



August 13, 2010

VIA HAND DELIVERY

The Honorable Kimberly D. Bose, Secretary
The Honorable Nathaniel J. Davis, Sr., Deputy Secretary
Federal Energy Regulatory Commission
Room 1A-East, First Floor
888 First Street, N.E.
Washington, D.C. 20426

Re: ISO New England Inc. and New England Power Pool, Docket No. ER10-____-000, Revisions to FCM Rules Related to Performance Penalties and Incentives for Demand Resources

Dear Secretary Bose and Deputy Secretary Davis:

Pursuant to Section 205 of the Federal Power Act (“FPA”),¹ ISO New England Inc. (the “ISO”) joined by the New England Power Pool (“NEPOOL”) Participants Committee² (together, the “Filing Parties”), hereby submit to the Federal Energy Regulatory Commission (“FERC” or “Commission”) revisions to the Forward Capacity Market (“FCM”) rules related to performance penalties and incentives for Demand Resources (the “Rule Changes”).³

As fully explained in Section IV of this filing letter and in the Direct Testimony (solely sponsored by the ISO) of Robert V. Laurita, Manager of Market Design for the ISO, by more closely tying the penalty and incentive rates for Demand Resources to their FCM payment rates, the Rule

¹ 16 U.S.C. § 824d (2006 and Supp. II 2009).

² Capitalized terms used but not otherwise defined in this filing have the meanings ascribed thereto in the ISO’s Transmission, Markets and Services Tariff (FERC Electric Tariff No. 3) (the “ISO Tariff”). Section III of the ISO Tariff is Market Rule 1.

³ Under New England's RTO arrangements, the rights to make this filing of changes to the Market Rule under Section 205 of the Federal Power Act are the ISO's. NEPOOL, which pursuant to the Participants Agreement provides the sole Participant Processes for advisory voting on ISO matters, supported the changes reflected in this filing and accordingly, joins in this Section 205 filing.

Changes prevent most Demand Resources⁴ from being subject to performance penalty charges that exceed their FCM revenues in a month. Under the Rule Changes, there will be one performance penalty and incentive rate for Real-Time Emergency Generation (“RTEG”) Resources, and another performance penalty and incentive rate for all other Demand Resources. The prorating method for Demand Resource performance incentives will also be modified under the Rule Changes to conform to the design that includes two performance penalty rates and two performance incentive rates.

The Filing Parties request waiver of the sixty-day prior notice requirement in order to allow the Rule Changes to become effective on August 14, 2010, which is one day after the date of this filing. The Filing Parties do not request an expedited comment date or order.

The request for waiver of the sixty-day notice period is addressed in Section VI of this transmittal letter.

I. DESCRIPTION OF THE FILING PARTIES AND COMMUNICATIONS

The ISO is the private, non-profit entity that serves as the regional transmission organization (“RTO”) for New England. The ISO operates the New England bulk power system and administers New England’s organized wholesale electricity market pursuant to the ISO New England Transmission, Markets and Services Tariff and the Transmission Operating Agreement with the New England Participating Transmission Owners. In its capacity as an RTO, the ISO has the responsibility to protect the short-term reliability of the New England Control Area and to operate the system according to reliability standards established by the Northeast Power Coordinating Council (“NPCC”) and the North American Electric Reliability Council (“NERC”).

NEPOOL is a voluntary association organized in 1971 pursuant to the New England Power Pool Agreement, and it has grown to include more than 440 members. The participants include all of the electric utilities rendering or receiving service under the Tariff, as well as independent power generators, marketers, load aggregators, brokers, consumer-owned utility systems, end users, developers, demand resource providers, and a merchant transmission provider. Pursuant to revised governance provisions accepted by the Commission,⁵ the participants act through the NEPOOL Participants Committee. The Participants Committee is authorized by Section 6.1 of the Second Restated NEPOOL Agreement and Section 8.1.3(c) of the Participants Agreement to represent NEPOOL in proceedings before the Commission. Pursuant to Section 2.2 of the Participants Agreement, “NEPOOL provide[s] the sole Participant Processes for advisory voting on ISO matters and the selection of ISO Board

⁴ A Demand Resource that acquires an additional CSO through a reconfiguration auction or a Capacity Supply Obligation Bilateral at a rate lower than the performance penalty rate proposed under the Rule Changes could be subject to performance penalty charges that exceed the resource’s FCM revenue in a month.

⁵ *ISO New England Inc. et al.*, 109 FERC ¶ 61,147 (2004).

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members, except for input from state regulatory authorities and as otherwise may be provided in the Tariff, TOA and the Market Participant Services Agreement included in the Tariff.”

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II. STANDARD OF REVIEW

The Rule Changes are submitted pursuant to Section 205 of the FPA, which “gives a utility the right to file rates and terms for services rendered with its assets.” Under Section 205, the Commission “plays ‘an essentially passive and reactive’ role” whereby it “can reject [a filing] only if it finds that the changes proposed by the public utility are not ‘just and reasonable.’” The Commission limits this inquiry “into whether the rates proposed by a utility are reasonable – and

⁶ The Filing Parties respectfully request a waiver of Section 385.203(b)(3) of the Commission’s regulations to allow the inclusion of more than two persons on the service list in this proceeding.

[this inquiry does not] extend to determining whether a proposed rate schedule is more or less reasonable than alternative rate designs.” The Rule Changes filed herein “need not be the only reasonable methodology, or even the most accurate.” As a result, even if an intervenor or the Commission develops an alternate proposal, the Commission must accept this Section 205 filing if it is just and reasonable.

III. BACKGROUND

A. FCM Payments for Demand Resources

Currently, under Section III.13.7.2.5 of the FCM rules, the monthly gross payment for all Demand Resources, except RTEG Resources, is calculated in the same manner as for Generating Capacity Resources as described in Section III.13.7.2.1.1. Generally, under Section III.13.7.2.1.1(a), the monthly gross payment for a resource that has cleared in a Forward Capacity Auction (“FCA”) equals the product of its Capacity Supply Obligation (“CSO”) and the payment rate it receives for its capacity, which is the Capacity Clearing Price in the Appropriate Capacity Zone in the New England Control Area as adjusted pursuant to Section III.13.2.7.3(b).

Through the FCA, New England procures capacity to meet the Installed Capacity Requirement (“ICR”).⁷ In the FCA for the 2010/2011 Capacity Commitment Period, however, the amount of capacity that cleared the FCA was greater than the ICR. Because of that capacity surplus, under the FCM rules, resources that cleared in the FCA had the option to prorate their bid MWs and be paid at the Capacity Clearing Price or, instead, receive a prorated Capacity Clearing Price. For the 2010/2011 Capacity Commitment Period, resources that elected to prorate their bid MWs of participation in the FCM pursuant to Section III.13.2.7.3(b)(iii) are paid \$4.50/kW-month. On the other hand, resources that did not elect to prorate their bid MWs and were instead price prorated under Section III.13.2.7.3(b)(ii) are paid \$4.254/kW-month.

The monthly gross payments for RTEG Resources are calculated, pursuant to Section III.13.7.2.5.2, in the same manner as for Generating Capacity Resources as described in Section III.13.7.2.1.1, except that those payments may also be adjusted as described in Section III.13.2.3.3(f). Section III.13.2.3.3(f) provides that no more than 600 MW from RTEG Resources may be counted toward meeting the ICR and, if the sum of the CSOs of RTEG Resources cleared in the FCA exceeds 600 MW, then the Capacity Clearing Price paid to all RTEG Resources is adjusted by the ratio of 600 MW divided by the total of the final CSOs of RTEG Resources. For the 2010/2011 Capacity Commitment Period, the sum of the CSOs of RTEG Resources clearing in the

⁷ The ICR is calculated pursuant to Section III.12 of Market Rule 1.

