



June 30, 2010

**VIA HAND DELIVERY**

Honorable Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, DC 20426

**Re: ISO New England Inc. and New England Power Pool,  
Docket No. ER10- -000; Load Reconstitution Filing**

Dear Secretary Bose and Deputy Secretary Davis:

Pursuant to Section 205 of the Federal Power Act,<sup>1</sup> ISO New England Inc. (the “ISO”) and the New England Power Pool (“NEPOOL”) Participants Committee (together, the “Filing Parties”) hereby jointly submit an original and five copies of this transmittal letter and revised tariff sheets<sup>2</sup> in order to extend the current practice of not reconstituting the load reductions resulting from the activation of Demand Resources. This filing also includes the supporting testimony of Robert V. Laurita, Manager of Market Design, which is sponsored solely by the ISO (“Laurita Testimony”).

**I. DESCRIPTION OF THE FILING PARTIES; 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 Tariff and the Transmission Operating Agreement with the New England transmission owners. In its capacity as an RTO, the ISO also has the objective to assure that the bulk power supply system within the New England Control Area conforms to proper standards of reliability as

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

<sup>2</sup> Capitalized terms used but not defined in this filing are intended to have the meaning given to such terms in the ISO New England Inc. Transmission, Markets and Services Tariff, FERC Electric Tariff No. 3 (“ISO Tariff”), the Second Restated New England Power Pool Agreement, and the Participants Agreement. Market Rule 1 is Section III of the ISO Tariff.

established by the Northeast Power Coordinating Council and the North American Electric Reliability Corporation.

NEPOOL is a voluntary association organized in 1971 pursuant to the New England Power Pool Agreement, and it has grown to include more than 430 members. The Participants include all of the electric utilities rendering or receiving services under the ISO Tariff, as well as independent power generators, marketers, load aggregators, brokers, consumer-owned utility systems, demand response providers, developers, end users and a merchant transmission provider. Pursuant to revised governance provisions accepted by the Commission in *ISO New England Inc. et al.*, 109 FERC ¶ 61,147 (2004), 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 Process for advisory voting on ISO matters and the selection of ISO Board members, except for input from state regulatory authorities and as otherwise may be provided in the [ISO] Tariff, [Transmission Operating Agreement] and the Market Participant Services Agreement included in the [ISO] Tariff."

All correspondence and communications in this proceeding should be addressed to the undersigned for the ISO and NEPOOL as follows:

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\*Persons designated for service<sup>3</sup>

## II. STANDARD OF REVIEW

The instant revisions are submitted pursuant to Section 205 of the Federal Power Act, which “gives a utility the right to file rates and terms for services rendered with its assets.”<sup>4</sup> Under Section 205, the Commission “plays ‘an essentially passive and reactive’ role”<sup>5</sup> whereby it “can reject [a filing] only if it finds that the changes proposed by the public utility are not ‘just and reasonable.’”<sup>6</sup> The Commission limits this inquiry “into whether the rates proposed by a utility are reasonable -- and [this inquiry does not] extend to determining whether a proposed rate schedule is more or less reasonable than alternative rate designs.”<sup>7</sup> The revision “need not be the only reasonable methodology, or even the most accurate.”<sup>8</sup> As a result, even if an intervenor or the Commission develops an alternative proposal, the Commission must accept this Section 205 filing if it is just and reasonable.<sup>9</sup>

## III. BACKGROUND

### A. Load Reconstitution

Load reconstitution is a process that involves increasing the loads of a particular end-use consumer, or group of end-use consumers, by the amount of load reduction for which they are receiving compensation through the wholesale electricity market. The resulting reconstituted loads are used to determine the proportional share of capacity costs to be allocated to a particular end-use consumer or group of end-use consumers. In addition, load reconstitution means that retail customers selling load reductions would pay for the capacity required to serve their load, absent a commitment to provide demand reductions, and then receive a capacity payment through the wholesale electricity market for their commitment to use less capacity, i.e., their sale of Demand Resource capacity in the Forward Capacity Market.

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<sup>3</sup> Due to the joint nature of this filing, the Filing Parties respectfully request a waiver of Section 385.203 of the Commission’s regulations to allow the inclusion of more than two persons on the service list in this proceeding.

<sup>4</sup> *Atlantic City Elec. Co. v. FERC*, 295 F.3d 1, 9 (D.C. Cir. 2002).

<sup>5</sup> *Id.* at 10 (quoting *City of Winnfield v. FERC*, 744 F.2d 871, 876 (D.C. Cir. 1984)).

<sup>6</sup> *Id.*

<sup>7</sup> *City of Bethany v. FERC*, 727 F.2d 1131, 1136 (D.C. Cir. 1984).

<sup>8</sup> *Oxy USA, Inc. v. FERC*, 64 F.3d 679, 692 (D.C. Cir. 1995).

<sup>9</sup> *Cf. Southern California Edison Co., et al.*, 73 FERC ¶ 61,219 at 61,608 n.73 (1995) (“Having found the Plan to be just and reasonable, there is no need to consider in any detail the alternative plans proposed by the Joint Protesters.” (citing *City of Bethany*, 727 F.2d at 1136)).

Load reconstitution was a requirement of New England's Load Response Programs since the programs' inception in 2003, however load reconstitution is currently not required for Demand Resources participating in the Forward Capacity Market ("FCM"). When the ISO activated resources participating in the Load Response Programs coincident with the system peak, the ISO calculated the amount of load reduced by the individual retail customer or group of retail customers participating in the program during the hour of the system peak. The ISO provided the load reduction information to the retail customers' local distribution company (known as the "Host Participant Meter Reader"). The Host Participant Meter Reader increased the annual peak contribution of the individual retail customer or group of retail customers by the amount of the reduction. The reconstituted load was then used to establish the amount of capacity the company with the obligation to serve the retail customer's load was required to purchase in the following power year. Without load reconstitution, a retail customer participating in the Load Response Program could be paid for its load reduction *in addition to* realizing a smaller share of the capacity costs associated with not consuming electricity in the coincident peak load hour.

