143 FERC ¶ 61,198
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

ISO New England Inc. Docket No. ER12-953-002

ORDER ON COMPLIANCE FILING

(Issued May 31, 2013)

1. On March 14, 2013, ISO New England Inc. (ISO-NE) submitted proposed revisions to its open access transmission tariff (tariff) to comply with the Commission's order issued in this proceeding on February 12, 2013.[1] In this order, the Commission accepts the tariff revisions related to the duration of mitigation, to become effective May 30, 2013, rejects ISO-NE's alternative tariff provisions which would have provided for the modeling of eight zones, and accepts ISO-NE's proposal to retain four zones, subject to a further compliance filing.

I. Background

A. Forward Capacity Market and Prior Orders

2. ISO-NE administers a Forward Capacity Market (FCM), in which resources compete in an annual Forward Capacity Auction (FCA) to provide capacity on a three-year-forward basis. Providers whose capacity is taken in the FCA acquire Capacity Supply Obligations, which they must fulfill approximately three years later.[2] ISO-NE held the first two FCAs in 2008, the third FCA in October 2009, the fourth in August 2010, the fifth in June 2011, the sixth (FCA 6) in April 2012, and the seventh (FCA 7) in February 2013. The eighth FCA (FCA 8) will take place in February 2014 and will

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[1] *ISO New England Inc.*, 142 FERC ¶ 61,107 (2013) (February 12, 2013 Order). ISO-NE's March 14, 2013 filing will be referred to as the Compliance Filing.

[2] The Commission accepted a portion of the market rules that implemented the FCM on April 16, 2007 (*ISO New England Inc.*, 119 FERC ¶ 61,045, *order on reh'g*, 120 FERC ¶ 61,087 (2007)), and the remainder on June 5, 2007 (*ISO New England Inc.*, 119 FERC ¶ 61,239 (2007), *reh'g denied*, 122 FERC ¶ 61,171 (2008)).

procure capacity for the capacity commitment period beginning June 1, 2017 and ending May 31, 2018.

3. As relevant here, the FCM design incorporates locational pricing, in which capacity zones are modeled in order to permit zonal price separation when binding constraints arise. During the FCM revision proceedings in Docket No. ER10-787-000, ISO-NE proposed a change to its zonal modeling, which was supported by both the Internal Market Monitor and the External Market Monitor.[3] ISO-NE proposed to model all zones all the time in the auctions, rather than determining before the start of an auction whether a zone was to be modeled. ISO-NE argued that if capacity zones are modeled all of the time in the auctions, a local reliability need would have a greater chance of being met with resources clearing in the market rather than by ISO-NE having to reject de-list bids for reliability reasons.[4]

4. In addition to its proposal to model all zones all the time, ISO-NE proposed to use the eight existing energy load zones in New England[5] as the initial basis for modeling capacity zones. ISO-NE stated that "[t]he existing energy Load Zones capture most, but not all, of the relevant electrical constraints in the transmission system," and that ISO-NE would continue to use its stakeholder process to develop the zones to be used after FCA 6.[6]

5. By orders issued April 13, 2011[7] and January 19, 2012,[8] the Commission accepted ISO-NE's zonal proposal. In the April 13, 2011 Order, the Commission noted that "the development of zones is not a simple task, and we therefore find it reasonable that ISO-NE use the existing energy load zones as the basis for potential capacity zones."[9] In the

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[3] ISO-NE First Brief in Docket No. ER10-787-000 (July 1, 2010) (ISO-NE First Brief) at 41.

[4] *Id.* at 43.

[5] The eight energy load zones are Connecticut, Maine, New Hampshire, Rhode Island, Vermont, Northeastern Massachusetts/Boston (NEMA), Southeastern Massachusetts (SEMA) and Western/Central Massachusetts.

[6] ISO-NE First Brief at 44.

[7] *ISO New England Inc.*, 135 FERC ¶ 61,029, at P 272 (2011) (April 13, 2011 Order).

[8] *ISO New England Inc.*, 138 FERC ¶ 61,027, at P 102 (2012) (January 19, 2012 Order).