FCA exceeded 600 MW,⁸ and, as a result, RTEG Resources are paid the prorated Capacity Clearing Price of \$2.918/kW-month.⁹

B. Performance Penalties for Demand Resources

Each month, the ISO calculates a Capacity Value for each Demand Resource. For most Demand Resources, the Capacity Value is based on the Demand Resource's measured load reduction during an ISO-initiated event or an audit conducted in a prior month.¹⁰ By subtracting the Demand Resource's CSO from its Capacity Value, the ISO calculates the Demand Resource's Monthly Capacity Variance.¹¹ If the Monthly Capacity Variance is a negative value, then the Demand Resource is subject to a performance penalty charge which is calculated using the Capacity Clearing Price for the relevant Capacity Commitment Period.¹² For example, in the 2010/2011 Capacity Commitment Period, a Demand Resource with a 10 MW Capacity Supply Obligation that elected to MW prorate and that has a Capacity Value of 8 MW in a month would be subject to a performance penalty charge based on the 2 MW negative Monthly Capacity Variance. Under the current FCM rules, the Demand Resource's performance penalty charge would be calculated as 2 MW times the \$4.50/kW-month Capacity Clearing Price for a total of \$9,000.

C. Performance Incentives for Demand Resources

Conversely, if the Monthly Capacity Variance is a positive value, then the Demand Resource is eligible to receive a performance incentive which is also calculated using the Capacity Clearing Price for the relevant Capacity Commitment Period.¹³ If the same Demand Resource in the example

⁸ No more than 600 MW of RTEG Resources were counted toward meeting the ICR for the 2010/11 Capacity Commitment Period.

⁹ The payment rates for Demand Resources for the 2010/2011 Capacity Commitment Period used for the examples in this filing letter were calculated pursuant to Sections III.13.7.2.1.1, III.13.2.7.3(b) and III.13.7.2.5.2.

¹⁰ See Section III.13.7.1.5.1. The Capacity Value for a passive Demand Resource, such as energy efficiency, is determined based on the resource's load reduction during prescribed hours. See Section III.13.7.1.5.4.

¹¹ See Section III.13.7.2.7.5.1.

¹² Section III.13.7.2.7.5.2 provides that "if a Demand Resource's Monthly Capacity Variance is a negative value, the Demand Resource shall be subject to a Demand Resource Performance Penalty equal to the absolute value of the Monthly Capacity Variance multiplied by the Capacity Clearing Price in the [FCA] for the relevant Capacity Commitment Period."

¹³ Section III.13.7.2.7.5.3 provides that "if a Demand Resource's Monthly Capacity Variance is a positive value, the Demand Resource shall be eligible to receive a Demand Resource Performance Incentive based on the Monthly Capacity Variance multiplied by the Capacity Clearing Price in the [FCA] for the relevant Capacity Commitment Period."

above had a 12 MW Capacity Value in a month, it would be eligible for a performance incentive payment based on the 2 MW positive Monthly Capacity Variance. The Demand Resource's performance incentive would be calculated as 2 MW times the \$4.50/kW-month Capacity Clearing Price for a total of \$9,000.

D. Consequences of Capacity Surplus

The current rules related to performance penalties and incentives for Demand Resources (*i.e.* Sections III.13.7.2.7.5.2 and III.13.7.2.7.5.3) were developed as part of the FCM, which was designed with the objective of procuring capacity to meet the ICR. As such, the rules were drafted to include a *single* performance penalty rate and a *single* performance incentive rate for all Demand Resources, as described above. Now, with the benefit of the experience of multiple FCAs in which the amount of capacity cleared has been greater than the ICR, an issue has been identified in connection with the single rate design. Specifically, the issue arises when the single rate (which for the 2010/2011 Capacity Commitment Period is the Capacity Clearing Price of \$4.50/kW-month) is applied to Demand Resources that did not elect MW proration and were instead price prorated as well as RTEG Resources that were prorated because more than 600 MW of RTEG Resources cleared in the FCA. If those resources fail to perform, they may be subject to performance penalty charges that could exceed their monthly FCM revenue. For instance, in the 2010/2011 Capacity Commitment Period, a Demand Resource that was price prorated will be paid at the rate of \$4.254/kW-month but will be penalized at the rate of \$4.50/kW-month if it fails to perform.¹⁴ The result for an RTEG Resource is even more significant, because such a resource will be paid at a rate of \$2.918/kW-month but will be penalized at a rate of \$4.50/kW-month if it fails to perform.

IV. DESCRIPTION OF RULE CHANGES

In order to address the issue described above, under the Rule Changes, there will be two performance penalty rates and two performance incentive rates for Demand Resources. Specifically, for RTEG Resources, the performance penalty and incentive rate will equal the Capacity Clearing Price in the FCA for the relevant Capacity Commitment Period prorated as described in Section III.13.2.3.3(f). For the 2010/2011 Capacity Commitment Period, the performance penalty and incentive rate for RTEG Resources will be \$2.918/kW-month. For all other types of Demand Resources (*i.e.* non-RTEG), the performance penalty and incentive rate will equal the Capacity Clearing Price in the FCA for the relevant Capacity Commitment Period as adjusted pursuant to Section III.13.2.7.3(b). For the 2010/2011 Capacity Commitment Period, the performance penalty and incentive rate for non-RTEG Demand Resources will be \$4.254/kW-month. While the Rule Changes prevent Demand Resources from being subject to performance penalty charges that exceed their FCM revenue in a month, the Filing Parties have identified other possible improvements that cannot be implemented by the proposed effective date. Accordingly, the Filing Parties intend to

¹⁴ The issue for price prorated Demand Resources only exists in the presence of a price floor. Pursuant to Section III.13.2.7.3, there will be a price floor only for the Capacity Commitment Periods beginning on June 1, 2013, June 1, 2014, and June 1, 2015.

consider further improvements in 2011 to address the comparability between Demand Resources and other capacity resources.

It is important to note that, under the Rule Changes, the performance penalty rate for a non-RTEG Demand Resource that elected MW proration may be lower than the resource's FCM payment rate. Specifically, for the 2010/2011 Capacity Commitment Period, a Demand Resource that elected MW proration will be paid at the rate of \$4.50/kW-month but will be penalized at the rate of \$4.254/kW-month. In other words, there is a difference of \$0.246/kW-month between the Capacity Clearing Price (*i.e.* the payment rate) and the Capacity Clearing Price as adjusted pursuant to Section III.13.2.7.3(b) (which is the performance penalty rate for non-RTEG Demand Resources under the Rule Changes). Nevertheless, under the current FCM rules, that is the same outcome for a non-performing Generating Capacity Resource that elected MW proration, because the Capacity Clearing Price prorated pursuant to Section III.13.2.7.3(b) is the same rate used in the calculation of performance penalty charges for Generating Capacity Resources, regardless of whether the Generating Capacity Resource elected MW proration or was instead price prorated.¹⁵ Therefore, while the Rule Changes create the possibility that a MW-prorated non-RTEG Demand Resource that fails to perform could receive an extra \$0.246/kW-month in FCM payments, the same is true for a non-performing Generating Capacity Resource that was MW prorated.¹⁶

The Rule Changes also effect a conforming revision to Section III.13.7.2.7.5.4 of the FCM rules, which describes how Demand Resource performance incentives are prorated if, in a month, the sum of performance penalties for all Demand Resources are less than the sum of performance incentives for all Demand Resources. Currently, proration is based on MW quantity, *i.e.*, it is based on a Demand Resource's Capacity Supply Obligation and Capacity Value. This proration method is appropriate only when there is a *single* performance penalty rate and a *single* performance incentive rate for Demand Resources. However, when there is more than one penalty rate for Demand Resources, as is the case with the Rule Changes, then proration based on quantity can have an

¹⁵ See Sections III.13.7.2.1.2 and III.13.7.2.1.3.

