

142 FERC ¶ 61,051
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.

Docket Nos. ER13-335-000

Footprint Power LLC

ER13-468-000

ORDER ACCEPTING INFORMATIONAL FILING
AND GRANTING WAIVERS

(Issued January 18, 2013)

1. On November 6, 2012, ISO New England Inc. (ISO-NE) submitted an informational filing reporting on the qualification of capacity resources to participate in the seventh Forward Capacity Auction (FCA)¹ for the 2016-2017 Capacity Commitment Period (Informational Filing). In this order, the Commission accepts the Informational Filing, effective January 18, 2013. The Commission also grants a waiver of the Qualification Determination Notification (QDN) deadline to allow resources to submit the financial assurance deposit that ISO-NE needs in order to qualify them to participate in the FCA.

I. Background of Forward Capacity Market

2. ISO-NE operates a Forward Capacity Market (FCM), in which capacity resources compete in an annual FCA to provide capacity to New England three years in advance of the relevant Capacity Commitment Period; providers whose capacity clear the FCA acquire Capacity Supply Obligations, which they must fulfill three years later. The FCM rules² require ISO-NE to submit to the Commission an informational filing no later than

¹ The seventh FCA or “FCA 7” is scheduled to begin on February 4, 2013.

² See ISO-NE Transmission, Markets, and Services Tariff (Tariff), section III.13.8.1(a).

90 days prior to each FCA. That filing must include, *inter alia*, the details of the resources accepted or rejected in the qualification process for participation in the FCA and the load zones to be modeled for the FCA.

3. As part of the qualification process for a new generation resource and a new import capacity resource, ISO-NE performs an initial interconnection analysis, including an analysis of overlapping interconnection impacts, to determine the amount of capacity that the resource could provide by the start of the associated Capacity Commitment Period.³ For demand response resources, ISO-NE reviews measurement and verification plans and other data required as part of the qualification process.⁴ Each resource must complete the qualification process set out in the Tariff, including submitting certain information to ISO-NE.⁵ ISO-NE then issues a QDN to each resource, informing it whether it has or has not qualified to participate in the FCA. If ISO-NE determines that all of the requirements that are necessary to enable the new generating resource, new import capacity resource, or new demand response resource to provide capacity cannot be implemented before the start of the Capacity Commitment Period, that resource is not qualified for participation in the FCA.⁶

4. Pursuant to its Tariff,⁷ ISO-NE will model four capacity zones in FCA 7: Maine, Connecticut, Northeastern Massachusetts/Boston and Rest of Pool. Rest of Pool is composed of Southeastern Massachusetts, Western/Central Massachusetts, Rhode Island, New Hampshire and Vermont. ISO-NE has determined that Maine will be modeled as an export-constrained capacity zone while Connecticut and Northeastern Massachusetts/Boston will be modeled as import-constrained.⁸

³ Tariff, section III.13.1.1.2.3 and section III.13.1.3.5.

⁴ Tariff, section III.13.1.4.2.5.1.

⁵ Tariff, section III.13.1.

⁶ Tariff, section III.13.1.1.2.3(c).

⁷ Tariff, section III.12.4.

⁸ ISO-NE Informational Filing at 4.

II. Docket No. ER13-335-000

A. Informational Filing

5. ISO-NE states in the Informational Filing that the Installed Capacity Requirement (ICR) for the 2016-2017 Capacity Commitment Period is 34,023 MW. After accounting for 1,055 MW per month of Hydro Quebec Interconnection Capability Credits (HQICCs), the net amount of capacity that ISO-NE must procure in the FCA to meet the ICR is 32,968 MW.⁹ De-list bids from existing resources totaled 433 MW.¹⁰ Additionally, 25 existing resources submitted Non-Price Retirement Requests. ISO-NE states that it qualified 204 MW of New Generating Capacity Resources, 1,277 MW of New Import Capacity Resources, and 257 MW of New Demand Resources after de-rating.¹¹ Overall, the qualification process for FCA 7 resulted in 49 new projects, totaling 1,738 MW, and 35,342 MW of existing resources competing to provide 32,968 MW (after accounting for HQICCs) to the New England control area for the 2016-2017 Capacity Commitment Period.