[9] April 13, 2011 Order, 135 FERC ¶ 61,029 at P 275.

same order, the Commission also accepted "ISO-NE's proposal to develop any future zones through ISO-NE's system planning stakeholder process."[10]

6. On December 3, 2012, ISO-NE submitted further compliance revisions. As relevant here, ISO-NE sought to continue to model four, rather than eight, capacity zones through at least FCA 8. ISO-NE couched its request to model four zones as either a request for waiver of a compliance obligation, or, alternatively, a new filing under section 205 of the Federal Power Act (FPA).[11]

7. Citing "significantly changed circumstances resulting from the continued evolution of the transmission system," ISO-NE stated that it no longer believed that the eight-zone approach was appropriate and that moreover, modeling eight zones "could result in substantial and unnecessary inefficiency in the FCM."[12] ISO-NE instead requested that the four capacity zones accepted by the Commission for use in FCA 7 be retained for FCA 8 and beyond, "pending further analysis of zonal issues by the ISO and stakeholders in a process that will begin in the second quarter of 2013."[13]

8. ISO-NE stated that since it originally initiated the plan to model eight capacity zones based on the existing eight energy zones, "the New England bulk power system has continued to evolve, and is approaching the point where most of the constraints that previously limited the transmission of power – which defined the eight capacity zones and precluded the shutdown and retirement of generating facilities – either no longer exist or are being eliminated."[14] ISO-NE asserted that its analysis of the New England power system showed that, due to the addition of new demand resources and generation and to transmission reinforcements that should be completed by 2017, there would be significant changes to the existing zonal limitations in critical parts of the system by June 1, 2017, the beginning of the capacity commitment period associated with FCA 8. ISO-NE explained:

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[10] *Id.* P 283.

[11] 16 U.S.C. § 824d (2006). ISO-NE asserted that staying with four zones did not require the filing of tariff revisions, because it would simply continue implementing the current provisions.

[12] ISO-NE December 3, 2012 Filing at 2.

[13] *Id.*

[14] December 3, 2012 filing at 36-37 (citing attached testimony of Stephen J. Rourke, ISO-NE's vice president of system planning (December 3, 2012 Rourke Testimony)).

> These upgrades to the system will bolster load-serving capabilities in major regional load pockets such as Connecticut, greater Boston, southeastern Massachusetts and Rhode Island, and the New Hampshire seacoast area, as well as address a number of more local load-serving issues. In many instances, existing reliability concerns will be eliminated entirely or significantly mitigated for the foreseeable future. These upgrades also serve to electrically tie more closely the eight load zones within New England to each other, blurring the current lines of distinction between many areas of the system.[15]

9. ISO-NE stated that, while it could model eight capacity zones based on the eight existing energy load zones for FCA 8, doing so would not be straightforward, since "development of zonal requirements requires a discrete and measurable electrical transfer limit into and out of the capacity zone,"[16] and with the new transmission topology for the eighth FCA, the ISO would have to use "somewhat arbitrary"[17] means to express transfer limits corresponding to the boundaries of the eight existing energy load zones. ISO-NE stated that it could find a way to express those transfer limits, but because they would not be associated with actual transfer limitations across the zonal boundaries, "the numbers would be somewhat artificial, and . . . would arbitrarily create financial winners and losers."[18] ISO-NE stated that there would likely be strong opposition to this methodology among stakeholders, and that it would also require significant changes to the tariff, ISO-NE Planning Procedures, and ISO-NE business processes and settlement systems. ISO-NE further stated that dividing the system into eight capacity zones that do not reflect actual transmission constraints could unnecessarily limit market participants' ability to self-supply (in situations where the load is in one zone and the resource is in another), to engage in bilateral transactions, and to make composite offers into the auction.

10. ISO-NE further argued that "it does not seem advisable to undertake the stakeholder and implementation effort to implement eight capacity zones for one or at most two auctions, . . . [and that the existing four zones] capture the two areas of primary concern for the 2017-2018 delivery year (the Capacity Commitment Period associated

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[15] December 3, 2012 filing at 37 (citing December 3, 2012 Rourke Testimony at 3-6).

[16] December 3, 2012 filing at 39.

[17] *Id*.

[18] *Id*.

with the FCA 8), specifically, locked-in capacity in Maine and impending capacity import limitations in the NEMA/Boston area."[19] ISO-NE stated that beginning in the second quarter of 2013, it would undertake a stakeholder process to address how capacity zones and the associated zonal requirements are determined, and asked the Commission not to set a specific deadline for implementation of further zonal changes, if any. Rather, ISO-NE argued, the four capacity zones previously approved by the Commission should remain in place until ISO-NE and its stakeholders developed and filed a new zonal configuration with the Commission.