¹⁶ The ISO explored the possibility of implementing three performance incentive rates (*i.e.*, for the 2010/2011 Capacity Commitment Period, a rate of \$4.50/kW-month for Demand Resources that did not elect to MW prorate and were instead price prorated, a second rate of \$4.254/kW-month for Demand Resources that were MW prorated, and a third rate of \$2.918/kW-month for RTEG Resources). However, the current FCM rules require that active Demand Resources (*i.e.*, RTEG Resources and Real-Time Demand Response Resources) defined at Load Zones be disaggregated into Dispatch Zones before June 1, 2011. Accordingly, the process of aggregating and disaggregating Demand Resources from Load Zones to Dispatch Zones is already underway and will continue during the 2010/2011 Capacity Commitment Period. When a Demand Resource that was price prorated and a Demand Resource that elected MW proration are aggregated, the resulting Demand Resource needs a blended or customized performance penalty and incentive rate. This requirement makes the software and database logic significantly more complex. As such, the ISO determined that a design that includes three performance penalty rates and three performance incentive rates is beyond the scope of what can be implemented by the proposed effective date of the Rule Changes.

undesirable outcome. For example, under the two performance penalty and incentive rates effected by the Rule Changes, a non-RTEG Demand Resource that did not elect MW proration and that has a 1 MW positive Monthly Capacity Variance in a month would be eligible for a performance incentive payment for the month of 1 MW times \$4.254/kW-month or \$4,254. On the other hand, a RTEG Resource with a 1 MW positive Monthly Capacity Variance in a month would be eligible for a performance incentive payment for the month of 1 MW times \$2.918/kW-month or \$2,918. However, if the sum of the performance penalties for all Demand Resources in the month was only \$6,000 then, pursuant to Section III.13.7.2.7.5.4 as currently written, the Demand Resource performance incentive payments for the RTEG Resource and the non-RTEG Demand Resource would be prorated equally because each of them had the same Monthly Capacity Variance. Thus, under the current MW prorating method, the RTEG Resource and non-RTEG Demand Resource would each receive a Demand Resource performance incentive of \$3,000. Consequently, the RTEG Demand Resource would receive a performance incentive payment at a rate greater than \$2.918/kW-month, which would be inconsistent with the Rule Changes. To address this issue, the Rule Changes replace the quantity-based pro-rata allocation method (Monthly Capacity Variance) with a dollar-based pro-rata allocation method (the non-prorated Demand Resource Performance Incentive). Using the example above, under the dollar-based proration method, the RTEG Resource would receive 40.69%¹⁷ of \$6,000 or \$2,441, while the non-RTEG Demand Resource would receive 59.31% of \$6,000 or \$3,559.¹⁸

V. STAKEHOLDER PROCESS

The Markets Committee considered prior versions of the Rule Changes at its April 13-14, May 11-12, June 8-9, and July 12-14, 2010 meetings. At its July 12-14, 2010 meeting, the Markets Committee voted to recommend its support for the then-current version of the Rule Changes with 75.39% in favor with abstentions noted.¹⁹ After recommendation of that version of the Rule Changes by the Markets Committee, certain implementation concerns were identified with the Rule Changes as supported by the Markets Committee. Those concerns were addressed and reflected in the final version of the Rule Changes that was supported by the Participants Committee at its August 6, 2010 meeting with 77.91% in favor.²⁰

¹⁷ $40.69\% = (\$2,918 / (\$2,918 + \$4,254)) \times 100$.

¹⁸ The Rule Changes also clarify that the “effective” Capacity Clearing Price in Section III.13.2.3.3(f) is the Capacity Clearing Price “as adjusted pursuant to Section III.13.2.7.3(b).”

¹⁹ The individual Sector votes were Generation (0% in favor, 17.1% opposed, 1 abstention), Transmission (17.1% in favor, 0% opposed), Supplier (9.59% in favor, 7.51% opposed, 5.3 abstentions), Alternative Resources (14.5% in favor, 0% opposed), Publicly Owned Entity (17.1% in favor, 0% opposed), and End Users (17.1% in favor, 0% opposed).

²⁰ The individual Sector votes were Generation (2.14% in favor), Transmission (17.1% in favor), Supplier (9.97% in favor), Alternative Resources (14.5% in favor), Publicly Owned Entity (17.1% in favor), and End User (17.1% in favor). See Attachment 4.

VI. REQUESTED EFFECTIVE DATE

Pursuant to Section 35.11 of the Commission's rules and regulations, 18 C.F.R. § 35.11, the Filing Parties request waiver of the sixty-day notice requirement, so that the Rule Changes may become effective on August 14, 2010, the day after submittal of this filing. The Filing Parties are not requesting an expedited order or shortened comment period for the Rule Changes.

Good cause exists to grant the requested waiver of the sixty-day notice requirement, and indeed the August 14 effective date, with implementation for the entire settlement month of August,²¹ responds to requests from demand response providers that could be impacted by these Rule Changes for immediate implementation of the Rule Changes. This will also ensure that the treatment of demand response providers under the Rule Changes is in place at the earliest possible date, recognizing that Demand Resources could be called upon to perform during the sixty-day notice period, which would normally expire before the Rule Changes could be implemented.

VII. ADDITIONAL SUPPORTING INFORMATION

Section 35.13 of the Commission's regulations generally requires public utilities to file certain cost and other information related to an examination of traditional cost-of-service rates.²² However, the Rule Changes are associated with the FCM and are not traditional "rates." Further, the ISO is not a traditional investor-owned utility. Therefore, to the extent necessary, the Filing Parties request waiver of Section 35.13 of the Commission's regulations. Notwithstanding their request for waiver, the Filing Parties submit the additional information enumerated below in substantial compliance with relevant provisions of Section 35.13.

35.13(b)(1) – Materials included herewith are as follows:

- ◆ This transmittal letter;
- ◆ Attachment 1: Tariff sheets reflecting in blackline the Rule Changes effected by this filing;
- ◆ Attachment 2: Clean Tariff sheets incorporating the Rule Changes;
- ◆ Attachment 3: Testimony of Robert V. Laurita, solely sponsored by the ISO;
- ◆ Attachment 4: NEPOOL Participants Committee Vote Tally; and

²¹ The ISO notes that capacity settlements are performed on a monthly basis and, therefore, the requested waiver will allow the Rule Changes to be applied to Demand Resources' Monthly Capacity Variances for the entire settlement month.

²² 18 C.F.R. § 35.13 (2010).

- ♦ Attachment 5: List of governors, utility regulatory agencies in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont and others to which a copy of this filing has been e-mailed.

35.13(b)(2) – As noted above, the Filing Parties request that the Rule Changes submitted with this filing become effective on August 14, 2010.

35.13(b)(3) - Pursuant to Section 17.11(e) of the Participants Agreement, Governance Participants are being served electronically rather than by paper copy. The names and addresses of the Governance Participants are posted on the ISO's website at http://www.iso-ne.com/regulatory/ferc/nepool/gov_ptcpts_eserved.pdf. A copy of this transmittal letter and the accompanying materials have also been sent electronically to the governors and electric utility regulatory agencies for the six New England states that comprise the New England Control Area, to the New England Conference of Public Utility Commissioners ("NECPUC"), and to the Executive Director of the New England States Committee on Electricity ("NESCOE"). The names and e-mail addresses of these governors, regulatory agencies, and others are shown in Attachment 5. In accordance with Commission rules and practice, there is no need for the Governance Participants or the entities identified on Attachment 5 to be included on the Commission's official service list in the captioned proceeding unless such entities become intervenors in this proceeding.

35.13(b)(4) - A description of the materials submitted pursuant to this filing is contained in this transmittal letter.

35.13(b)(5) - The reasons for this filing are discussed in Sections III and IV of this transmittal letter.

35.13(b)(6) - The ISO's approval of these Rule Changes is evidenced by this filing. These Rule Changes reflect the results of the Participant Processes required by the Participants Agreement and reflect the support of the Participants Committee.

35.13(b)(7) - The Filing Parties have no knowledge of any relevant expenses or costs of service that have been alleged or judged in any administrative or judicial proceeding to be illegal, duplicative, or unnecessary costs that are demonstrably the product of discriminatory employment practices.

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VIII. CONCLUSION

For the foregoing reasons, the Filing Parties respectfully request that the Commission approve the Rule Changes as described herein without condition or change.

Please acknowledge receipt of the foregoing by date-stamping the enclosed extra copies of this filing and returning them to the courier delivering this filing.

Respectfully submitted,

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Dated: August 13, 2010

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ATTACHMENT 1

Blacklined tariff sheets containing revisions to Market Rule 1

procured will be in addition to the Local Sourcing Requirement of the import-constrained Capacity Zone.

