UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

ISO New England Inc.) Docket No. ER24-2584-000

COMMENTS OF THE INTERNAL MARKET MONITOR ON FUEL PRICE ADJUSTMENT MODIFICATIONS

The Internal Market Monitor ("IMM") of ISO New England Inc. ("ISO" or "ISO-NE") submits these comments in support of the ISO's proposed changes to the ISO-NE Transmission, Markets & Services Tariff ("Tariff") to allow Market Participants to reflect up to two different fuel prices in a Resource's cost-based Reference Level through the Fuel Price Adjustment ("FPA") process. At the choice of Participants, one FPA will apply to segments below a specified megawatt ("MW") level (*i.e.*, the "breakpoint"), and the other FPA will apply to segments at or above the breakpoint (*i.e.*, MW-dependent FPAs).[1]

Allowing MW-dependent FPAs to apply to certain segments of the Reference Level and not others should result in the Reference Levels better corresponding to the fuel prices underlying a Resource's Supply Offers. Empirical data — including implied fuel prices in the price/quantity pairs of Supply Offers, documentation from Participants showing fuel prices varying by volume, and price spreads on ICE for Next-Day and Intra-Day gas — indicate that Market Participants already face and reflect multiple fuel costs in the Supply Offers on behalf of Resources. The proposed changes will allow Resources to reflect more than one fuel cost in their Reference Levels (which provide benchmarks for a competitive offer), bridging the observed disconnect between Supply Offers and Reference Levels.

[1] Capitalized terms used but not defined in these comments are intended to have the meaning given to such terms in the Tariff or as defined in the ISO's filing letter ("Filing Letter).

As long as Participants provide accurate fuel costs that genuinely correspond to different levels of energy output (*i.e.*, the specified breakpoint) for a Resource, this should result in more accurate Reference Levels and —in turn — mitigation. The latter is only triggered when a Resource with market power submits a Supply Offer that exceeds its Reference Level by a Tariff-specified threshold and would have an impact on market prices.[2]

For example, this added flexibility should prevent the occurrence of over-mitigation based on a single FPA that does not reflect the higher incremental cost of fuel for the upper end of a Supply Offer. Conversely, the flexibility should address the situation in which the entire Reference Level curve is based on the higher incremental cost, leading to the possibility of under-mitigation of offer segments associated with lower MW values. However, the value of the MW-dependent FPA functionality will only be truly realized if Market Participants utilize it, and the onus is on the Participant to ensure the FPA input data submitted to establish Reference Levels are accurate.

In short, the flexibility to reflect up to two fuel costs through MW-dependent FPAs in Reference Levels should allow resources to better reflect costs in their Supply Offers and reduce the risk of inappropriate mitigation, which aligns with sending efficient market signals regarding the marginal value of energy. Along with the previously-approved Tariff changes to eliminate "upward mitigation,"[3] the proposed Tariff changes allowing MW-dependent FPAs should substantially moot the issues identified in the Commission's earlier Show Cause Order, which has been held in abeyance pending such proposed Tariff changes.[4] The IMM, therefore, also supports the ISO's

[2] While the proposed Tariff changes will not affect the current mitigation thresholds that apply, it remains important to monitor whether these thresholds should be adjusted in the future.

[3] *See* Letter Order issued December 12, 2023, available at https://www.iso-ne.com/static-assets/documents/100006/er24-324-000.pdf

[4] *See Order Granting Cost Recovery Request in Part and Denying in Part and Establishing a Show Cause Proceeding*, 183 FERC ¶ 61,091 (May 5, 2023) ("Show Cause Order"). The Show Cause Order established a proceeding for hearings under Section 206 of the Federal Power Act ("Section 206") and alternatively allowed submission of a motion for abeyance pending a filing under Section 205 of the

request for dismissal of the Section 206 proceeding underlying the Show Cause Order that has been held in abeyance pending approval of these proposed and earlier Tariff changes.