#### **B. Load Reconstitution under FCM**

When the ISO and stakeholders developed the market rules for the FCM, the quantity and distribution of Demand Resources clearing in the Forward Capacity Auction for the capacity commitment period starting June 1, 2010 was unknown. Similarly, Demand Resources' impact on regional capacity cost allocation was also unknown. Therefore, in August 2006, the ISO and stakeholders agreed not to adopt load reconstitution for the first three Capacity Commitment Periods (June 1, 2010 through May 31, 2013), and agreed to reconvene in 2009 to discuss the need for reconstitution when Forward Capacity Auction results became available.<sup>10</sup> This agreement was memorialized in Section III.13.7.3.1 of Market Rule 1, which states that:

A Demand Resource's Demand Reduction Value will not be reconstituted into the load of the Demand Resource for the Obligation Months in the first three [Forward Capacity Auction] delivery periods for the purpose of determining the Capacity Requirement for the load associated with the Demand Resource. Beginning in February 2009, the ISO will evaluate, in consultation with NEPOOL stakeholders and state utility regulatory agencies, the need for a load reconstitution methodology for Demand Resources. The ISO will file its recommendation to institute or not to institute a load reconstitution methodology with the FERC

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<sup>10</sup> See "Recommendation Concerning the Reconstitution of Load Reductions for Cost Allocation Purposes Resulting From Other Demand Resources Clearing in the Forward Capacity Market" (August 8, 2006), posted on the ISO's website at [http://www.iso-ne.com/committees/comm\\_wkgrps/othr/drg/mtrls/load\\_reconstitution\\_recommendation\\_081006.doc](http://www.iso-ne.com/committees/comm_wkgrps/othr/drg/mtrls/load_reconstitution_recommendation_081006.doc).

pursuant to Section 205 of the Federal Power Act on or before  
September 1, 2009.

#### **IV. PROPOSAL TO EXTEND THE CURRENT PRACTICE OF NOT RECONSTITUTING LOAD**

As the Laurita Testimony explains, the ISO believes that implementing load reconstitution for Demand Resources participating in the FCM can mitigate capacity cost shifting and achieve comparable treatment between Demand Resources and generation resources. Nevertheless, in order to provide time to allow the Commission to issue orders in two critical proceedings, the ISO supports and joins in the recommendation of the NEPOOL Participants to extend the current practice of not reconstituting load at this time.

By way of background, in compliance with Section III.13.7.3.1 of Market Rule 1, the ISO commenced stakeholder discussions on load reconstitution in February 2009. As a result of those discussions, the ISO and NEPOOL submitted a joint report to the Commission on September 1, 2009.<sup>11</sup> In that report, the parties agreed to defer the discussions related to load reconstitution for Demand Resources participating in the FCM until February 2010 to permit future discussions to take into consideration any outcomes from the stakeholder initiatives related to price-responsive demand (“PRD”), as well as the Forward Capacity Market Working Group. When submitting the September 1 Report, the ISO expected that an approach to PRD would be finalized, and that major issues being discussed in the Forward Capacity Market Working Group would in large part be resolved, by February 2010.

While the ISO was preparing to file market rules with the Commission to implement a PRD approach, on March 18, 2010, the Commission issued a Notice of Proposed Rulemaking in Docket No. RM10-17-000 regarding the appropriate supply-side compensation for Demand Resources in the energy market.<sup>12</sup> As a result, the ISO and stakeholders are waiting until the Commission issues a final rule before finalizing an approach to PRD. Further, several major issues regarding FCM design were set for hearing before the Commission and while such issues have not focused on the treatment of Demand Resources, any changes from those proceedings could affect ISO and stakeholder views on any future load reconstitution rules.<sup>13</sup> In light of these uncertainties, and in recognition of several implementation concerns raised by Participants during stakeholder deliberations, the Filing Parties support continuing the current practice and postponing any further stakeholder deliberations on load reconstitution. The ISO believes that it may be appropriate to reconvene the NEPOOL stakeholder process to determine what, if any,

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<sup>11</sup> See Report of ISO New England Inc. and New England Power Pool Regarding Load Reconstitution for Demand Resources, Docket No. ER09-1666-000 (September 1, 2009) (“September 1 Report”).

<sup>12</sup> *Demand Response Compensation in Organized Wholesale Energy Markets*, Notice of Proposed Rulemaking, FERC Stats. and Regs. ¶ 32,656 (2010).

<sup>13</sup> *ISO New England Inc.*, 131 FERC ¶ 61,065 (2010) (setting for paper hearing proposed changes to the FCM).

market rule changes are required related to load reconstitution for Demand Resources once the Commission provides additional guidance in those two proceedings.

The Filing Parties are submitting revisions to Market Rule 1 to effectuate their understandings. The revisions specify that load will not be reconstituted in the first five Forward Capacity Auction delivery periods for the purpose of determining the Capacity Requirement for the load associated with the Demand Resource. The revisions also remove the language relating to the 2009 stakeholder process and subsequent filing as those provisions are no longer necessary.

## **V. STAKEHOLDER PROCESS**

The NEPOOL Markets Committee met on February 9, 2010, April 13, 2010 and May 12, 2010 to discuss whether or not to implement load reconstitution for Demand Resources in the FCM. During the meetings the ISO, NEPOOL Participants and representatives from state regulatory commissions expressed differing views on the advantages and disadvantages of implementing load reconstitution, as well as what would be required to implement load reconstitution in the FCM.