- (ii) If the Export Bid or Administrative Export De-List Bid does not clear, then the resource associated with the Export Bid or Administrative Export De-List Bid will not be de-listed in the Capacity Zone where the resource is located.
- (f) **Treatment of Real-Time Emergency Generation Resources.** In determining when the Forward Capacity Auction is concluded, no more than 600 MW of capacity from Real-Time Emergency Generation Resources shall be counted towards meeting the Installed Capacity Requirement (net of HQICCs). If the sum of the Capacity Supply Obligations of Real-Time Emergency Generation Resources exceeds 600 MW, the ~~effective~~ Capacity Clearing Price (as adjusted pursuant to Section III.13.2.7.3(b)) paid to all Real-Time Emergency Generation Resources shall be adjusted by the ratio of 600 MW divided by the total of the final Capacity Supply Obligations of Real-Time Emergency Generation Resources. The acceptance of a Real-Time Emergency Generation Resource Static De-list Bid, Dynamic De-list Bid, or Permanent De-list Bid shall be based on the effective Capacity Clearing Price as described in Section III.13.2.7.

III.13.2.3.4. Determination of Final Capacity Zones. After the Forward Capacity Auction is concluded for all modeled Capacity Zones, the final set of distinct Capacity Zones that will be used for all purposes associated with the relevant Capacity Commitment Period, including for the purposes of reconfiguration auctions and Capacity Supply Obligation Bilaterals, shall be those having distinct Capacity Clearing

III.13.7.2.7.5.2. Negative Monthly Capacity

Variations. With the exception of a Demand Resource that has elected to have the Capacity Supply Obligation and the Capacity Clearing Price applicable to an offer that cleared in the Forward Capacity Auction continue to apply after the Capacity Commitment Period associated with the Forward Capacity Auction in which that offer cleared, if a Demand Resource's Monthly Capacity Variance is a negative value, the Demand Resource shall be subject to a Demand Resource Performance Penalty equal to the absolute value of the Monthly Capacity Variance multiplied by the Capacity Clearing Price (as adjusted pursuant to Section III.13.2.7.3(b)) in the Forward Capacity Auction for the relevant Capacity Commitment Period or in the case of a Real-Time Emergency Generation Resource, multiplied by the Capacity Clearing Price in the Forward Capacity Auction for the relevant Capacity Commitment Period as described in Section III.13.2.3.3(f). If a Demand Resource that has elected to have the Capacity Supply Obligation and the Capacity Clearing Price applicable to an offer that cleared in the Forward Capacity Auction continue to apply after the Capacity Commitment Period associated with the Forward Capacity Auction in which that offer cleared has a Monthly Capacity Variance with a negative value, the Demand Resource Performance Penalty for such a Demand Resource shall be set according to the Capacity Clearing Price applicable to the Demand Resource (as adjusted pursuant to Section III.13.2.7.3(b)), indexed using the Handy-Whitman Index of

Public Utility Construction Costs in effect as of December 31 of the year preceding the Commitment Period, applicable to the Demand Resource for the particular Capacity Commitment Period or in the case of a Real-Time Emergency Generation Resource, multiplied by the Capacity Clearing Price in the Forward Capacity Auction for the relevant Capacity Commitment Period as described in Section III.13.2.3.3(f), indexed using the Handy-Whitman Index of Public Utility Construction Costs, applicable to the Demand Resource for the particular Capacity Commitment Period.

III.13.7.2.7.5.3. Positive Monthly Capacity Variances. With the exception of a Demand Resource that has elected to have the Capacity Supply Obligation and the Capacity Clearing Price applicable to an offer that cleared in the Forward Capacity Auction continue to apply after the Capacity Commitment Period associated with the Forward Capacity Auction in which that offer cleared, if a Demand Resource's Monthly Capacity Variance is a positive value, the Demand Resource shall be eligible to receive a Demand Resource Performance Incentive based on the Monthly Capacity Variance multiplied by the Capacity Clearing Price (as adjusted pursuant to Section III.13.2.7.3(b)) in the Forward Capacity Auction for the relevant Capacity Commitment Period or in the case of a Real-Time Emergency Generation Resource, multiplied by the Capacity Clearing Price in the Forward Capacity Auction for the relevant Capacity Commitment Period as described in Section III.13.2.3.3(f), provided that the sum of the Demand Resource Performance Penalties in the month is equal to or greater than the sum of the Demand Resource Performance Incentives in the same month. If a

~~Demand Resource that has elected to have the Capacity Supply Obligation and the Capacity Clearing Price applicable to an offer that cleared in the Forward Capacity Auction continue to apply after the Capacity~~

provided that the sum of the Demand Resource Performance Penalties in the month is equal to or greater than the sum of the Demand Resource Performance Incentives in the same month. If a Demand Resource that has elected to have the Capacity Supply Obligation and the Capacity Clearing Price applicable to an offer that cleared in the Forward Capacity Auction continue to apply after the Capacity

Commitment Period associated with the Forward Capacity Auction in which that offer cleared has a Monthly Capacity Variance with a positive value, the Demand Resource Performance Incentive for such a Demand Resource shall be set according to the Capacity Clearing Price applicable to the Demand Resource for the particular Capacity Commitment Period (as adjusted pursuant to Section III.13.2.7.3(b)), indexed using the Handy-Whitman Index of Public Utility Construction Costs or in the case of a Real-Time Emergency Generation Resource, multiplied by the Capacity Clearing Price in the Forward Capacity Auction for the relevant Capacity Commitment Period as described in Section III.13.2.3.3(f), indexed using the Handy-Whitman Index of Public Utility Construction Costs, applicable to the Demand Resource for the particular Capacity Commitment Period in effect as of December 31 of the year preceding the Commitment Period, provided that the sum of the Demand Resource Performance Penalties in the month is equal to or greater than the sum of the Demand Resource Performance Incentives in the same month.

III.13.7.2.7.5.4. Determination of Net Payment. If the sum of the Demand Resource Performance Penalties in a month is less than the sum of the Demand Resource Performance Incentives in the same month, then the total amount of Demand Resource Performance Penalties shall be paid on a pro-rata basis, based on the non-prorated Demand Resource Performance Incentives~~Monthly Capacity Variance~~ of each Demand Resource with a positive Monthly Capacity Variance. The total amount of the Demand Resource Performance Incentives in a month may not exceed the total amount of the Demand Resource Performance Penalties in the same month.

The total of the Demand Resource Performance Incentives in a month can not exceed the total of the Demand Resource Performance Penalties in the same month. If the total Demand Resource Performance Penalties in a month exceeds the total Demand Resource Performance Incentives in the same month, the difference shall not be collected from load serving entities (the ultimate purchaser of capacity).

III.13.7.2.7.6. Self-Supplied FCA Resources. Self-Supplied FCA Resources shall not be subject to a PER adjustment on the portion of the resource that is self-supplied, but shall be subject to the availability penalties and caps applicable to their resource types.

III.13.7.3. Charges to Market Participants with Capacity Load Obligations. A load serving entity with a Capacity Load Obligation as of the end of the Obligation Month shall be subject to a charge equal to the product of: (a) its Capacity Load Obligation in the Capacity Zone; and (b) the applicable Net Regional Clearing Price. The Net Regional Clearing Price is defined as the sum of the total payments as defined in Section 13.7.2 paid to resources with Capacity Supply Obligations in the Capacity Zone, plus the sum of reconfiguration auction payments to those resources in the zone that were purchased by the ISO either to support an increase in the Installed Capacity Requirement (net of HQICCs), to meet requirements deferred from the Forward Capacity Auction to the reconfiguration auction, or to replace resources previously selected where the cost of such replacement is assigned to load

ATTACHMENT 2

Clean tariff sheets containing revisions to Market Rule 1

procured will be in addition to the Local Sourcing Requirement of the import-constrained Capacity Zone.

- (ii) If the Export Bid or Administrative Export De-List Bid does not clear, then the resource associated with the Export Bid or Administrative Export De-List Bid will not be de-listed in the Capacity Zone where the resource is located.
- (f) **Treatment of Real-Time Emergency Generation Resources.** In determining when the Forward Capacity Auction is concluded, no more than 600 MW of capacity from Real-Time Emergency Generation Resources shall be counted towards meeting the Installed Capacity Requirement (net of HQICCs). If the sum of the Capacity Supply Obligations of Real-Time Emergency Generation Resources exceeds 600 MW, the Capacity Clearing Price (as adjusted pursuant to Section III.13.2.7.3(b)) paid to all Real-Time Emergency Generation Resources shall be adjusted by the ratio of 600 MW divided by the total of the final Capacity Supply Obligations of Real-Time Emergency Generation Resources. The acceptance of a Real-Time Emergency Generation Resource Static De-list Bid, Dynamic De-list Bid, or Permanent De-list Bid shall be based on the effective Capacity Clearing Price as described in Section III.13.2.7.