II. February 12, 2013 Order

11. In the February 12, 2013 Order, the Commission accepted the majority of ISO-NE's proposed revisions to the FCM as being in compliance.[20] However, relevant to the zonal issue, the Commission found that ISO-NE had "failed to support any type of waiver request or otherwise show that remaining with its four-zone model for FCA 8 would be just and reasonable."[21]

12. The Commission stated that "zones are intended to make known the areas where binding constraints are preventing the unhindered movement of energy, and. . . [t]he division of ISO-NE into zones that reflect binding constraints (and, therefore, should serve as incentives or disincentives to resources to locate and/or remain in those zones) seeks to meet that goal."[22] The Commission also noted that it had previously approved ISO-NE's proposal to model all zones all the time, finding that the proposal reduced the likelihood of rejecting de-list bids and relying on out-of-market solutions to reliability problems.[23]

13. The Commission acknowledged that an accurate representation of the New England region could require a smaller or larger number of zones than the original eight capacity zones, stating that a "reduction in constraints . . . may justify future zonal modeling with fewer than eight zones, [or] binding constraints and local reliability problems that prove intractable, or that are not present now but arise in the future, may

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[19] *Id*. P 40.

[20] As discussed below, the Commission rejected ISO-NE's proposed methodology for reducing the offer floor of an uncleared resource that has already achieved commercial operation. February 12, 2013 Order, 142 FERC ¶ 61,107 at P 63.

[21] *Id*. P 117.

[22] *Id*. P 118.

[23] Id. P 118 (citing January 19, 2012 Order, 138 FERC ¶ 61,027 at P 107).

dictate an even larger number of zones."[24] However, the Commission found that ISO-NE had not substantiated its claim that modeling four zones for FCA 8 would be appropriate, noting that the record lacked evidence, such as transmission studies, detailed descriptions of constraints that arose in prior auctions and will no longer arise due to enhancement to the transmission system, and specific evidence of a similar nature.[25]

14. The Commission noted, however, that "this does not preclude ISO-NE from making an additional filing providing adequate support for the modeling of fewer than eight zones in FCA 8. In such a filing, ISO-NE would have to explain in detail how the various projects predicted to come on-line prior to 2017 will alleviate existing or forecasted constraints such that fewer than eight zones would be appropriate."[26] The Commission stated that in the absence of such a further showing, ISO-NE must submit revised tariff sections to model eight zones for FCA 8.

15. In response to the February 12, 2013 Order, ISO-NE submitted a Compliance Filing.

III. Procedural Matters

16. Notice of the Compliance Filing was published in the *Federal Register*, with interventions, comments and protests due on or before April 4, 2013.[27] The PSEG Companies (PSEG), the NRG Companies (NRG), the New England States Committee on Electricity (NESCOE) and NEPOOL filed timely comments. On April 12, 2013, NEPOOL filed a motion to file supplemental comments out-of-time and supplemental comments.

17. We will grant NEPOOL's motion to file supplemental comments out-of-time given its interest in this proceeding, the early stage of the proceeding, and the absence of any undue prejudice or delay.

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[24] *Id*. P 122

[25] *Id*. P 121.

[26] February 12, 2013 Order, 142 FERC ¶ 61,107 at P 117.

[27] 78 Fed. Reg. 17,651 (2013).

IV. Zones

A. Compliance Filing

18. In its Compliance Filing, ISO-NE renews its request to model four zones but also submits tariff revisions providing for eight capacity zones, in case its four-zone request is rejected. In support of retaining four zones, ISO-NE states that its "detailed testimony and supporting documentation demonstrat[e] that specific upgrades to the transmission system have eliminated or will eliminate many of the major transmission constraints and that those that remain are properly captured by the four currently effective Capacity Zones."[28]