At the May 12 Markets Committee meeting, the ISO offered a proposal to implement load reconstitution for Demand Resources, effective June 1, 2013. Before the Markets Committee voted on that proposal, an amendment was offered to extend for an additional two Capacity Commitment Periods the current practice of not requiring load reconstitution for Demand Resources, as proposed herein. That motion to amend passed with 65.4% in favor. The motion to approve the amended proposal also passed, with 65.4% in favor.

Following Markets Committee deliberations, the NEPOOL Participants Committee met on June 4, 2010 and voted to support the recommendation of the Market Committee with 71.32 % in favor. The only difference between the vote of the Participants Committee and the Markets Committee recommendation was that the Participants Committee agreed with the ISO to leave the detailed language regarding such deferral out of the text of Market Rule 1.<sup>14</sup> The substance of the agreement, however, remains the same and is treated for all intents and purposes with the same force and effect. The following resolution was used to reflect the approach taken by the Participants Committee:

The Committee agrees with ISO-NE to defer until September 2011 efforts to implement voluntarily a load reconstitution methodology for Demand Resources with the understanding and agreement that ISO-NE will file a recommendation to institute or not to institute a

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<sup>14</sup> Specifically, with 92.67 % support, the Participants Committee voted to amend the proposal supported by the Markets Committee to remove the last two sentences of Section III.13.7.3.1, which would have provided an updated chronology of when the ISO and NEPOOL would evaluate the need for a load reconstitution methodology.

load reconstitution methodology with the FERC pursuant to Section 205 of the Federal Power Act on or before February 1, 2012 to become effective for the Sixth Forward Capacity Auction on April 2, 2012, and the further understanding that this agreement does not restrict an earlier filing by ISONE and/or an earlier effective date if either is required to comply with any final FERC determinations on this issue in ongoing proceedings.

## **VI. REQUESTED EFFECTIVE DATE AND REQUEST FOR WAIVER**

The Filing Parties request that the revised tariff sheets become effective August 30, 2010.

## **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.<sup>15</sup> However, the extension of the practice of not reconstituting load does not constitute traditional "rates," and the Filing Parties are not traditional investor-owned utilities. In light of these circumstances, the Filing Parties submit the following additional information in substantial compliance with relevant provisions of Section 35.13, and request a waiver of Section 35.13 of the Commission's regulations to the extent the content or form deviates from the specific technical requirements of the regulations.

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

- ◆ This transmittal letter;
- ◆ Blacklined Tariff Sheets reflecting the revisions submitted in this filing (Attachment 1);
- ◆ Clean Revised Tariff Sheets reflecting the revisions submitted in this filing (Attachment 2);
- ◆ Testimony of Robert V. Laurita, Manager of Market Design, sponsored solely by the ISO (Attachment 3); and
- ◆ List of governors, utility regulatory agencies in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont, and other entities, to which a copy of this filing has been e-mailed (Attachment 4).

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<sup>15</sup> 18 C.F.R. § 35.13 (2010).

35.13(b)(2) - The Filing Parties request that the revisions become effective August 30, 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\\_ptcpnts\\_eserved.pdf](http://www.iso-ne.com/regulatory/ferc/nepool/gov_ptcpnts_eserved.pdf). A copy of this transmittal letter and the accompanying materials have also been e-mailed to the governors and electric utility regulatory agencies for the six New England states that comprise the New England Control Area, the New England Conference of Public Utility Commissioners, Inc., and to the New England States Committee on Electricity. Their names and addresses are shown in Attachment 4. In accordance with Commission rules and practice, there is no need for the Governance Participants or the entities identified on Attachment 4 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 Section VII of 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 the revision is evidenced by this filing. With respect to NEPOOL's approval, as noted in Section V of this transmittal letter, these changes reflect the support of the Participant Processes required by the Participants Agreement, having been approved by the NEPOOL Participants Committee as described in Section V of this transmittal letter.

35.13(b)(7) - The Filing Parties do not have 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.

### VIII. CONCLUSION

For the reasons stated herein, the Filing Parties respectfully request that the Commission accept the extension of the practice of not reconstituting load as filed, without condition, suspension, or hearing, to be effective August 30, 2010.

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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Its Attorneys

## **Attachment 1**

calendar year two years prior to the start of the Capability Year. The following loads are assigned a peak contribution of zero for the purposes of assigning obligations and tracking load shifts: Load associated with pumping of pumped hydro generators, if the resource was pumping; Station service load that is modeled as a discrete Load Asset and the Resource is complying with the maintenance scheduling procedures of the ISO; and Transmission losses associated with delivery of energy over the Control Area tie lines.

A load serving entity's Capacity Requirement for each month and Capacity Zone shall equal the product of: (i) the Capacity Zone's Capacity Requirement as calculated above and (ii) the ratio of the sum of the load serving entity's annual coincident contributions to the system-wide annual peak load in that Capacity Zone from the calendar year prior to the start of the Capability Year to the sum of all load serving entities' annual coincident contributions to the system-wide annual peak load in that Capacity Zone from the calendar year prior to the start of the Capability Year.

A load serving entity's Capacity Load Obligation shall be its Capacity Requirement, adjusted as appropriate to account for any relevant Capacity Load Obligation Bilaterals, HQICCs, and Self-Supply FCA Resource designations. A Capacity Load Obligation can be a positive or negative value. A Market Participant that is not a load serving entity shall have a Capacity Load Obligation equal to the net obligation resulting from Capacity Load Obligation Bilaterals, HQICC, and Self-Supply FCA Resource designations.