III.13.2.3.4. Determination of Final Capacity Zones. After the Forward Capacity Auction is concluded for all modeled Capacity Zones, the final set of distinct Capacity Zones that will be used for all purposes associated with the relevant Capacity Commitment Period, including for the purposes of reconfiguration auctions and Capacity Supply Obligation Bilaterals, shall be those having distinct Capacity Clearing

III.13.7.2.7.5.2. Negative Monthly Capacity

Variations. With the exception of a Demand Resource that has elected to have the Capacity Supply Obligation and the Capacity Clearing Price applicable to an offer that cleared in the Forward Capacity Auction continue to apply after the Capacity Commitment Period associated with the Forward Capacity Auction in which that offer cleared, if a Demand Resource's Monthly Capacity Variance is a negative value, the Demand Resource shall be subject to a Demand Resource Performance Penalty equal to the absolute value of the Monthly Capacity Variance multiplied by the Capacity Clearing Price (as adjusted pursuant to Section III.13.2.7.3(b)) in the Forward Capacity Auction for the relevant Capacity Commitment Period or in the case of a Real-Time Emergency Generation Resource, multiplied by the Capacity Clearing Price in the Forward Capacity Auction for the relevant Capacity Commitment Period as described in Section III.13.2.3.3(f). If a Demand Resource that has elected to have the Capacity Supply Obligation and the Capacity Clearing Price applicable to an offer that cleared in the Forward Capacity Auction continue to apply after the Capacity Commitment Period associated with the Forward Capacity Auction in which that offer cleared has a Monthly Capacity Variance with a negative value, the Demand Resource Performance Penalty for such a Demand Resource shall be set according to the Capacity Clearing Price applicable to the Demand Resource (as adjusted pursuant to Section III.13.2.7.3(b)), indexed using the Handy-Whitman Index of

Public Utility Construction Costs in effect as of December 31 of the year preceding the Commitment Period, applicable to the Demand Resource for the particular Capacity Commitment Period or in the case of a Real-Time Emergency Generation Resource, multiplied by the Capacity Clearing Price in the Forward Capacity Auction for the relevant Capacity Commitment Period as described in Section III.13.2.3.3(f), indexed using the Handy-Whitman Index of Public Utility Construction Costs, applicable to the Demand Resource for the particular Capacity Commitment Period.

III.13.7.2.7.5.3. Positive Monthly Capacity Variances. With the exception of a Demand Resource that has elected to have the Capacity Supply Obligation and the Capacity Clearing Price applicable to an offer that cleared in the Forward Capacity Auction continue to apply after the Capacity Commitment Period associated with the Forward Capacity Auction in which that offer cleared, if a Demand Resource's Monthly Capacity Variance is a positive value, the Demand Resource shall be eligible to receive a Demand Resource Performance Incentive based on the Monthly Capacity Variance multiplied by the Capacity Clearing Price (as adjusted pursuant to Section III.13.2.7.3(b)) in the Forward Capacity Auction for the relevant Capacity Commitment Period or in the case of a Real-Time Emergency Generation Resource, multiplied by the Capacity Clearing Price in the Forward Capacity Auction for the relevant Capacity Commitment Period as described in Section III.13.2.3.3(f),

provided that the sum of the Demand Resource Performance Penalties in the month is equal to or greater than the sum of the Demand Resource Performance Incentives in the same month. If a Demand Resource that has elected to have the Capacity Supply Obligation and the Capacity Clearing Price applicable to an offer that cleared in the Forward Capacity Auction continue to apply after the Capacity

Commitment Period associated with the Forward Capacity Auction in which that offer cleared has a Monthly Capacity Variance with a positive value, the Demand Resource Performance Incentive for such a Demand Resource shall be set according to the Capacity Clearing Price applicable to the Demand Resource for the particular Capacity Commitment Period (as adjusted pursuant to Section III.13.2.7.3(b)), indexed using the Handy-Whitman Index of Public Utility Construction Costs or in the case of a Real-Time Emergency Generation Resource, multiplied by the Capacity Clearing Price in the Forward Capacity Auction for the relevant Capacity Commitment Period as described in Section III.13.2.3.3(f), indexed using the Handy-Whitman Index of Public Utility Construction Costs, applicable to the Demand Resource for the particular Capacity Commitment Period in effect as of December 31 of the year preceding the Commitment Period, provided that the sum of the Demand Resource Performance Penalties in the month is equal to or greater than the sum of the Demand Resource Performance Incentives in the same month.

III.13.7.2.7.5.4. Determination of Net Payment. If the sum of the Demand Resource Performance Penalties in a month is less than the sum of the Demand Resource Performance Incentives in the same month, then the total amount of Demand Resource Performance Penalties shall be paid on a pro-rata basis, based on the non-prorated Demand Resource Performance Incentives of each Demand Resource with a positive Monthly Capacity Variance. The total amount of the Demand Resource Performance Incentives in a month may not exceed the total amount of the Demand Resource Performance Penalties in the same month.

The total of the Demand Resource Performance Incentives in a month cannot exceed the total of the Demand Resource Performance Penalties in the same month. If the total Demand Resource Performance Penalties in a month exceeds the total Demand Resource Performance Incentives in the same month, the difference shall not be collected from load serving entities (the ultimate purchaser of capacity).

III.13.7.2.7.6. Self-Supplied FCA Resources. Self-Supplied FCA Resources shall not be subject to a PER adjustment on the portion of the resource that is self-supplied, but shall be subject to the availability penalties and caps applicable to their resource types.

III.13.7.3. Charges to Market Participants with Capacity Load Obligations. A load serving entity with a Capacity Load Obligation as of the end of the Obligation Month shall be subject to a charge equal to the product of: (a) its Capacity Load Obligation in the Capacity Zone; and (b) the applicable Net Regional Clearing Price. The Net Regional Clearing Price is defined as the sum of the total payments as defined in Section 13.7.2 paid to resources with Capacity Supply Obligations in the Capacity Zone, plus the sum of reconfiguration auction payments to those resources in the zone that were purchased by the ISO either to support an increase in the Installed Capacity Requirement (net of HQICCs), to meet requirements deferred from the Forward Capacity Auction to the reconfiguration auction, or to replace resources previously selected where the cost of such replacement is assigned to load

ATTACHMENT 3

Testimony of Robert V. Laurita

On behalf of the ISO

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

ISO New England Inc.

)

Docket No. ER10-___-000

PREPARED TESTIMONY OF

ROBERT V. LAURITA

ON BEHALF OF ISO NEW ENGLAND INC.

I. WITNESS IDENTIFICATION

1 **Q: PLEASE STATE YOUR NAME, TITLE AND BUSINESS ADDRESS.**

2 **A.** My name is Robert V. Laurita. I am Manager of Market Design for ISO New
3 England Inc. (the “ISO”), One Sullivan Road, Holyoke, Massachusetts, 01040.

4 **Q: PLEASE SUMMARIZE YOUR JOB RESPONSIBILITIES AT ISO NEW**
5 **ENGLAND INC.**

6 **A.** I joined the ISO in 2003. In my current position, I am responsible for the design
7 and development of market rules governing the New England wholesale
8 electricity market. In addition, I have been actively involved in the design and
9 administration of the ISO’s demand response programs and market designs that
10 integrate Demand Resources into the wholesale electricity markets, such as the
11 Forward Capacity Market (the “FCM”).

1 **Q: PLEASE SUMMARIZE YOUR EXPERIENCE AND QUALIFICATIONS**
2 **PRIOR TO JOINING THE ISO.**

3 **A.** I have over twenty years of experience in the energy and utility industry. Prior to
4 joining the ISO in 2003, I held management positions at the Public Service
5 Electric and Gas Company, XENERGY, Applied Energy Group and InSite
6 Services. As the Manager of Measurement Services at Public Service Electric
7 and Gas Company, I was responsible for the design, development and
8 implementation of large-scale metering and meter data management systems that
9 supported the implementation of retail competition in New Jersey. As the
10 Director of Client Services for XENERGY, I worked with electric and gas
11 utilities throughout the United States and Europe to design, develop and
12 implement energy efficiency and demand management programs for residential,
13 commercial and industrial customers.