19. ISO-NE attaches further testimony of its vice president of system planning, Mr. Rourke,[29] which supports combining five of the eight energy Load Zones (New Hampshire, Rhode Island, Southeastern Massachusetts, Vermont and Western/Central Massachusetts) into one for purposes of modeling the Rest-of-Pool (ROP) Capacity Zone. Mr. Rourke discusses the technical details of each major transmission system upgrade and its impact on the overall system performance. According to Mr. Rourke, upgrades already accounted for in the wholesale power markets have resolved many of the locational constraints seen in prior years.[30] He states that transmission upgrades in Vermont, New Hampshire, Western/Central Massachusetts, Southeast Massachusetts and Rhode Island effectively tie these areas together such that considering them as separate Capacity Zones is unnecessary.[31]

20. Mr. Rourke states that new transmission projects built in the past 10 years have been designed to address potential violations of NERC Reliability Standards and that many of these projects have been designed to improve the ability to move power across and between the six states, or the eight energy Load Zones. He states that the increase in transfer capability over a number of key interfaces is "a major factor in addressing zonal formation and resultant zonal requirements in the FCM," and "provides the foundation on which the ISO can establish zonal models that reflect actual and anticipated limitations across the New England system and can be used to establish accurate and meaningful outcomes, including capacity clearing prices in the FCM."[32] Mr. Rourke also cites to the

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[28] Compliance Filing at 3.

[29] Compliance Filing, attached testimony of Rourke (March 14, 2013 Rourke Testimony).

[30] March 14, 2013 Rourke Testimony at 3-4.

[31] *Id*. at 4-6.

[32] *Id*. at 11-12.

Regional System Plans for the period 2007 through 2012, which set forth the changing resource mix in New England, including the addition of new resources (generation, demand response and energy efficiency), and updated regional demand forecasts for New England.[33]

21. Aside from arguing that retaining four zones remains just and reasonable, ISO-NE asserts that moving to eight zones could cause harm. ISO-NE cites various negative consequences associated with modeling zones unrelated to transmission topology, which it asserts include: the necessity of using "somewhat arbitrary" transfer limits, leading to the arbitrary creation of financial winners and losers; negative impacts on the ability of market participants to enter into bilateral transactions; the possibility that current tariff language governing the calculation of transfer limits between capacity zones cannot be implemented as written where no meaningful constraints exist between zones; and the necessity for substantial implementation efforts such that further stakeholder process on zonal issues will be delayed by nearly a year.[34]

22. ISO-NE asks that its request to model four zones for FCA 8 be granted (in which case the existing tariff provisions would remain in place, and the Commission need not accept ISO-NE's alternative tariff provisions providing for modeling eight zones) and the tariff changes relevant to duration of mitigation for new resources (discussed below) become effective on May 13, 2013.

B. <u>Comments and Protests</u>

23. Comments and protests focus largely on ISO-NE's proposal to retain four zones rather than on the proposed tariff revisions that would establish eight zones.

24. NEPOOL states that a resolution to support ISO-NE's proposal to retain four capacity zones in the FCM was not approved because it obtained only a 64.97 percent vote but needed a 66.67 percent vote to pass.[35] NEPOOL states that members of the Participants Committee took three different positions on the zonal modeling issue.[36] One group supported ISO-NE's request, and a second group preferred that NEPOOL take no position on the issue. NEPOOL states that a third group of members from the generation sector expressed frustration with the delay in establishing a locational component and believed that ISO-NE should comply with the Commissions' directive to

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[33] *Id*. at 22-24.

[34] Compliance Filing at 9-11.

[35] NEPOOL supplemental comments at 3, 6.

[36] *Id.* at 4.

model eight capacity zones for FCA 8. NEPOOL states that a proposed motion calling for the Participants Committee to not take a substantive position on the issue of zonal modeling failed with a 59.56 percent vote.[37] NEPOOL notes that the Participants Committee did not vote on the tariff revisions proposed by ISO-NE to implement eight capacity zones.[38]