A Demand Resource's Demand Reduction Value will not be reconstituted into the load of the Demand Resource for the Obligation Months in the first ~~five~~three FCA delivery

periods for the purpose of determining the Capacity Requirement for the load associated with the Demand Resource. ~~Beginning in February 2009, the ISO will evaluate, in consultation with NEPOOL stakeholders and state utility regulatory agencies, the need for a load reconstitution methodology for Demand Resources. The ISO will file its recommendation to institute or not to institute a load reconstitution methodology with the FERC pursuant to Section 205 of the Federal Power Act on or before September 1, 2009.~~

**III.13.7.3.1.1. HQICC Used in the Calculation of Capacity Requirements.** In order to treat HQICCs as a load reduction, each holder of HQICCs shall have its Capacity Requirement in the Capacity Zone in which the HQ Phase I/II external node is located as specified in Section III.13.1.3 adjusted by its share of the total monthly HQICC amount.

**III.13.7.3.1.2. Charges Associated with Self-Supplied FCA Resources.** The capacity associated with a Self-Supplied FCA Resource shall be treated as a credit toward the Capacity Load Obligation of the load serving entity so designated by such resources as described in Section III.13.1.6. The amount of Self-Supplied FCA Resources shall be determined pursuant to Section III.13.1.6.

**III.13.7.3.1.3. Charges Associated with Dispatchable Asset Related Demands.** Dispatchable Asset Related Demand resources will not receive Forward Capacity Market payments, but instead each Dispatchable Asset Related Demand resource will receive an adjustment to its share of the associated Coincident Peak Contribution based on the ability of the Dispatchable Asset Related Demand resource to reduce consumption. The adjustment to a load serving entity's Coincident Peak Contribution resulting from Dispatchable Asset Related Demand resource reduction in consumption shall be based on the Nominated Consumption Limit submitted for the Dispatchable Asset Related Demand resource.

## **Attachment 2**

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calendar year two years prior to the start of the Capability Year. The following loads are assigned a peak contribution of zero for the purposes of assigning obligations and tracking load shifts: Load associated with pumping of pumped hydro generators, if the resource was pumping; Station service load that is modeled as a discrete Load Asset and the Resource is complying with the maintenance scheduling procedures of the ISO; and Transmission losses associated with delivery of energy over the Control Area tie lines.

A load serving entity's Capacity Requirement for each month and Capacity Zone shall equal the product of: (i) the Capacity Zone's Capacity Requirement as calculated above and (ii) the ratio of the sum of the load serving entity's annual coincident contributions to the system-wide annual peak load in that Capacity Zone from the calendar year prior to the start of the Capability Year to the sum of all load serving entities' annual coincident contributions to the system-wide annual peak load in that Capacity Zone from the calendar year prior to the start of the Capability Year.

A load serving entity's Capacity Load Obligation shall be its Capacity Requirement, adjusted as appropriate to account for any relevant Capacity Load Obligation Bilaterals, HQICCs, and Self-Supply FCA Resource designations. A Capacity Load Obligation can be a positive or negative value. A Market Participant that is not a load serving entity shall have a Capacity Load Obligation equal to the net obligation resulting from Capacity Load Obligation Bilaterals, HQICC, and Self-Supply FCA Resource designations.

A Demand Resource's Demand Reduction Value will not be reconstituted into the load of the Demand Resource for the Obligation Months in the first five FCA delivery

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periods for the purpose of determining the Capacity Requirement for the load associated with the Demand Resource.

**III.13.7.3.1.1. HQICC Used in the Calculation of Capacity Requirements.** In order to treat HQICCs as a load reduction, each holder of HQICCs shall have its Capacity Requirement in the Capacity Zone in which the HQ Phase I/II external node is located as specified in Section III.13.1.3 adjusted by its share of the total monthly HQICC amount.

**III.13.7.3.1.2. Charges Associated with Self-Supplied FCA Resources.** The capacity associated with a Self-Supplied FCA Resource shall be treated as a credit toward the Capacity Load Obligation of the load serving entity so designated by such resources as described in Section III.13.1.6. The amount of Self-Supplied FCA Resources shall be determined pursuant to Section III.13.1.6.

**III.13.7.3.1.3. Charges Associated with Dispatchable Asset Related Demands.** Dispatchable Asset Related Demand resources will not receive Forward Capacity Market payments, but instead each Dispatchable Asset Related Demand resource will receive an adjustment to its share of the associated Coincident Peak Contribution based on the ability of the Dispatchable Asset Related Demand resource to reduce consumption. The adjustment to a load serving entity's Coincident Peak Contribution resulting from Dispatchable Asset Related Demand resource reduction in consumption shall be based on the Nominated Consumption Limit submitted for the Dispatchable Asset Related Demand resource.

## **Attachment 3**

1 UNITED STATES OF AMERICA  
2 BEFORE THE  
3 FEDERAL ENERGY REGULATORY COMMISSION

4 ISO New England Inc. and ) Docket No. ER10-\_\_\_-000  
5 New England Power Pool )  
6  
7

8 TESTIMONY OF ROBERT V. LAURITA  
9

10 I. WITNESS IDENTIFICATION.

11  
12 Q: Please state your name, title, and business address.

13 A: My name is Robert V. Laurita. I am Manager of Market Design for ISO New  
14 England Inc. (the "ISO"), One Sullivan Road, Holyoke, Massachusetts, 01040-  
15 2841.