B. Notice of the Filing and Responsive Pleadings

6. Notice of the Informational Filing was published in the *Federal Register*, with interventions and protests due on or before November 21, 2012.¹² The NRG Companies,¹³ Exelon Corporation, the New England Power Pool Participants Committee

⁹ ISO-NE submitted the 2016-2017 ICR value filing in Docket No. ER13-334-000 and it was accepted by delegated letter order on December 31, 2012. The 34,023 MW ICR value does not reflect a reduction of 1,055 MW per month in capacity requirements relating to HQICCs.

¹⁰ Existing resources may opt out of an auction by submitting de-list bids for amounts of capacity they are willing to remove from the FCA at various prices for an entire Commitment Period (or Periods depending on the type of De-List Bid submitted). *See* Tariff, sections III.13.2.3.2 (b), (c), and (d).

¹¹ De-rated from the proposed megawatt capacity based on inconsistencies with customer acquisition rates, average customer size and customer acquisition period. Informational Filing at 6 n.20.

¹² 77 Fed. Reg. 68,762 (2012).

¹³ The NRG Companies are NRG Power Marketing LLC, Connecticut Jet Power LLC, Devon Power LLC, Middletown Power LLC, Montville Power LLC, and Norwalk Power LLC.

(NEPOOL) and Northeast Utilities filed timely motions to intervene. Footprint Power LLC (Footprint) filed a timely motion to intervene and protest that included a request for waiver of the FCA 7 QDN deadline.¹⁴ HQ Energy Services (U.S.) Inc. (HQUS) filed a timely motion to intervene and “Protest and Request for Waiver [of the QDN Deadline], or, in the Alternative, Complaint.” Brookfield Energy Marketing LP (Brookfield) filed a timely motion to intervene and protest, attaching its complaint against ISO-NE, which it concurrently filed in Docket No. EL13-23-000.¹⁵

7. On December 6, 2012, ISO-NE and NEPOOL filed answers to the protests.¹⁶

8. In light of the statements in ISO-NE’s answer, on December 21, 2012, Brookfield filed an answer and notice of conditional partial withdrawal of its separate complaint.¹⁷

9. Brookfield and HQUS each state that they submitted qualification packages to ISO-NE for their import resources to participate in FCA 7. Brookfield sought to qualify import resources that would be backed by generating facilities located inside the New York Control Area (NYCA), whereas the import resources HQUS sought to qualify would wheel power from the Hydro Quebec control area through NYCA. In both of these cases, the import capacity would be imported to ISO-NE from NYCA.

10. Brookfield and HQUS each state that ISO-NE sought additional information regarding whether the import capacity would be deliverable to New England, and they timely responded by completing the requested forms and answering ISO-NE’s questions.

¹⁴ Footprint subsequently submitted a stand-alone request for waiver in Docket No. ER13-468-000, reiterating the same arguments in its protest. We will discuss Footprint’s arguments in the context of its waiver request in the relevant section below.

¹⁵ Brookfield and HQUS also filed separate complaints raising the same issues that they raised in their protests; *see Brookfield Energy Marketing LP v. FERC*, Docket No. EL13-23-000 (*Brookfield*) and *H.Q. Energy Services (U.S.) Inc. v. FERC*, Docket No. EL13-25-000 (*HQUS*). The Commission is issuing orders in *Brookfield* and *HQUS* concurrently with this order (*Brookfield Energy Marketing LP v. FERC*, 142 FERC ¶ 61,052 and *H.Q. Energy Services (U.S.) Inc. v. FERC*, 142 FERC ¶ 61,053 (2013).

¹⁶ ISO-NE filed a single document (ISO-NE Answer) in answer to the protests in Docket No. ER13-335-000, Footprint’s request for waiver in Docket No. ER13-468-000, and the Brookfield and HQUS complaints.

¹⁷ Brookfield filed the answer in both Docket No. ER13-335-000 and Docket No. EL13-23-000.

They state that, nevertheless, on September 28, 2012, ISO-NE issued the QDNs for FCA 7, entirely disqualifying the HQUS import capacity and partially disqualifying the Brookfield import capacity.

11. Brookfield and HQUS each assert that ISO-NE's sole reason for disqualifying certain import resources they wished to offer into FCA 7 was because they did not sufficiently explain how they would ensure deliverability, given internal transmission constraints within New York. Brookfield and HQUS state that because their resources qualified in previous FCAs based on the same qualification information, ISO-NE violated its current Tariff and applied a different standard for determining when an import resource qualifies to provide capacity in New England, without properly revising its Tariff.