25. PSEG seeks rejection of ISO-NE's request to retain four capacity zones for FCA 8, and supports conditional acceptance of ISO-NE's tariff provisions to implement eight capacity zones, with the requirement that ISO-NE submit future progress reports on implementation efforts and any related stakeholder proceedings.[39] PSEG argues that in support of four zones, ISO-NE focuses only on transmission upgrades intended to eliminate transmission constraints and that other factors, such as location and quantity of generation resources, should be assessed, as well as the level of potential delist bids or retirements of generation resources or the effect these factors would have on possible zone price separation.[40] PSEG also states that an ISO-NE study on potential generator retirements shows that about 8,000 MW of oil and coal units were identified as being up for retirement and that the SEMA zone appears to be a "natural capacity zone." PSEG asserts that the Compliance Filing fails to explain how less than eight zones would aid ISO-NE's planning effort to respond to the localized impacts that such retirements will have.[41] According to PSEG, ISO-NE's arguments regarding the difficulty and complexity of implementing eight capacity zones are unjustified, in that the establishment of an effective and functioning capacity market is not a poor use of resources, as ISO-NE suggests, but rather one of the most important tasks that an independent system operator (ISO) or regional transmission organization (RTO) has as a market administrator.[42]

26. NRG also assails ISO-NE's proposal to retain four zones, stating that ISO-NE simply reiterates arguments that the Commission previously found insufficient and fails to show any significant changes in the transmission system since ISO-NE first proposed to model eight capacity zones.[43] NRG notes that among the transmission projects

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[37] *Id.* at 6.

[38] *Id.* at 7.

[39] PSEG comments at 5.

[40] *Id.* at 7-8.

[41] *Id*. at 8-9.

[42] *Id*. at 11.

[43] NRG protest at 4.

referenced by Mr. Rourke, three were included in the 2009 Regional System Plans when ISO-NE proposed to model eight capacity zones and that those projects were not proposed or justified on the basis of eliminating transmission congestion or constraints.[44] NRG argues that combining five capacity zones into one capacity zone would potentially suppress legitimate market outcomes, in that price separation will not occur in the SEMA zone if all zones are not modeled. Further, NRG states that additional zonal constraints are needed for the review and clearing of delist bids and retirement requests.[45]

27. NRG further contends that a tariff change is needed to address any limitations on bilateral capacity transactions being restricted to the same capacity zone. NRG requests that the Commission direct ISO-NE to modify its market rules so that bilateral trading of Capacity Supply Obligations across zones would be allowed: (1) if the trade is in the direction opposite to the constraint; or, (2) if in the direction of the constraint, if the constraint is not binding with the trade in place. NRG supports ISO-NE's proposal to amend the tariff such that zones are not 'hard-wired' as import- or export-constrained.[46]

28. NESCOE, on the other hand, supports ISO-NE's request to continue to model four capacity zones for FCA 8. NESCOE states that ISO-NE has now presented a materially different understanding of current and forecasted system conditions, which demonstrates that the transmission constraints that formed the basis for ISO-NE's original proposal to model eight capacity zones have been alleviated.[47] NESCOE also asserts that consumers would have to bear costs related to the modeling of more capacity zones if the significant transmission system investments made by ISO-NE are ignored.[48] NESCOE supports ISO-NE's suggestion that a zonal modeling analysis should be discussed through the stakeholder process in the near future.[49]

C. <u>Commission Determination</u>

29. Based upon the additional evidence included in the Compliance Filing, and with consideration given to ISO-NE's commitment to engage its stakeholders in ongoing review of zonal modeling, we will accept ISO-NE's proposal to retain four zones for

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[44] *Id*. at 4-5.

[45] *Id*. at 6-7.

[46] *Id*. at 10.

[47] NESCOE comments at 5.

[48] *Id.* at 6.

[49] *Id.* at 7.

FCA 8, subject to the further compliance filing discussed below. Accordingly, we will reject the alternative tariff provisions that ISO-NE submitted to model eight zones.[50]

30. In first approving "ISO-NE's proposal to use the eight energy load zones as *initial* capacity zones,"[51] the Commission stated, "[w]e recognize that the development of zones is not a simple task, and we therefore find it reasonable that ISO-NE use the existing energy load zones as *the basis for potential* capacity zones."[52] In the same order, the Commission accepted ISO-NE's proposal to further develop the zones to be used after FCA 6 through ISO-NE's system planning stakeholder process.[53] In its subsequent order on rehearing and compliance, the Commission considered ISO-NE's statement that "it will work with NEPOOL technical committees to *review* the existing eight energy zones and *identify the appropriate zones for capacity purposes*; implementation of the appropriate zonal configuration will follow."[54] And, while the February 12, 2013 Order found that ISO-NE had failed to show at that time that remaining at four-zones for FCA 8 would be just and reasonable,[55] the Commission went on to note that ISO-NE was not precluded from making an additional filing providing adequate support for its request. The Commission specified that "[i]n such a filing, ISO-NE would have to explain in detail how the various projects predicted to come on-line prior to 2017 will alleviate existing or forecasted constraints such that fewer than eight zones would be appropriate."[56]