16 Q: Please summarize your job responsibilities at ISO New England Inc.

17 A: I joined the ISO in 2003. In my current position, I am responsible for the design  
18 and development of market rules governing the New England wholesale  
19 electricity market. In addition, I have been actively involved in the design and  
20 administration of the ISO's demand response programs and market designs that  
21 integrate Demand Resources into the wholesale electricity markets, such as the  
22 Forward Capacity Market (the "FCM").  
23

24 Q: Please summarize your experience and qualifications prior to joining the  
25 ISO.

26 A: I have over twenty years of experience in the energy and utility industry. Prior to  
27 joining the ISO in 2003, I held management positions at the Public Service

1 Electric and Gas Company, XENERGY, Applied Energy Group and InSite  
2 Services. As the Manager of Measurement Services at Public Service Electric  
3 and Gas Company, I was responsible for the design, development and  
4 implementation of large-scale metering and meter data management systems that  
5 supported the implementation of retail competition in New Jersey. As the  
6 Director of Client Services for XENERGY, I worked with electric and gas  
7 utilities throughout the United States and Europe to design, develop and  
8 implement energy efficiency and demand management programs for residential,  
9 commercial and industrial customers.

10

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

14

15 **II. PURPOSE, SCOPE AND SUMMARY OF DIRECT TESTIMONY.**

16

17 **Q: What is the purpose of your testimony in this instance?**

18 A: The purpose of my testimony is to describe a proposed market rule change to  
19 extend the current practice of not reconstituting the load reductions resulting from  
20 Demand Resources participating in the FCM for an additional two years. That is,  
21 we would extend the practice of not reconstituting load reductions resulting from  
22 Demand Resources participating in the FCM from June 1, 2014, the start of the

1 third FCM Capacity Commitment Period, until June 1, 2016, the start of the fifth  
2 FCM Capacity Commitment Period.

3

4 **Q: What is load reconstitution?**

5 A: Load reconstitution is a process that involves increasing the loads of a particular  
6 end-use consumer, or group of end-use consumers, by the amount of load  
7 reduction for which they are receiving compensation through the wholesale  
8 electricity market. The resulting reconstituted loads are used to determine the  
9 proportional share of capacity costs to be allocated to a particular end-use  
10 consumer or group of end-use consumers. That is, load reconstitution affects the  
11 allocation of capacity costs among consumers. For example, if the reconstituted  
12 load of a group of consumers was 300 MW, and the sum of all reconstituted loads  
13 was 30,000 MW, the group of consumers would be billed for one percent of total  
14 capacity costs.

15

16 **Q: Please describe the history of load reconstitution as it relates to New  
17 England's Load Response Programs and the FCM.**

18 A: Load reconstitution was a requirement of New England's Load Response  
19 Programs since their inception in 2003. When the ISO activated resources  
20 participating in the Load Response Programs coincident with the system peak, the  
21 ISO calculated the amount of load reduced by the individual retail customer or  
22 group of retail customers participating in the program during the hour of the  
23 system peak. The ISO provided the load reduction information to the retail

1 customers' local distribution company (Host Participant Meter Reader). The Host  
2 Participant Meter Reader increased the annual peak contribution of the individual  
3 retail customer or group of retail customers by the amount of the reduction. The  
4 reconstituted load was then used to establish the amount of capacity the company  
5 with the obligation to serve the retail customer's load was required to purchase in  
6 the following power year.

7

8 **Q: What was the purpose of load reconstitution in the Load Response**  
9 **Programs?**

10 A: Load reconstitution ensured that retail customers selling load reductions and  
11 receiving capacity payment through the Load Response Program also paid for  
12 electricity services received through the wholesale electricity market. Without  
13 load reconstitution a retail customer participating in the Load Response Program  
14 could have been paid for its load reduction in addition to realizing the capacity  
15 cost savings associated with not consuming electricity. As I will describe later in  
16 more detail, this could result in the retail customer not paying for the capacity it  
17 consumed and shifting those costs to other customers.

18

19 **Q: Is load reconstitution required under the FCM?**

20 A: Not at this time. When the ISO and stakeholders developed the market rules for  
21 the FCM, the quantity and distribution of Demand Resources clearing in the  
22 Forward Capacity Auction for the capacity commitment period starting June 1,  
23 2010 was unknown. Similarly, Demand Resources' impact on regional capacity

1 cost allocation was also unknown. Therefore, in August 2006, the ISO and  
2 stakeholders agreed not to adopt load reconstitution for the first three Capacity  
3 Commitment Periods (June 1, 2010 through May 31, 2013), and agreed to  
4 reconvene in 2009 to discuss the need for reconstitution when Forward Capacity  
5 Auction results became available.<sup>1</sup> This agreement was memorialized in Section  
6 III.13.7.3.1 of Market Rule 1, which states that:

7 A Demand Resource's Demand Reduction Value will not be  
8 reconstituted into the load of the Demand Resource for the  
9 Obligation Months in the first three FCA delivery periods for the  
10 purpose of determining the Capacity Requirement for the load  
11 associated with the Demand Resource. Beginning in February  
12 2009, the ISO will evaluate, in consultation with NEPOOL  
13 stakeholders and state utility regulatory agencies, the need for a  
14 load reconstitution methodology for Demand Resources. The ISO  
15 will file its recommendation to institute or not to institute a load  
16 reconstitution methodology with the FERC pursuant to Section 205  
17 of the Federal Power Act on or before September 1, 2009.

18  
19 To comply with the Tariff, the ISO commenced stakeholder discussions on load  
20 reconstitution in February 2009. As a result of those discussions, the ISO and  
21 NEPOOL made a joint filing with the Commission on September 1, 2009,  
22 regarding the need for a load reconstitution methodology for Demand Resources  
23 participating in the FCM. In that filing, the parties agreed to defer the discussions  
24 related to load reconstitution until February 2010 to permit future discussions to  
25 take into consideration any outcomes from the stakeholder initiatives related to

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<sup>1</sup> See "Recommendation Concerning the Reconstitution of Load Reductions for Cost Allocation Purposes Resulting From Other Demand Resources Clearing in the Forward Capacity Market" (August 8, 2006), posted on the ISO's website at [http://www.iso-ne.com/committees/comm\\_wkgrps/othr/drg/mtrls/load\\_reconstitution\\_recommendation\\_081006.doc](http://www.iso-ne.com/committees/comm_wkgrps/othr/drg/mtrls/load_reconstitution_recommendation_081006.doc).