12. Based upon the foregoing, Brookfield requests that the Commission order ISO-NE to fully qualify Brookfield's capacity to participate in FCA 7 and include in its Tariff the standard, going-forward, for qualifying capacity imports into New England.¹⁸ HQUS requests that the Commission require ISO-NE to waive the QDN deadline, so that it may provide additional information to ISO-NE to enable HQUS's capacity to be qualified, or, in the alternative, require ISO-NE to modify its Tariff to set forth deliverability criteria.¹⁹

13. In its answer, ISO-NE states that misunderstandings may have contributed to Brookfield's and HQUS's inability to provide the necessary information to enable ISO-NE to qualify their resources for FCA 7. ISO-NE states that, based on the information provided in Brookfield and HQUS's filings, the ISO now has sufficient information to qualify these new import resources for the seventh FCA.²⁰ Accordingly, ISO-NE asks that the Commission waive (i.e., extend) the QDN deadline for those resources and "all similarly-situated denied new import resources west of the Central-East Interface" and that the resources be required to submit their financial assurance deposits within five business days of the date of the order to be qualified to participate in FCA 7.²¹

¹⁸ Brookfield protest in Docket No. ER13-335-000 at 2.

¹⁹ HQUS protest in Docket No. ER13-335-000 at 3-4.

²⁰ ISO-NE answer in Docket Nos. ER13-335-000 and ER13-468-000 at 11.

²¹ ISO-NE answer in Docket Nos. ER13-335-000 and ER13-468-000 at 4. ISO-NE requests financial assurance deposits only from resources that qualify to participate in an FCA, so it had not previously sought the financial assurance deposits from rejected resources like Brookfield and HQUS.

14. In its answer, NEPOOL takes no substantive position on the waiver requests or Tariff issues raised by Brookfield and HQUS but posits that any Tariff changes should be addressed through the stakeholder process.

15. In its answer and notice of conditional partial withdrawal of its complaint, Brookfield notes its amenability to a waiver of the QDN deadline, and recognizes that such waiver will, in effect, moot the arguments in its separately-filed complaint in Docket No. EL13-23-000. Brookfield states that, if ultimately, its capacity is fully qualified for FCA 7, Brookfield will wholly withdraw the complaint.²²

16. In its reply comments, HQUS states that it does not oppose the Commission granting waiver of the QDN deadline. HQUS states that if, as ISO-NE indicates, HQUS's New York capacity will qualify in FCA 7, HQUS will withdraw its complaint in Docket No. EL13-25-000, as its concerns would be resolved through this proceeding.²³

C. Discussion

1. Procedural Matters

17. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2012), the timely-filed unopposed motions to intervene serve to make the entities filing them parties to the proceeding.

18. 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 or an answer unless otherwise ordered by the decisional authority. We will accept the answers in this case because they have provided information that has assisted us in our decision-making process.

2. Substantive Determinations

19. While Brookfield and HQUS initially disputed the qualification process, ISO-NE has since committed to qualifying Brookfield's, HQUS's, and all similarly-situated denied new import resources west of the Central-East Interface, if the resources promptly submit financial assurance deposits within five business days of the date of this order; and Brookfield and HQUS acknowledge that such qualification would resolve their concerns in this case. Because we otherwise find that the Informational Filing sets forth

²² Brookfield answer and notice of conditional partial withdrawal in Docket No. ER13-335-000 at 2.

²³ HQUS reply comments in Docket No. EL13-25-000 at 3.

the information required by ISO-NE's Tariff, we will accept it for filing to become effective on the date of this order, and grant waiver of the FCA 7 QDN deadline to allow ISO-NE to qualify Brookfield, HQUS, and all similarly-situated denied new import resources west of the Central-East Interface to participate in FCA 7.

20. The Commission has granted waivers of Tariff requirements in situations where: (1) the underlying error was made in good faith; (2) the waiver is of limited scope; (3) granting waiver would remedy a concrete problem; and (4) the waiver does not have undesirable consequences, such as harming third parties. All of these circumstances are present here: ISO-NE acknowledges that a good faith error, i.e., miscommunication, might have resulted in the exchange of insufficient information; a waiver of the QDN deadline is of limited scope, for FCA 7 only; and granting waiver would allow qualified resources to fairly participate in FCA 7 without causing harm to third parties. For these reasons, we will grant a waiver of the QDN deadline for the specific HQUS and Brookfield resources as well as other similarly-situated new import resources which were denied qualification for FCA 7. Accordingly, we need not address the remainder of Brookfield's and HQUS's protest arguments.