DISCUSSION

A. The Proposed Changes Will Allow Reference Levels to Reflect Up to Two MW-Dependent Fuel Price Adjustments

Fuel costs are a key input for calculating a Reference Level for a Resource, which the IMM uses as a baseline to assess whether Supply Offers are competitive or subject to mitigation.[5] The current Tariff provisions strike a balance between allowing Resources flexibility to update their Reference Levels in the Day-Ahead Energy Market ("Day-Ahead") and Real-Time Energy Market ("Real-Time") to reflect expected fuel costs through a FPA subject to IMM approval, while also providing a check on the exercise of market power by mitigating offers to an appropriate Reference Level when the offers are excessively high (*i.e.*, above the conduct threshold) and impact market price.[6]

With the proposed Tariff changes, Resources now will have the ability to submit not just one (same as currently under the Tariff) but up to two FPAs (added flexibility), specifying the corresponding MW supply of each FPA.[7] The MW-dependent FPA will allow resources to

Federal Power Act ("Section 205"). The Commission thereafter granted ISO-NE's motion for abeyance. *See Notice Granting Motion to Hold Proceeding in Abeyance*, Docket No., EL 23-62-000 (Juy 14, 2023).

[5] Reference Levels, which are unique to each Resource, are updated regularly (by automated software and information supplied either by the Market Participants or through third party vendors) to reflect the marginal fuel costs, emissions costs, variable operating and maintenance costs and opportunity costs of a Resource.

[6] The Reference Level for a particular Resource provides a benchmark for assessing a competitive offer for the Resource. The Reference Level may be lower or higher than the Resource's submitted Supply Offers, either on an entire or segmented block basis. For a given hour of the Operating Day, this depends on how timely the Reference Level is updated and whether it reflects the expected cost of procuring incremental fuel in Real-Time at a higher price than that contemplated in the submitted Supply Offers.

[7] *See* ISO-NE's filing letter ("Filing Letter") dated July 24, 2024 at p. 10, which states: "The proposed changes would allow a Market Participant to reflect up to two fuel prices in its Resource's cost-based Reference Level, so that the lower submitted price would apply to incremental offer blocks that begin

identify a MW breakpoint, where the lower priced FPA applies to all energy offer MW segments (along with Start-Up and No-Load Fees) below the breakpoint, and the higher priced FPA applies to the energy offer segments at or above the MW breakpoint.

The proposed provisions also allow Resources to submit one FPA, which can apply to all components of the Reference Level (Start-Up Fee, No-Load Fee and incremental energy), or just apply at or above an identified MW breakpoint (incremental energy offer blocks only).

MW-dependent FPAs thus will allow Resources to better reflect in their Reference Levels their Resource-specific costs of fuel underlying their Supply Offers. For example, one FPA could reflect the costs of fuel purchased to meet the amount a Resource expects to clear in Day-Ahead, while a second FPA could reflect the expected cost of incremental fuel after the Day-Ahead market clears, or the costs of fuel purchased or to be purchased in excess of any cleared amount or commitment.

The effectiveness of the proposed Tariff changes ultimately will depend on (i) whether Market Participants use the added flexibility and (ii) whether they supply accurate fuel cost data that genuinely (*e.g.*, volumetrically) correspond to different levels of energy output. During the FPA consultation process, the IMM may inquire whether a Participant is submitting the FPA for a particular MW value (*i.e.,* for all financial parameters, or below/at or above a breakpoint MW value), which discussion likely will promote awareness of the new feature and its usefulness.

With added flexibility also comes the risk that Resource's may not reflect their actual costs or expected costs of fuel to meet their Supply Offers in an attempt to circumvent mitigation. The IMM therefore will need to continue to monitor FPA requests for accurateness

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below the specified MW value, while the higher submitted fuel price would apply to incremental energy offer blocks that begin at or above the specified MW value."

and reasonableness, in particular whether FPA requests reflect expected market fuel prices. The IMM will also need to monitor the MW breakpoint in the FPA submission to determine the reasonableness of the FPAs and, in particular, whether the FPAs accurately correspond to fuel prices (including fuel prices varying based on volume) above and below the specified MW level of the breakpoint. With such monitoring and the existing FPA "lock-out" provisions that provide a deterrent,[8] the risk of abuse (*e.g.,* attempts to avoid mitigation by specifying an unrealistic breakpoint) should be outweighed by the market efficiencies that arise from the ability of Resources to more accurately reflect multiple fuel costs in FPAs.