1 price-responsive demand (“PRD”), as well as the Forward Capacity Market  
2 Working Group.<sup>2</sup>

3

4 **Q: Please describe the stakeholder process through which the decision to extend**  
5 **the moratorium on load reconstitution was discussed and vetted.**

6 A: The NEPOOL Markets Committee met on February 9, 2010, April 13, 2010 and  
7 May 12, 2010 to discuss whether or not to implement load reconstitution for  
8 Demand Resources in the FCM. During the meetings the ISO, NEPOOL  
9 Participants and representatives from State regulatory commissions expressed  
10 differing views on the advantages and disadvantages of implementing load  
11 reconstitution in the FCM.

12

13 **Q: What is the ISO’s position on load reconstitution for Demand Resources**  
14 **participating in the FCM?**

15 A: Load reconstitution is needed to mitigate the shifting of capacity costs from retail  
16 customers receiving capacity payments as Demand Resources to other retail  
17 customers who are not participating as Demand Resources. Furthermore,  
18 reconstituting the loads of retail customers participating as a Demand Resource by  
19 the amount of the reduction sold in the capacity market is needed to achieve  
20 economic efficiency and comparability of treatment between generation and  
21 Demand Resources participating in the FCM.

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<sup>2</sup> See Report of ISO New England Inc. and New England Power Pool Regarding Load Reconstitution for Demand Resources, Docket No. ER09-1666-000 (September 1, 2009) (“September 1<sup>st</sup> filing”).

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**Q: Please explain how load reconstitution can mitigate the shifting of capacity costs from retail customers receiving capacity payments as Demand Resources to other retail customers who are not participating as Demand Resources.**

A: Demand Resources, as well as generation and imports, are acquired through the FCM to meet forecasted peak load and reserve requirements. The costs resulting from the acquisition of this capacity are allocated to loads based on each load's proportional contribution to the coincident system peak. Because Demand Resources are likely to reduce load at the time of the coincident system peak, payment of capacity costs may be shifted away from loads with Demand Resources that are receiving capacity payments and toward all other loads. The objective of load reconstitution is to ensure that the cost of the capacity procured through the FCM is fairly and efficiently allocated among loads. Load reconstitution increases the peak load contribution of loads with Demand Resources being paid for capacity by the amount of load reduction coincident with the system peak, so that they do not shift their load reduction amount onto other loads that must pay the capacity costs associated with that load reduction. Load reconstitution will not change the total capacity costs charged to loads in New England; rather load reconstitution effects how those costs are allocated to individual and groups of retail customers, as well as the allocation of costs between utility service territories and Load Zones.

1 **Q: Please provide an example that illustrates how load reconstitution can**  
2 **mitigate cost shifting.**

3 A: Assume that there are only two customers in the electric system each consuming  
4 10 MW at the time of the coincident system peak. Each customer would receive  
5 an equal allocation of capacity cost. If one of those customers subsequently  
6 provides a 2 MW Demand Resource through the FCM, that customer would  
7 receive a payment for 2 MW of capacity. Without reconstitution (and assuming  
8 that the Demand Resource reduces 2 MW coincident with the system peak), this  
9 customer would receive both a payment for 2 MW, and an allocation of capacity  
10 costs for 8 MW, resulting in a net capacity bill of only 6 MW. The other  
11 customer (still with a 10 MW load) would have to pay for capacity as though it  
12 were a 12 MW customer so that sufficient revenue is collected to pay all capacity  
13 suppliers. By reconstituting the load of the customer with the 2 MW Demand  
14 Resource, the customer would be billed for 10 MW of capacity, but would also  
15 receive a payment for its 2 MW Demand Resource resulting in a net capacity bill  
16 of 8 MW, which is equal to its actual load at the time of system peak. The other  
17 customer would continue to pay for 10 MW of load as before.

18

19 **Q: Does the ISO have an estimate of the cost shifting among New England's**  
20 **consumers with and without load reconstitution?**

21 A: Yes, the ISO's estimates are included in Attachment A. Table 1 illustrates how  
22 capacity cost would be allocated by Load Zone -- with and without load  
23 reconstitution -- assuming that all of the Demand Resources that cleared the FCA

1 for the 2012/13 Capacity Commitment Period reduce load coincident with the  
2 system peak. Based on these assumptions, the resulting change in the system  
3 peak load contribution will produce a \$10.1 million shift in capacity costs among  
4 the Load Zones. Load reconstitution would result in a \$10.1 million decrease in  
5 allocated capacity costs for the New Hampshire, WCMA and SEMA Load Zones.  
6 The remaining Load Zones would experience a \$10.1 million increase in allocated  
7 capacity costs.

8  
9 Table 2 illustrates a similar shift in cost allocation among the Load Zones,  
10 assuming that none of the active Demand Resources (i.e., Real-Time Demand  
11 Response and Real-Time Emergency Generation) are dispatched at the time of the  
12 system peak. In other words, the load reductions are attributable only to  
13 “passive” Demand Resources (i.e., energy efficiency and distributed generation  
14 projects). Based on these assumptions, load reconstitution will result in a \$4.6  
15 million increase in allocated capacity costs for the Connecticut and Vermont Load  
16 Zones. The remaining Load Zones will experience a \$4.6 million decrease in  
17 allocated capacity costs.