21. We emphasize that due to the imminent FCA 7 start date – February 4, 2013 -- Brookfield, HQUS and the other relevant resources should promptly submit their financial assurance deposits within five business days of the date of this order, as ISO-NE requests.

III. Docket No. ER13-468-000

A. Footprint's Request for Waiver

22. As noted above, on November 28, 2012, subsequent to submitting its protest and request for waiver in Docket No. ER13-335-000, Footprint filed a stand-alone request for waiver in Docket No. ER13-468-000. In both pleadings, Footprint seeks a waiver of the FCA 7 QDN deadline. In support, Footprint states that it recently acquired the existing coal and oil-fired Salem Harbor station with the intent to demolish that facility and construct a quick-start, gas-fired, combined cycle unit in its place. According to Footprint, the new facility's aggregate winter capacity is 674 MW²⁴ – the MW quantity that it originally sought to qualify for FCA 7. Footprint states that, at the time ISO-NE needed to issue the QDNs to resources seeking to participate in FCA 7, Footprint, ISO-NE and National Grid were still completing their technical analysis to determine if transmission upgrades required to qualify all of Footprint's 674 MW would be in service

²⁴ Qualification in the FCA is limited to the lesser of summer and winter ratings. Footprint's summer rating was 692 MW.

by June 1, 2016, the start of the 2016-2017 Capacity Commitment Period. Because that question was not resolved by the time ISO-NE was required to issue the QDNs, ISO-NE only qualified 570 MW, or approximately 85 percent, of the facility's capacity for FCA 7.

23. Footprint explains that it, along with ISO-NE and National Grid, continued to work beyond the QDN deadline to complete the technical analysis required to qualify Footprint's full capacity. Footprint states that on November 21, 2012, when it submitted its protest and request for waiver in Docket No. ER13-335-000, the analysis was complete and, if ISO-NE had issued the QDN at that time, Footprint's full capacity would have qualified for FCA 7. Footprint requests that the Commission grant a waiver of the QDN deadline, allowing Footprint's full 674 MW to participate in FCA 7.

B. Notice of the Filing and Responsive Pleadings

24. Footprint's request for waiver was noticed in the Federal Register, with interventions and protests due on or before December 19, 2012.²⁵ Exelon Corporation and NEPOOL each filed a timely motion to intervene, and National Grid and ISO-NE each filed a timely motion to intervene and comments.²⁶

25. On December 21, 2012, Footprint filed an answer to National Grid's comments.

26. ISO-NE does not oppose Footprint's waiver request and acknowledges that Footprint's requested capacity value of 674 MW was not qualified because information regarding certain transmission upgrades was not available prior to the QDN deadline. ISO-NE states that new information has been made available which would allow ISO-NE to qualify the full 674 MW capacity amount.²⁷ Noting that FCA 7 is set to begin on February 4, 2013, ISO-NE requests that, if the Commission grants Footprint's request for waiver, it also require Footprint to submit its financial assurance deposit within five business days of the Commission ruling in order to participate in the auction at the requested value of 674 MW.

27. National Grid argues that granting waiver to Footprint could have undesirable consequences. National Grid asserts that Footprint's attempt to qualify to participate in

²⁵ 77 Fed. Reg. 72,341 (2012).

²⁶ ISO-NE combined its comments in Docket No. ER13-468-000 with its answer to the protests submitted in Docket No. ER13-335-000.

²⁷ ISO-NE answer at 7-8.