B. The IMM Supports the Dismissal of the Show Cause Order

In the Show Cause Order, the Commission opined "that it may be reasonable for a resource to be permitted to submit fuel price adjustments that reflect the cost of fuel for the segments of its supply offer that exceed a resource's day-ahead awards."[9] The Commission further stated, "Such flexibility would be intended to allow resources to update their real-time offers to reflect the costs of procuring incremental gas to generate at higher levels of output."[10] The Commission then directed ISO-NE to show cause "why its Tariff, specifically its mitigation rules that can result in market power mitigation that increases the offers of a market participant and provision(s) that do not allow different fuel price adjustments to apply to certain offer

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[8] Tariff Section III.A.3.4(c). *See Order Conditionally Accepting [EMOF] Tariff Revisions*, 145 FERC ¶ 61,014 (2013) at P 34 ("The lock-out provisions are intended to incentivize market participants to submit fuel price adjustments for their Reference Levels only when there is a reasonable explanation or documentation supporting the adjustment.").

[9] *See* Show Cause Order at P 37.

[10] *Id.*

segments of the Reference Level and not others, remains just and reasonable and not unduly discriminatory or preferential."[11]

Taking the alternative route, ISO-NE opted to seek the Commission's approval to hold the Section 206 proceeding in abeyance pending the ISO's proposals of Tariff design changes that would moot these underlying issues. Having eliminated "upward mitigation" in a prior filing approved by the Commission under Section 205, the ISO now seeks Tariff changes that will allow up to two different FPAs to apply to certain offer segments of the Reference Level and not to others.

Notably, the Tariff's current provisions for duration of mitigation in Real-Time remain unchanged. These require that a Resource with market power (*e.g.*, a "pivotal" Resource) that submits a Supply Offer above the conduct test threshold and has an impact on market price must be mitigated to its Reference Level and stay mitigated in Real-Time (without regard to conduct and impact tests) until the Resource lacks market power for an hour. Importantly, this acts as a safeguard to prevent a Market Participant (which receives notice that a Resource is pivotal when it is mitigated in Real-Time) from updating its hourly offers in Real-Time to fall just within the conduct threshold (*e.g.*, \$99 above its Reference Level and, therefore, \$1 below the conduct test threshold) to avoid mitigation.[12]

While duration of mitigation remains unchanged in the Tariff, the elimination of upward mitigation and the allowance of MW-dependent FPAs likely will prevent the re-occurrence of the events underlying the initial Request for Additional Cost Recovery that arose during Winter Storm Elliott during December 2022 (and have not reappeared in the interim).

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[11] *Id.* at P 39.

Given the lack of re-occurrence of the underlying events that gave rise to and are further addressed by the proposed Tariff changes, and the earlier approved Tariff changes to eliminate upward mitigation, the Commission may reasonably dismiss the proceeding that was instituted with the Show Cause Order and has been held in abeyance.[13]

CONCLUSION

For the foregoing reasons, the IMM respectfully supports the (i) Tariff changes that will allow Market Participants to submit up to two MW-dependent FPAs to be reflected in a Resource's Reference Levels and (ii) dismissal of the Section 206 Order to Show Cause in the underlying matter.

August 14, 2024

Respectfully submitted,

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[13] Moreover, because the proceeding underlying the Show Cause Order was held in abeyance, the factual record underlying the events that took place was never developed, for example, to see how and why the Market Participant offered well in excess of its Reference Level and then submitted an FPA at the high end of incrementally available fuel. Whether "pilot error" may have played a role in the underlying events remains unknown. So an incremental approach to Tariff changes to address a unique issue that has not re-occurred seems warranted.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in the above-captioned docket and in the Show Cause Order proceeding (Docket Nos. ER23-1261-000 and EL23-62-000).

Dated at Holyoke, Massachusetts this 14th day of August, 2024.

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