14 I have a Bachelor of Science degree in Electric Power Engineering from
15 Rensselaer Polytechnic Institute and a Masters in Business Administration from
16 Western New England College.

17 **Q: WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

18 **A.** The purpose of this testimony is to explain the reasons for some of the instant
19 changes to the provisions of the ISO Transmission, Markets and Services Tariff
20 (“Tariff”) that govern the FCM. In particular, I discuss the reasons for tariff
21 changes related to performance penalties and incentives for Demand Resources
22 (the “Rule Changes”).

1 In short, there will be one performance penalty and incentive rate for Real-Time
2 Emergency Generation (“RTEG”) Resources, and another performance penalty
3 and incentive rate for all other Demand Resources. The prorating method for
4 Demand Resource performance incentives will also be modified under the Rule
5 Changes to conform to the design that includes two performance penalty rates and
6 two performance incentive rates.

7 **II. DESCRIPTION OF RULE CHANGES**

8 **Q: PLEASE DESCRIBE THE CURRENT RULES GOVERNING FCM**
9 **PAYMENTS FOR DEMAND RESOURCES.**

10 **A.** Currently, under Section III.13.7.2.5 of the FCM rules, the monthly gross
11 payment for all Demand Resources, except RTEG Resources, is calculated in the
12 same manner as for Generating Capacity Resources as described in Section
13 III.13.7.2.1.1. Generally, under Section III.13.7.2.1.1(a), the monthly gross
14 payment for a resource that has cleared in a Forward Capacity Auction (“FCA”) equals the product of its Capacity Supply Obligation (“CSO”) and the payment
15 rate it receives for its capacity, which is the Capacity Clearing Price in the
16 Appropriate Capacity Zone in the New England Control Area as adjusted
17 pursuant to Section III.13.2.7.3(b).
18

1 **Q: PLEASE DESCRIBE THE FCM PAYMENTS FOR THE 2010/2011**
2 **CAPACITY COMMITMENT PERIOD.**

3 **A.** Through the FCA, New England procures capacity to meet the Installed Capacity
4 Requirement (“ICR”).¹ In the FCA for the 2010/2011 Capacity Commitment
5 Period, however, the amount of capacity that cleared the FCA was greater than
6 the ICR. Because of that capacity surplus, under the FCM rules, resources that
7 cleared in the FCA had the option to prorate their bid MWs and be paid at the
8 Capacity Clearing Price or, instead, receive a prorated Capacity Clearing Price.
9 For the 2010/2011 Capacity Commitment Period, resources that elected to prorate
10 their bid MWs of participation in the FCM pursuant to Section III.13.2.7.3(b)(iii)
11 are paid \$4.50/kW-month. On the other hand, resources that did not elect to
12 prorate their bid MWs and were instead price prorated under Section
13 III.13.2.7.3(b)(ii) are paid \$4.254/kW-month.

14 The monthly gross payments for RTEG Resources are calculated, pursuant to
15 Section III.13.7.2.5.2, in the same manner as for Generating Capacity Resources
16 as described in Section III.13.7.2.1.1, except that those payments may also be
17 adjusted as described in Section III.13.2.3.3(f). Section III.13.2.3.3(f) provides
18 that no more than 600 MW from RTEG Resources may be counted toward
19 meeting the ICR and, if the sum of the CSOs of RTEG Resources cleared in the
20 FCA exceeds 600 MW, then the Capacity Clearing Price paid to all RTEG
21 Resources is adjusted by the ratio of 600 MW divided by the total of the final

¹ The ICR is calculated pursuant to Section III.12 of Market Rule 1.

1 CSOs of RTEG Resources. For the 2010/2011 Capacity Commitment Period, the
2 sum of the CSOs of RTEG Resources clearing in the FCA exceeded 600 MW,²
3 and, as a result, RTEG Resources are paid the prorated Capacity Clearing Price of
4 \$2.918/kW-month.³

5 **Q: PLEASE DESCRIBE HOW PERFORMANCE PENALTIES FOR**
6 **DEMAND RESOURCES ARE CALCULATED UNDER THE CURRENT**
7 **FCM RULES.**

8 **A.** Each month, the ISO calculates a Capacity Value for each Demand Resource. For
9 most Demand Resources, the Capacity Value is based on the Demand Resource's
10 measured load reduction during an ISO-initiated event or an audit conducted in a
11 prior month.⁴ By subtracting the Demand Resource's CSO from its Capacity
12 Value, the ISO calculates the Demand Resource's Monthly Capacity Variance.⁵
13 If the Monthly Capacity Variance is a negative value, then the Demand Resource
14 is subject to a performance penalty charge which is calculated using the Capacity
15 Clearing Price for the relevant Capacity Commitment Period.⁶ For example, in
16 the 2010/2011 Capacity Commitment Period, a Demand Resource with a 10 MW

² No more than 600 MW of RTEG Resources were counted toward meeting the ICR for the 2010/11 Capacity Commitment Period.

³ The payment rates for Demand Resources for the 2010/2011 Capacity Commitment Period used for the examples in this testimony were calculated pursuant to Sections III.13.7.2.1.1, III.13.2.7.3(b) and III.13.7.2.5.2.

⁴ See Section III.13.7.1.5.1. The Capacity Value for a passive Demand Resource, such as energy efficiency, is determined based on the resource's load reduction during prescribed hours. See Section III.13.7.1.5.4.

⁵ See Section III.13.7.2.7.5.1.

⁶ Section III.13.7.2.7.5.2 provides that "if a Demand Resource's Monthly Capacity Variance is a negative value, the Demand Resource shall be subject to a Demand Resource Performance Penalty equal to the absolute value of the Monthly Capacity Variance multiplied by the Capacity Clearing Price in the [FCA] for the relevant Capacity Commitment Period."

1 Capacity Supply Obligation that elected to MW prorate and that has a Capacity
2 Value of 8 MW in a month would be subject to a performance penalty charge
3 based on the 2 MW negative Monthly Capacity Variance. Under the current FCM
4 rules, the Demand Resource’s performance penalty charge would be calculated as
5 2 MW times the \$4.50/kW-month Capacity Clearing Price for a total of \$9,000.

6 **Q: PLEASE DESCRIBE HOW PERFORMANCE INCENTIVES FOR**
7 **DEMAND RESOURCES ARE CALCULATED UNDER THE CURRENT**
8 **MARKET RULES.**

9 **A.** Currently, if the Monthly Capacity Variance is a positive value, then the Demand
10 Resource is eligible to receive a performance incentive which is calculated using
11 the Capacity Clearing Price for the relevant Capacity Commitment Period.⁷ If the
12 same Demand Resource in the example above had a 12 MW Capacity Value in a
13 month, it would be eligible for a performance incentive payment based on the 2
14 MW positive Monthly Capacity Variance. The Demand Resource’s performance
15 incentive would be calculated as 2 MW times the \$4.50/kW-month Capacity
16 Clearing Price for a total of \$9,000.

⁷ Section III.13.7.2.7.5.3 provides that “if a Demand Resource’s Monthly Capacity Variance is a positive value, the Demand Resource shall be eligible to receive a Demand Resource Performance Incentive based on the Monthly Capacity Variance multiplied by the Capacity Clearing Price in the [FCA] for the relevant Capacity Commitment Period.”