31. We find that the additional evidence in ISO-NE's Compliance Filing sufficiently demonstrates that remaining with ISO-NE's four-zone model for FCA 8 would be just and reasonable.[57] In keeping with its statements, ISO-NE has re-examined the use of eight energy load zones as capacity zones and determined that for FCA 8, retention of the current four-zone design is more appropriate than adoption of the eight zones initially proposed.[58]

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[50] ISO-NE's tariff already provides for the modeling of the relevant four zones, so no tariff revisions are required for that purpose.

[51] April 13, 2011 Order, 135 FERC ¶ 61,029 at P 272 (emphasis added).

[52] *Id.* P 275 (emphasis added).

[53] *Id.* P 283.

[54] *ISO New England Inc.*, 138 FERC ¶ 61,027 at P 154 (emphasis added).

[55] February 12, 2013 Order, 142 FERC ¶ 61,107 at P 117.

[56] *Id.*

[57] *Id.* P 117.

[58] March 14, 2013 Rourke Testimony at 9.

32. To that end, ISO-NE's Compliance Filing now includes additional information bearing upon the expected impact of various transmission upgrades, with expert testimony and analysis showing that the planned upgrades will alleviate transmission constraints.[59] In particular, as discussed above, Mr. Rourke's testimony describes four major transmission projects that have eliminated transmission congestion within the existing Rest of Pool region. One project is the Monadnock Project, which addresses reliability needs in southern Vermont and New Hampshire, as well as north central Massachusetts. The Pittsfield-Greenfield Project addresses issues of voltage control and lack of transfer capability across northwestern Massachusetts inside the Western/Central Massachusetts energy Load Zone. The New England East West Solution (NEEWS) is a series of projects that improve transfer limits and load serving capability for the Connecticut, Rhode Island, Southeastern Massachusetts and Western Massachusetts areas. Finally, the Vermont/New Hampshire Reliability Project addresses a number of load serving issues within both the Vermont and New Hampshire Load Zones and further eliminates constraints between these two energy Load Zones. Mr. Rourke concludes that these transmission upgrades result in a system with no meaningful constraints in the Rest of Pool region, allowing these load zones to be appropriately and accurately combined into a composite Rest of Pool capacity zone.[60]

33. Mr. Rourke notes that four of the five load zones he supports considering as Rest of Pool – New Hampshire, Rhode Island, Southeastern Massachusetts, and Vermont – border on the fifth, the Western/Central Massachusetts energy Load Zone. He states:

> Each in their own way is electrically situated very close to the energy market "trading hub" in the Western/Central Massachusetts energy Load Zone, representative of an area of the system with stable market prices and limited congestion. As tightly coupled as these areas have been over time, recent and on-going transmission system improvements have and will tie even more closely these four energy Load Zones to the Western/Central Massachusetts energy Load Zone.[61]

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[59] Moreover, in its answer in Docket No. ER12-953-001, ISO-NE argued that it may be better and more efficient to reject a delist bid for reliability than to pay a higher price to the entire zone if the resource is needed to address a local, not zone-wide capacity deficiency or need. "The goal is efficient markets, and the presence of a small number of cases in which de-list bids are rejected for reliability reasons does not, as protesters suggest, demonstrate that the market is broken." ISO-NE January 14, 2013 Answer at 30-31.

[60] March 14, 2013 Rourke Testimony at 3-4, 12-13.

[61] *Id*. at 10.

Thus, Mr. Rourke concludes: "The result is a system that does not lend itself to separately modeling these zones as either import-constrained or export-constrained relative to the Western/Central Massachusetts energy Load Zone."[62]

34. Based upon this information, which demonstrates that many of the constraints previously existing within the New England region either have been or will be alleviated by new transmission upgrades, we find that ISO-NE has sufficiently supported it proposal to retain four zones for FCA 8.

