ or ‘most efficient rate’ standard. Rather, a range of alternative approaches often may be just and reasonable.”).

32. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2012), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept ISO-NE's answer because it has provided information that assisted us in the decision-making process.

B. Commission Determination

33. We find that the Generator Audit Revisions are just and reasonable, and therefore, we will accept them for filing, to become effective June 1, 2013, as requested, subject to the submission of a compliance filing discussed below. We agree with ISO-NE that the Generator Audit Revisions will provide a clearer understanding of the physical capability of generation resources and thereby facilitate resource commitment and real-time operational decisions. The Generator Audit Revisions will also help verify that generators actually have the capability to meet, and are meeting, capacity commitments for which they receive compensation. Indeed, it is undisputed that, in furtherance of these purposes, the Generator Audit Revisions ultimately will help ensure reliability.

34. As ISO-NE confirms, with respect to the timing of winter audits, we agree that a generator could use its 2010/2011 winter Seasonal Claimed Capability Audit to satisfy the requirements of a winter Seasonal Claimed Capability Audit for the 2013/2014 Capability Demonstration Year because the 2010/2011 audit would have been conducted within the previous three Capability Demonstration Years. However, that generator would still need to perform a winter audit during the 2013/2014 Capability Demonstration Year in order to comply with the requirement for the 2014/2015 Capability Demonstration Year, to conduct a winter audit at least once in the three previous Capability Demonstration Years.

35. Further, we are not persuaded by NRG Companies' challenges to the cost allocation provisions. With regard to ISO-NE's proposal to allocate any out-of-market costs for participant-initiated audits to participant generators, ISO-NE explains that participant generators are the direct beneficiaries of participant-initiated audits because the audit results determine the generators' reserve and capacity capability and therefore determine the generators' compensation in the reserve and capacity markets. Since the participant generators are the direct beneficiaries of these audits, we find that it is reasonable for them to share in a portion of the costs of these audits. We note that, in a participant-initiated audit, the participant generator's only responsibility for audit costs is limited to that portion of a participant-initiated audit that results in out-of-market, or non-economic, dispatch of the generator. The Generator Audit Revisions permit a generator's in-merit economic dispatch to be used to perform a participant-initiated audit. In a participant-initiated audit that is conducted during the generator's in-merit economic dispatch, the generator receives the energy clearing prices in the ISO-NE market during the time that the generator is operating to conduct the audit and the generator is fully compensated for its costs during the audit. We further find that ISO-NE's proposal is reasonable because it serves to incentivize the generator to try to perform its participant-initiated audit, which is conducted at a time of the generator's choice, consistent with the

economic dispatch of the resource. Under NRG Companies' proposal, which would allocate any out-of-market costs from a participant-initiated audit to Network Load, the generator could choose to perform such audits when its dispatch is non-economic and, in such case, other ISO-NE market participants would bear those additional, out-of-market costs from the audit.⁵⁶

36. We further find that ISO-NE's proposal to allocate out-of market costs for ISO-NE-initiated audits to participants with Real-Time Load Obligations is reasonable. In response to NRG Companies' argument that out-of-market costs for ISO-NE-initiated audits should be allocated to Network Load, ISO-NE's answer acknowledges that there are two allocators, allocation to the Real-Time Load Obligation and allocation to the Regional Network Load, that are available to assign these costs to the demand side of the market, which ultimately represents end-use customers.⁵⁷ However, ISO-NE asserts that it is reasonable to allocate these costs to the Real-Time Load Obligation because the Real-Time Load Obligation pays the bulk of the costs for energy, capacity and reserve, and these entities benefit from increases in reliability and market efficiency gained when ISO-NE maintains effective reserve and capacity capability audit programs. We agree. NRG Companies have not proffered evidence to suggest that the allocation of these costs to the Real-Time Load Obligation is unreasonable. They only argue that their alternative rate design – to allocate these costs to Network Load – is reasonable and is a better allocation of costs than ISO-NE's proposed allocation of costs. Because we find ISO-NE's proposed rate design to be reasonable, we do not need to consider whether the proposed rate design is more or less reasonable than alternative rate designs.⁵⁸

37. Finally, we note that while proposed Tariff section III.1.5.1.3(d) refers to a "Capability Demonstration Year" (as noted above), the definitions section, in Tariff section I.2.2, Definitions, uses the term "Capacity Demonstration Year."⁵⁹ While ISO-NE uses the terms interchangeably in its transmittal letter, in the interest of clarity, we will direct ISO-NE to submit a compliance filing within 30 days of the date of this order, to define and consistently refer to "Capability Demonstration Year," not "Capacity Demonstration Year," in its Tariff provisions.

⁵⁶ We reject ISO-NE's assertion (ISO-NE December 12, 2012 Answer at 6) that the cost allocation for participant-initiated audits is beyond the scope of this proceeding because ISO-NE has not proposed to change the cost allocation for participant-initiated audits. ISO-NE's proposal to include existing generator audit provisions in its Tariff, which in large part were not previously filed at the Commission, constitute a change to the Tariff, and are therefore within the scope of this proceeding. *See supra* paragraph 5.

⁵⁷ ISO-NE December 12, 2012 Answer at 5-6.

⁵⁸ *See supra* note 55 and cases cited therein.

⁵⁹ *See supra* note 41.

The Commission orders:

(A) The Commission hereby accepts ISO-NE's Generator Audit Revisions, to become effective June 1, 2013, subject to submission of a compliance filing, as discussed in the body of this order.

(B) The Commission hereby directs ISO-NE to submit a compliance filing within 30 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.