the FCM is inconsistent with statements that Footprint has made before the Massachusetts Department of Public Utilities (MDPU). According to National Grid, Footprint has represented to the MDPU that the FCM is not a functioning capacity market that can produce a capacity clearing price sufficient to sustain capacity resources, and that Footprint will therefore require additional funding through a long-term power purchase contract ordered by the MDPU. National Grid states that Footprint's statements "appear to suggest that Footprint is not capable of meeting [its capacity] obligation"²⁸ unless the MDPU orders National Grid's affiliate Massachusetts Electric to enter into a long-term power purchase contract with Footprint. National Grid alleges that "[i]f this interpretation is correct, it appears that Footprint would simply walk away from the FCM obligation if such an out-of-market contract for the sale of capacity is not ordered by the [state] within a few weeks after Footprint clears [FCA 7] presumably at or near the maximum price."²⁹ In addition, National Grid worries that as a result of such a contract, Footprint could either double-sell capacity or undercut FCM price signals through an out-of-market subsidy. According to National Grid, such an action "would undermine the integrity of the FCA and the FCM" and "could result in unjust and unreasonable rates being charged by Footprint for up to 20 years."³⁰ Further, National Grid argues that Footprint may be in a position to offer into the auction below its actual costs and that "the capacity market may fail to identify the most economically efficient resource to supply the needed capacity."³¹

28. Accordingly, National Grid requests that the Commission grant a waiver to Footprint only if two conditions are met. The first is that Footprint confirm that it can finance its project and meet its capacity obligations without the aid of an "out-of-market" long-term contract required by the MDPU. The second is that Footprint confirm that its priced offer into the FCA will not be conditional, and that it intends to fulfill any capacity supply obligation it assumes if the offer is accepted in the FCA clearing process.³²

29. In its answer to National Grid's comments, Footprint states that National Grid is seeking to impose requirements on Footprint's resource that are not in the Tariff and that have not been applied to other resources, including a showing of the specific financing

²⁸ National Grid comments at 2.

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.* at 13.

³² *Id.* at 2-3.

arrangements in place to construct the project. According to Footprint, the only assurance required by the Tariff from new entrants into capacity markets is a financial assurance deposit.³³ Footprint states that it must provide collateral in the amount of \$1.3 million (based on its size) to participate in the FCA, which will annually increase to in excess of \$4 million after it clears FCA 7 (depending on the final clearing price of the auction), and will reach a total of over \$12 million by February 2015. Footprint states that, if it does not become commercially viable, it forfeits this payment.³⁴

30. Footprint further asserts that the assurances that National Grid seeks – namely, that new entrants demonstrate the specifics of their financing – are impracticable. The purpose of the three-year forward auction, according to Footprint, is to allow new entrants to first determine if they clear in the auction and then to know the clearing price. Footprint states that the clearing price is a key factor used when finalizing financing terms. Footprint asserts the Tariff does not require that planned resources lock-in financing before the FCA has been run and it would be unreasonable for the Commission to uniquely impose this requirement upon Footprint.³⁵

31. Footprint further alleges that National Grid seeks to raise issues unrelated to this proceeding, such as Footprint's general comments in the MDPU proceeding, which are not relevant here.

C. Discussion

1. Procedural Matters

32. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2012), the timely-filed unopposed motions to intervene serve to make the entities that filed them parties to this relevant proceeding.

33. 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 or an answer unless otherwise ordered by the decisional authority. We will accept Footprint's answer in this case, because it has provided information that has assisted us in our decision-making process.

³³ Footprint answer at 3 (citing Tariff, Section III.13.1.9 (Financial Assurance Policy ("FAP")) requirement for new generation capacity resources to post collateral until they become operational); Tariff Exhibit IA (terms of FAP); and Section III.13.1.9.2.3).

³⁴ Footprint answer at 3.

³⁵ *Id.* at 3-4.

2. Substantive Determination

34. Applying the same waiver criteria mentioned above concerning Brookfield and HQUS, we will grant Footprint's request for waiver of the QDN deadline. Indeed, for the same reasons discussed above with respect to Brookfield and HQUS, Footprint's requested waiver is of limited scope and will remedy a concrete problem. Additionally, we find that the underlying error was made in good faith; Footprint has represented, without contradiction, that it, ISO-NE and National Grid worked diligently to ensure the transmission work necessary to interconnect Footprint's facility to ISO-NE's system would be completed by June 2016, thus allowing ISO-NE to qualify the facility for FCA 7, at the requested 674 MW.³⁶ Further, ISO-NE is amenable to granting Footprint's requested waiver.³⁷