1 **Q: PLEASE DESCRIBE THE RULE CHANGES IMPLEMENTING TWO**
2 **PERFORMANCE PENALTY RATES AND TWO PERFORMANCE**
3 **INCENTIVE RATES FOR DEMAND RESOURCES.**

4 **A.** Under the Rule Changes, there will be two performance penalty rates and two
5 performance incentive rates for Demand Resources. Specifically, for RTEG
6 Resources, the performance penalty and incentive rate will equal the Capacity
7 Clearing Price in the FCA for the relevant Capacity Commitment Period prorated
8 as described in Section III.13.2.3.3(f). For the 2010/2011 Capacity Commitment
9 Period, the performance penalty and incentive rate for RTEG Resources will be
10 \$2.918/kW-month. For all other types of Demand Resources (*i.e.* non-RTEG),
11 the performance penalty and incentive rate will equal the Capacity Clearing Price
12 in the FCA for the relevant Capacity Commitment Period as adjusted pursuant to
13 Section III.13.2.7.3(b). For the 2010/2011 Capacity Commitment Period, the
14 performance penalty and incentive rate for non-RTEG Demand Resources will be
15 \$4.254/kW-month. While the Rule Changes prevent most Demand Resources
16 from being subject to performance penalty charges that exceed their FCM revenue
17 in a month,⁸ the Filing Parties have identified other possible improvements that
18 cannot be implemented by the proposed effective date. Accordingly, the Filing
19 Parties intend to consider further improvements in 2011 to address the
20 comparability between Demand Resources and other capacity resources.

⁸ A Demand Resource that acquires an additional CSO through a reconfiguration auction or a Capacity Supply Obligation Bilateral at a rate lower than the performance penalty rate proposed under the Rule Changes could be subject to performance penalty charges that exceed the resource's FCM revenue in a month.

1 **Q: WHAT IS THE PURPOSE OF THE RULE CHANGES IMPLEMENTING**
2 **TWO PERFORMANCE PENALTY RATES AND TWO PERFORMANCE**
3 **INCENTIVE RATES FOR DEMAND RESOURCES?**

4 **A.** The current rules related to performance penalties and incentives for Demand
5 Resources (*i.e.*, Sections III.13.7.2.7.5.2 and III.13.7.2.7.5.3) were developed as
6 part of the FCM, which was designed with the objective of procuring capacity to
7 meet the ICR. As such, the rules were drafted to include a *single* performance
8 penalty rate and a *single* performance incentive rate for all Demand Resources, as
9 described above. Now, with the benefit of the experience of multiple FCAs in
10 which the amount of capacity cleared has been greater than the ICR, an issue has
11 been identified in connection with the single rate design. Specifically, the issue
12 arises when the single rate (which for the 2010/2011 Capacity Commitment
13 Period is the Capacity Clearing Price of \$4.50/kW-month) is applied to Demand
14 Resources that did not elect MW proration and were instead price prorated as well
15 as RTEG Resources that were prorated because more than 600 MW of RTEG
16 Resources cleared in the FCA. If those resources fail to perform, they may be
17 subject to performance penalty charges that could exceed their monthly FCM
18 revenue. For instance, in the 2010/2011 Capacity Commitment Period, a Demand
19 Resource that was price prorated will be paid at the rate of \$4.254/kW-month but
20 will be penalized at the rate of \$4.50/kW-month if it fails to perform.⁹ The result
21 for an RTEG Resource is even more significant, because such a resource will be

⁹ The issue for price prorated Demand Resources only exists in the presence of a price floor. Pursuant to Section III.13.2.7.3, there will be a price floor only for the Capacity Commitment Periods beginning on June 1, 2013, June 1, 2014, and June 1, 2015.

1 paid at a rate of \$2.918/kW-month but will be penalized at a rate of \$4.50/kW-
2 month if it fails to perform.

3 **Q: WHY IS THE ISO NOT IMPLEMENTING THREE PERFORMANCE**
4 **INCENTIVE RATES?**

5 **A.** The ISO explored the possibility of implementing three performance incentive
6 rates (*i.e.*, for the 2010/2011 Capacity Commitment Period, a rate of \$4.50/kW-
7 month for Demand Resources that did not elect to MW prorate and were instead
8 price prorated, a second rate of \$4.254/kW-month for Demand Resources that
9 were MW prorated, and a third rate of \$2.918/kW-month for RTEG Resources).
10 However, the current FCM rules require that active Demand Resources (*i.e.*,
11 RTEG Resources and Real-Time Demand Response Resources) defined at Load
12 Zones be disaggregated into Dispatch Zones before June 1, 2011. Accordingly,
13 the process of aggregating and disaggregating Demand Resources from Load
14 Zones to Dispatch Zones is already underway and will continue during the
15 2010/2011 Capacity Commitment Period. When a Demand Resource that was
16 price prorated and a Demand Resource that elected MW proration are aggregated,
17 the resulting Demand Resource needs a blended or customized performance
18 penalty and incentive rate. This requirement makes the software and database
19 logic significantly more complex. As such, the ISO determined that a design that
20 includes three performance penalty rates and three performance incentive rates is
21 beyond the scope of what can be implemented by the proposed effective date of
22 the Rule Changes.

1 **Q: COULD THE RULE CHANGES RESULT IN A PERFORMANCE**
2 **PENALTY RATE FOR A NON-RTEG DEMAND RESOURCE THAT**
3 **ELECTED MEGAWATT PRORATION BEING LOWER THAN THE**
4 **RESOURCE'S FCM PAYMENT RATE? PLEASE EXPLAIN.**

5 **A.** Yes. For the 2010/2011 Capacity Commitment Period, a Demand Resource that
6 elected MW proration will be paid at the rate of \$4.50/kW-month but will be
7 penalized at the rate of \$4.254/kW-month. In other words, there is a difference of
8 \$0.246/kW-month between the Capacity Clearing Price (*i.e.*, the payment rate)
9 and the Capacity Clearing Price as adjusted pursuant to Section III.13.2.7.3(b)
10 (which is the performance penalty rate for non-RTEG Demand Resources under
11 the Rule Changes).

12 However, under the current FCM rules, that is the same outcome for a non-
13 performing Generating Capacity Resource that elected MW proration, because the
14 Capacity Clearing Price prorated pursuant to Section III.13.2.7.3(b) is the same
15 rate used in the calculation of performance penalty charges for Generating
16 Capacity Resources, regardless of whether the Generating Capacity Resource
17 elected MW proration or was instead price prorated.¹⁰ Therefore, while the Rule
18 Changes create the possibility that a MW-prorated non-RTEG Demand Resource
19 that fails to perform could receive an extra \$0.246/kW-month in FCM payments,
20 the same is true for a non-performing Generating Capacity Resource that was
21 MW prorated.

¹⁰ See Sections III.13.7.2.1.2 and III.13.7.2.1.3.

1 **Q: PLEASE EXPLAIN THE CONFORMING REVISIONS TO SECTION**
2 **III.13.7.2.7.5.4 OF THE TARIFF.**

3 **A.** Section III.13.7.2.7.5.4 of the FCM rules describes how Demand Resource
4 performance incentives are prorated if, in a month, the sum of performance
5 penalties for all Demand Resources are less than the sum of performance
6 incentives for all Demand Resources. Currently, proration is based on MW
7 quantity, *i.e.*, it is based on a Demand Resource's Capacity Supply Obligation and
8 Capacity Value. This proration method is appropriate only when there is a *single*
9 performance penalty rate and a *single* performance incentive rate for Demand
10 Resources. However, when there is more than one penalty rate for Demand
11 Resources, as is the case with the Rule Changes, then proration based on quantity
12 can have an undesirable outcome. For example, under the two performance
13 penalty and incentive rates effected by the Rule Changes, a non-RTEG Demand
14 Resource that did not elect MW proration and that has a 1 MW positive Monthly
15 Capacity Variance in a month would be eligible for a performance incentive
16 payment for the month of 1 MW times \$4.254/kW-month or \$4,254. On the other
17 hand, a RTEG Resource with a 1 MW positive Monthly Capacity Variance in a
18 month would be eligible for a performance incentive payment for the month of 1
19 MW times \$2.918/kW-month or \$2,918. However, if the sum of the performance
20 penalties for all Demand Resources in the month was only \$6,000 then, pursuant
21 to Section III.13.7.2.7.5.4 as currently written, the Demand Resource performance
22 incentive payments for the RTEG Resource and the non-RTEG Demand Resource
23 would be prorated equally because each of them had the same Monthly Capacity

1 Variance. Thus, under the current MW prorating method, the RTEG Resource
2 and non-RTEG Demand Resource would each receive a Demand Resource
3 performance incentive of \$3,000. Consequently, the RTEG Demand Resource
4 would receive a performance incentive payment at a rate greater than \$2.918/kW-
5 month, which would be inconsistent with the Rule Changes.