18  
19 **Q: Please explain how load reconstitution can improve economic efficiency and**  
20 **achieve comparability of treatment between generation and Demand**  
21 **Resources in the FCM.**

22 A: Demand Resources are physically different from generators. Demand Resources  
23 reduce load whereas generators serve load. Because Demand Resources reduce

1 load, in the absence of load reconstitution, the owner of a Demand Resource will  
2 likely consider the *combined* value of the retail capacity savings resulting from  
3 the load reduction plus the expected capacity payment from the FCM when  
4 formulating their offer in the Forward Capacity Auction. The owner of a  
5 generator, on the other hand, will consider a *single* value – the expected capacity  
6 payment from the FCM - when formulating their offer in the Forward Capacity  
7 Auction. Therefore, in the absence of load reconstitution, a Demand Resource  
8 can clear the Forward Capacity Auction even though its cost (e.g., the cost of  
9 operating on-site generation) to deliver a load reduction is higher than the market  
10 clearing price. In other words, a Demand Resource could displace lower-cost  
11 generation resources in the Forward Capacity Auction which is an economically  
12 inefficient market outcome that favors Demand Resources over generation.

13  
14 For example, a Demand Resource with a \$6.00/kW-month cost to reduce load  
15 could remain in the Forward Capacity Auction even if the Forward Capacity  
16 Auction clearing price was \$3.00/kW-month because the Demand Resource  
17 would receive the benefit of avoiding a \$3.00/kW-month capacity charge in  
18 addition to the \$3.00/kW-month capacity payment through the FCM. Load  
19 reconstitution mitigates this problem and ensures comparability between Demand  
20 Resources and other resources competing in the wholesale markets.

21

1 **Q: If the ISO believes there are benefits to the market from implementing load**  
2 **reconstitution, why is continuing the current treatment for Demand**  
3 **Resources just and reasonable at this time?**

4 A: While the ISO supports implementing load reconstitution for Demand Resources  
5 in the FCM, the ISO recognizes that important policy issues regarding Demand  
6 Resource participation in the wholesale electricity markets, in general, are not  
7 settled. In the September 1, 2010 filing, the ISO and NEPOOL agreed to defer  
8 the discussions related to load reconstitution until February 2010 to permit future  
9 discussions to take into consideration any outcomes from the stakeholder  
10 initiatives related to PRD, as well as the Forward Capacity Market Working  
11 Group. At the time of the September 1<sup>st</sup> filing, the ISO expected that an approach  
12 to PRD would be finalized, and that major issues being discussed in the Forward  
13 Capacity Market Working Group would in large part be resolved.

14  
15 While the ISO was preparing to file proposed market rules with the Commission  
16 to implement a PRD approach, the Commission issued the NOPR regarding the  
17 appropriate supply-side compensation for Demand Resources in the energy  
18 market. An approach to PRD will not be finalized until a final rule from the  
19 NOPR proceeding is issued by the Commission. Further, several major issues  
20 regarding FCM design was set for hearing before the Commission.<sup>3</sup>

21  

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<sup>3</sup> *ISO New England Inc.*, 131 FERC ¶ 61,065 (2010) (setting for paper hearing proposed changes to the FCM in Docket No. ER10-787-000, *et al.*).

1 Because the outcomes from the stakeholder initiatives related to PRD and the  
2 Forward Capacity Market Working Group will not be known until final orders in  
3 these proceedings are issued by the Commission, the ISO supports continuing the  
4 current practice and postponing any further stakeholder deliberations on load  
5 reconstitution pending the Commission's order in Docket Nos. RM10-17-000 and  
6 ER10-787-000. After these proceedings have concluded, the ISO believes it  
7 would be appropriate to reconvene the NEPOOL stakeholder process to determine  
8 what, if any, market rule changes are required related to load reconstitution for  
9 Demand Resources in the FCM.

10

11 **Q: How is load reconstitution for Demand Resources in the FCM related to**  
12 **PRD?**

13 A: Similar to how, in the absence of load reconstitution, Demand Resource can  
14 displace lower-cost generation resources in the Forward Capacity Auction; an  
15 inefficient market outcome can result if Demand Resources participate in the  
16 energy market and receive payment for load reductions at the full LMP. The  
17 combination of retail bill savings and energy payment at the full LMP gives a  
18 retail customer participating in the energy market the incentive to defer  
19 consumption whose value may exceed the LMP, and/or to switch to alternative  
20 energy sources that cost more than the LMP. The effect is a market outcome that  
21 inefficiently utilizes society's resources.

22

1 For example, if the customer's retail rate is \$80/MWh and the LMP is \$90/MWh,  
2 a retail customer who is paid the full LMP to reduce consumption would be able  
3 to earn an additional \$20/MWh by using a \$150/MWh on-site generator (\$80 bill  
4 savings plus \$90 payments - \$150 generator = \$20 net gain) to reduce its net  
5 metered load. Thus, the full LMP payment results in an inefficient utilization of  
6 society's resources by encouraging the use of a more expensive \$150/MWh  
7 resource even though a less expensive \$90/MWh resource in the wholesale  
8 market was available to serve the customer's load. This example applies whether  
9 an on-site generator is used or consumption valued at the same \$150/MWh is  
10 foregone.

11  
12 The inefficient energy market outcome can be resolved by either requiring  
13 Demand Resources to purchase its expected load in the day-ahead energy market  
14 as a condition of full LMP payment for load reductions in the real-time energy  
15 market (a pseudo reconstitution) or netting the generation portion of the retail rate  
16 ("G") from the Demand Resource's full LMP payment. The ISO provided a  
17 series of examples in its comments in response to the Notice of Proposed  
18 Rulemaking in Docket No. RM10-17-000 *Demand Response Compensation in*  
19 *Organized Wholesale Energy Markets* ("NOPR") demonstrating that Demand  
20 Resource purchase of its expected load in the energy market as a condition of full  
21 LMP payment for load reductions minimizes total resource costs.<sup>4</sup> The process of

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<sup>4</sup> See Comments of ISO New England Inc., Notice of Proposed Rulemaking Demand Response Compensation in Organized Wholesale Energy Markets, in Docket No. RM10-17-000 (May 13, 2010), pp., 19-26.