35. While National Grid argues that the waiver could harm third parties, we disagree. National Grid asserts that Footprint may not be able to fulfill a capacity obligation that it might receive in FCA 7. However, based on ISO-NE's statement that, "if the Commission grants the waiver request, and Footprint submits its financial assurance deposit within five business days of the Commission ruling [Footprint] will be qualified to participate in the auction at the requested 674 MW,"³⁸ Footprint has provided sufficient information to satisfy ISO-NE's qualification requirements. We further note that Footprint has sought a waiver of the FCA qualification *deadlines*; it has not sought a waiver of the *substantive requirements* that must be met to become qualified as a capacity resource for FCA 7. Thus, Footprint will not become qualified as a capacity resource unless ISO-NE finds that it has met the financial and other requirements for qualifying as a capacity resource that are contained in the Tariff. The Tariff requires that all applicants seeking to be qualified as new capacity resources must submit a critical path schedule with sufficient detail to allow ISO-NE to evaluate the feasibility of the project achieving timely commercial operation.³⁹ That critical path schedule must include the dates on which certain milestones have or are expected to occur. This includes, with regard to project finance closing, "(i) the estimated dollar amount of required project financing; (ii) the expected sources of that financing; and (iii) the expected closing date(s) for the project financing."⁴⁰ While Footprint acknowledges in its answer it has not yet finalized

³⁶ Footprint request for waiver at 2.

³⁷ ISO-NE answer at 3.

³⁸ ISO-NE answer at 9.

³⁹ Tariff, section III.13.1.1.2.2.2.

⁴⁰ Tariff, section III.13.1.1.2.2.2(b).

its financing, as the language above shows, Footprint is not required to do so: rather, it is required to provide a schedule for the dates on which it expects to close its project financing. Footprint earlier stated in its request for waiver that it “has met every qualification deadline and information request,”⁴¹ and ISO-NE in its answer does not contradict this statement, and furthermore does not oppose the granting of a waiver to Footprint.

36. We also note that resources that seek to participate in the FCM must provide financial assurance deposits to ISO-NE,⁴² and that ISO-NE also has available to it performance penalties and other enforcement mechanisms to ensure that, if a resource is committed to supply capacity in New England, it will either deliver that capacity itself or provide substitute capacity.⁴³ While Footprint has asserted in its statements before the MDPU that, as a general matter, the FCM has failed to provide a stable revenue stream against which new generating facilities could be financed,⁴⁴ National Grid acknowledges in its own comments that Footprint has not stated that it cannot get financing for its specific generating plant based on the revenue stream from the FCM alone.⁴⁵ Therefore, we regard National Grid’s suggestions that Footprint is likely to “walk away” from any capacity obligation it receives in FCA 7 as entirely speculative.

37. In addition, Footprint has not sought a waiver of the buyer market power provisions of ISO-NE’s Tariff. Those provisions would protect against any attempt by Footprint to suppress the capacity market price through an artificially low offer price. That is, if Footprint were to submit an offer price below 0.75 times the cost of new entry (CONE), that offer would be subject to review by the Market Monitor. If the Market Monitor found that the offer price was not cost justified, the buyer market power mitigation provisions specified in the Alternative Capacity Price Rule would be triggered.⁴⁶ Moreover, Footprint states that it “has not sought ‘Out of Market’ treatment

⁴¹ Footprint request for waiver in Docket No. ER13-468-000 at 2.

⁴² ISO New England Financial Assurance Policy, http://www.iso-ne.com/regulatory/tariff/sect_1/sect_i.pdf, section VII.B.

⁴³ Tariff, section III.13.7.

⁴⁴ National Grid comments, Attachment B (Reply Comments of Footprint in Mass. D.P.U. 12-77) at 2.

⁴⁵ National Grid comments at 8.

⁴⁶ Tariff, Section III.13.1.1.2.6.

in FCA 7 that would permit it to bid below the auction floor price and therefore negatively affect the auction price.”⁴⁷ We interpret this statement to mean that Footprint has not sought to justify to the Market Monitor an offer price below the level of 0.75 time CONE, and thus, that its offer price would not be below the level that could trigger buyer market power mitigation under the Alternative Capacity Price Rule.

38. For these reasons, we find that granting Footprint’s requested waiver of the QDN deadline will not harm third parties and is otherwise appropriate. As noted above, due to the approaching FCA 7 start date, Footprint should submit its financial assurance deposits within five business days of the date of this order.

The Commission orders:

(A) ISO-NE’s Informational Filing is hereby accepted for filing, effective January 18, 2013, as discussed in the body of this order.

(B) ISO-NE’s QDN deadline for FCA 7 is hereby waived, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

⁴⁷ Footprint request for waiver in Docket No. ER13-468-000 at 3.