6 To address this issue, the Rule Changes replace the quantity-based pro-rata
7 allocation method (Monthly Capacity Variance) with a dollar-based pro-rata
8 allocation method (the non-prorated Demand Resource Performance Incentive).
9 Using the example above, under the dollar-based proration method, the RTEG
10 Resource would receive 40.69%¹¹ of \$6,000 or \$2,441, while the non-RTEG
11 Demand Resource would receive 59.31% of \$6,000 or \$3,559.¹²

12 **Q: DOES THIS CONCLUDE YOUR TESTIMONY?**

13 **A.** Yes.

¹¹ $40.69\% = (\$2,918 / (\$2,918 + \$4,254)) \times 100$.

¹² The Rule Changes also clarify that the “effective” Capacity Clearing Price in Section III.13.2.3.3(f) is the Capacity Clearing Price “as adjusted pursuant to Section III.13.2.7.3(b).”

1 I declare, under penalty of perjury, that the foregoing is true and correct.

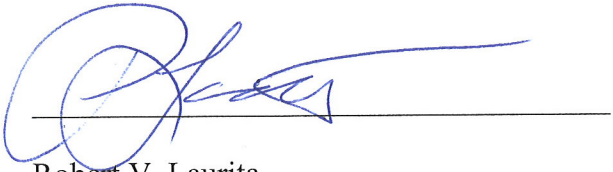
2

3 Executed on August 11, 2010.

4

5

6



7

Robert V. Laurita

8

Manager of Market Design

9

10

Commonwealth of Massachusetts

11

Hampden ss.

12

13

On this 11th day of August, 2010, before me, the undersigned notary public, personally

14

appeared Robert V. Laurita, proved to me through satisfactory evidence of personal

15

knowledge of identity, to be the person who signed the preceding or attached document

16

in my presence, and who swore or affirmed to me that the contents of the document are

17

truthful and accurate to the best of his knowledge or belief.

18

19



20

Linda Morrison, Notary Public

21

My Commission Expires: 01/28/2011

ATTACHMENT 4

Tabulation of the NEPOOL Participants Committee votes

**NEPOOL PARTICIPANTS COMMITTEE
ROLL CALL VOTE TAKEN AT AUGUST 6, 2010 MEETING
FCM PERFORMANCE PENALTIES AND INCENTIVES FOR DEMAND RESPONSE RESOURCES**

TOTAL

Participant Name	VOTE
GENERATION	2.14
TRANSMISSION	17.10
SUPPLIER	9.97
ALTERNATIVE RESOURCES	14.50
PUBLICLY OWNED ENTITY	17.10
END USER	17.10
% IN FAVOR	77.91

GENERATION SECTOR

Participant Name	VOTE
Boston Generating, LLC	O
Caithness New England Services	O
Dighton Power, LLC	O
Dominion Energy Marketing, Inc.	A
International Power America (ANP Funding I, LLC)	O
Mirant Energy Trading, LLC	O
NAEA Energy Massachusetts, LLC	O
NextEra Energy Resources, LLC	O
Verso Maine Energy LLC	F
IN FAVOR (F)	1
OPPOSED (O)	7
TOTAL VOTES	8
ABSTENTIONS (A)	1

TRANSMISSION SECTOR

Participant Name	VOTE
Bangor Hydro-Electric Company	F
New England Power Company	F
Northeast Utilities System Companies	F
NSTAR Electric Company	F
The United Illuminating Company	F
Vermont Electric Power Company	F
IN FAVOR (F)	6
OPPOSED	0
TOTAL VOTES	6
ABSTENTIONS (A)	0

SUPPLIER SECTOR

Participant Name	VOTE
BP Energy Company	A
Brookfield Energy Marketing Inc./CSC	A
Consolidated Edison Energy, Inc.	O
Constellation Energy Commodities Group	F
Dynegy Power Marketing, Inc.	O
Energy America, LLC	F
Exelon Generation, LLC	O
GDF SUEZ Energy Marketing NA, Inc. / FirstLight	O
Granite Ridge/Merrill Lynch Commodities/BoA	O
Hess Corporation	F
H.Q. Energy Services (U.S.) Inc.	F
Integrays Energy Services, Inc.	F
LIPA	A
Pinpoint Power	F
PPL EnergyPlus, LLC	A
PSEG Energy Resources & Trade	F
IN FAVOR (F)	7
OPPOSED	5
TOTAL VOTES	12
ABSTENTIONS (A)	4

ALTERNATIVE RESOURCES SECTOR

Participant Name	VOTE
Renewable Generation Sub-Sector	
Gas Recovery Systems, Inc.	F
Distributed Generation Sub-Sector	
Small DG Group Member	F
Load Response Sub-Sector	
Comverge, Inc.	F
Conservation Services Group	F
CPower, Inc.	F
EnerNOC, Inc.	F
Vermont Energy Investment Corp.	F
Small LR Group Member	F
IN FAVOR (F)	8
OPPOSED	0
TOTAL VOTES	8
ABSTENTIONS (A)	0

**NEPOOL PARTICIPANTS COMMITTEE
ROLL CALL VOTE TAKEN AT AUGUST 6, 2010 MEETING
FCM PERFORMANCE PENALTIES AND INCENTIVES FOR DEMAND RESPONSE RESOURCES**

PUBLICLY OWNED ENTITY SECTOR

Participant Name	VOTE
Ashburnham Municipal Light Plant	F
Boylston Municipal Light Department	F
Chicopee Municipal Lighting Plant	F
Conn. Municipal Electric Energy Coop.	F
Concord Municipal Light Plant	F
Groton Electric Light Department	F
Holden Municipal Light Department	F
Holyoke Gas & Electric Department	F
Hudson Light and Power Department	F
Hull Municipal Lighting Plant	F
Ipswich Municipal Light Department	F
Littleton (NH) Water & Light Dept.	F
Mansfield Municipal Electric Dept.	F
Marblehead Municipal Light Dept.	F
Mass. Municipal Wholesale Electric Co	F
Middleborough Gas and Electric Dept.	F
Middleton Municipal Electric Dept.	F
New Hampshire Electric Cooperative	F
Paxton Municipal Light Department	F
Peabody Municipal Light Plant	F
Princeton Municipal Light Department	F
Rowley Municipal Lighting Plant	F
Shrewsbury's Electric & Cable Ops	F
South Hadley Electric Light Dept.	F
Sterling Municipal Electric Light Dept.	F
Taunton Municipal Lighting Plant	F
Templeton Municipal Lighting Plant	F
Vermont Electric Cooperative	F
Wakefield Municipal Gas & Light Dept.	F
West Boylston Municipal Lighting Plant	F
Westfield Gas & Electric Light Dept.	F
IN FAVOR (F)	31
OPPOSED	0
TOTAL VOTES	31
ABSTENTIONS (A)	0

END USER SECTOR

Participant Name	VOTE
511 Plaza, LP	F
Associated Industries of Mass.	F
Conservation Law Foundation	F
CT Office of Consumer Counsel	F
Corinth Wood Pellets, LLC	F
Dennis Beverage	F
Dragon Products Company	F
Elektrisola, Inc.	F
Fairchild Semiconductor Corporation	F
Food City, Inc.	F
Garland Manufacturing Company	F
Hammond Lumber Company	F
Hardwood Products Company	F
Harvard Dedicated Energy Limited	F
LaBree's Inc.	F
Lavalley Lumber Co.	F
Maine Woods Pellet Company	F
Marden's Inc.	F
Mass. Attorney General's Office	F
Merchants Plaza LLC	F
NH Office of Consumer Advocate	F
PalletOne of Maine	F
PowerOptions, Inc.	F
Quality Egg of New England	F
RJF – Morin Brick LLC	F
Robbins Lumber	F
St. Ansellm College	F
St. Joseph Health Services of RI	F
The Energy Consortium	F
The Energy Council of RI (TEC-RI)	F
Union of Concerned Scientists	F
Westerly Hospital	F
Whole Foods Market Group, Inc.	F
Z-TECH, LLC	F
IN FAVOR (F)	34
OPPOSED	0
TOTAL VOTES	34
ABSTENTIONS (A)	0

ATTACHMENT 5

List of New England Governors and Utility Regulatory Agencies

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