35. The Commission remains concerned, however, that despite having addressed zonal issues since 2010, ISO-NE has not developed an adequate process for determining the appropriate number of, and boundaries of, capacity zones in the New England region over time as conditions change. ISO-NE has committed to commencing a stakeholder process in the second quarter of 2013 to address how capacity zones and the associated zonal requirements are determined,[63] and we will require ISO-NE to consider during that process: (1) the appropriate level of zonal modeling going forward; (2) the appropriate rules to govern intra- and inter-zonal transactions; and (3) whether objective criteria by which zones may automatically be created in response to rejected delist bids, generation retirements or other changes in system conditions would be appropriate in New England, or if not, why not.[64] ISO-NE must explain in a subsequent filing how it has addressed these items in its stakeholder process, and it must: (i) develop and file with the Commission revisions to the ISO-NE tariff that articulate appropriate objective criteria to revise the number and boundaries of capacity zones automatically as the relevant conditions change,[65] or (ii) file with the Commission an explanation as to why such criteria are unnecessary. Within 60 days of the date of this order, ISO-NE must submit a schedule for the completion of these tasks.

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[62] *Id.*

[63] December 3, 2012 filing at 41.

[64] The Commission previously accepted "ISO-NE's approach of reviewing … rejected de-list bids in the zonal development process for subsequent FCAs to determine if additional zones are needed." *See* April 13, 2011 Order, 135 FERC ¶ 61,029 at P 292. PJM Interconnection, L.L.C. (PJM) and New York Independent System Operator, Inc. (NYISO) each already have tariff provisions in place that specify criteria for determining when to change the number of zones that are modeled in their respective capacity auctions. *See* PJM Tariff, Attachment DD, Section 5.10 (a) (ii); and PJM Reliability Assurance Agreement, Schedule 10.1. *See also New York Independent System Operator*, 140 FERC ¶ 61,160 (2012).

[65] Given the concerns that PSEG has raised with regard to constraints in SEMA specifically, we anticipate that ISO-NE will address those concerns in its filing.

V. Duration of Mitigation for New Resources

A. February 12, 2013 Order

36. As detailed in the February 12, 2013 Order, ISO-NE first proposed in its December 3, 2012 compliance to subject a resource to offer floor mitigation until the resource clears in one FCA. For a new (uncleared) resource that has already achieved commercial operation at the time of an FCA, to calculate the resource's new resource offer floor price, the internal market monitor (IMM) would reduce the capital cost by the depreciation accumulated during the years the resource has been in operation.[66]

37. In the February 12, 2013 Order, the Commission accepted ISO-NE's proposal regarding the duration of offer floor mitigation, but rejected ISO-NE's proposed methodology for reducing the offer floor of an uncleared resource that has already achieved commercial operation at the time of an FCA. The Commission found that the methodology could establish an offer floor that is below the entry cost of the resource, and a resource should be subject to an offer floor until it has demonstrated that it is needed by the market. Thus, the Commission rejected it and directed ISO-NE to submit a revised proposal.[67]

B. Compliance Filing

38. In its Compliance Filing, ISO-NE now proposes that, in the case of a new commercial resource, the IMM will compare the data provided by the resource to the prevailing market conditions that were in place at the time of the decision to construct the resource. Additionally, the relevant capital costs to be entered into the capital budgeting model for a new commercial resource will be the undepreciated original capital costs adjusted for inflation. If the IMM determines that the requested offer price is consistent with the IMM's capacity price estimate, then the resource's New Resource Offer Floor Price will be set equal to the requested offer price; otherwise, it will be set to a level that is consistent with the capacity price estimate as determined by the IMM.[68]

39. No protests were filed on this issue.

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[66] February 12, 2013 Order, 142 FERC ¶ 61,107 at P 59.

[67] *Id*. P 63.

[68] March 14 Filing at 4-6.

C. Commission Determination

40. The Commission finds that ISO-NE's proposed tariff revisions relating to the duration of mitigation are consistent with the reasoning and comply with the directives in prior orders. We therefore accept those proposed tariff revisions for filing, to become effective May 30, 2013.

The Commission orders:

(A) The Commission hereby accepts ISO-NE's proposed tariff revisions relating to the duration of mitigation provisions, to become effective May 30, 2013, as requested, as discussed in the body of this order.

(B) The Commission hereby rejects ISO-NE's proposed tariff revisions relating to eight capacity zones, as discussed in the body of this order.

(C) ISO-NE is hereby directed to submit a compliance filing within 60 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.