1 load reconstitution for Demand Resources participating in the FCM achieves the  
2 same objective as the requirement that Demand Resources purchase their  
3 expected load in the day-ahead energy market as a condition of full LMP payment  
4 for load reductions. As in the energy market, minimizing total resource costs in  
5 the capacity market requires that Demand Resources purchase capacity based on  
6 their reconstituted load as a condition of receiving a capacity payment based on  
7 the full FCM capacity clearing price.

8

9 **Q: Does the proposed market rule changes establish a specific date to reconvene**  
10 **the stakeholder process?**

11 A: No. The ISO does not believe it is appropriate to include any firm dates to  
12 resume discussions on load reconstitution in the actual text of Market Rule 1. The  
13 ISO has, however, agreed with the approach taken by the Participants Committee  
14 to defer until September 2011 efforts to implement voluntarily a load  
15 reconstitution methodology for Demand Resources with the understanding that it  
16 will file its recommendation to institute or not to institute a load reconstitution  
17 methodology with the Commission on or before February 1, 2012 to become  
18 effective for the Sixth Forward Capacity Auction on April 2, 2012. When the ISO  
19 commences such stakeholders discussions be based, in part, on the timing of the  
20 Commission's order in Docket No. RM10-17-000 and any other Commission  
21 orders impacting the participation of Demand Resources in the wholesale  
22 markets, including any final orders relating to FCM. The ISO also acknowledges  
23 that it and stakeholders have existing rights to seek tariff changes at any time

1 under the stakeholder processes set forth in the Participants Agreement and/or  
2 under Section 206 of the Federal Power Act.

3

4 **Q: Does this conclude your testimony?**

5 A: Yes.

1  
2

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

4

5 Executed on 6/30/2010

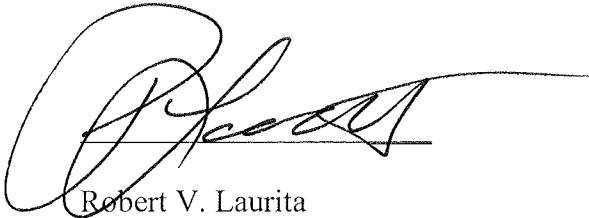
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A handwritten signature in black ink, appearing to read "R. Laurita", written over a horizontal line. The signature is stylized and cursive.

Robert V. Laurita

1  
2 Attachment A:

**Table 1: Capacity Cost Allocation by Load Zone with 100% Active DR Dispatched coincident with System Peak**

FCA#3: 2012/13 Capacity Commitment Period														
Load Zone	On-Peak (MW)	Seasonal Peak (MW)	RTDR (MW)	RTEG (MW)	Total Cleared DR (MW)	2012 Forecast Peak Load	Peak Load with DR Load Reduction	Capacity Cost Allocation by Load Zone	Annual Capacity Cost w/o Reconstitution (\$M)	Peak Load after Reconstitution	Capacity Cost Allocation by Load Zone	Annual Capacity Cost with Reconstitution (\$M)	Cost Shifting w/o Reconstitution	Percent Change in Cost Allocation
New Hampshire	63.3	0.0	41.5	11.9	116.7	2,590	2,473	9.5%	\$ 107.2	2,590	8.9%	\$ 101.0	\$ (6.15)	-6.09%
WCMA	96.2	19.2	133.6	88.9	337.8	3,895	3,557	13.6%	\$ 154.1	3,895	13.4%	\$ 151.9	\$ (2.21)	-1.46%
SEMA	113.8	1.7	149.7	72.5	337.7	3,780	3,442	13.2%	\$ 149.2	3,780	13.0%	\$ 147.4	\$ (1.72)	-1.17%
NEMA	208.0	0.0	240.7	132.2	581.0	5,805	5,224	20.0%	\$ 226.4	5,805	20.0%	\$ 226.4	\$ 0.06	0.03%
Vermont	75.3	0.0	33.2	8.0	116.5	1,115	999	3.8%	\$ 43.3	1,115	3.8%	\$ 43.5	\$ 0.22	0.51%
Rhode Island	68.7	1.7	49.4	80.0	199.8	1,935	1,735	6.6%	\$ 75.2	1,935	6.7%	\$ 75.5	\$ 0.28	0.38%
CT	114.1	250.7	272.8	203.5	841.1	7,735	6,894	26.4%	\$ 298.7	7,735	26.7%	\$ 301.7	\$ 2.98	0.99%
Maine	60.0	0.0	273.6	33.5	367.2	2,165	1,798	6.9%	\$ 77.9	2,165	7.5%	\$ 84.4	\$ 6.54	7.75%
<b>Total</b>	<b>799.5</b>	<b>273.4</b>	<b>1194.5</b>	<b>630.3</b>	<b>2897.6</b>	<b>29,020</b>	<b>26,122</b>	<b>100.0%</b>	<b>\$ 1,131.9</b>	<b>29,020</b>	<b>100.0%</b>	<b>\$ 1,131.9</b>	<b>\$ -</b>	
FCA Clearing Price (\$/kW-Month)							\$ 2.951							
ICR (MW)							31,965							
Annual Capacity Cost (\$M)							\$ 1,131.9							
<b>Total Amount of Cost Shifting (\$M)</b>							<b>\$ 10.1</b>							

**Table 2: Capacity Cost Allocation by Load Zone with No Active DR Dispatched coincident with System Peak**

FCA#3: 2012/13 Capacity Commitment Period														
Load Zone	On-Peak (MW)	Seasonal Peak (MW)	RTDR (MW)	RTEG (MW)	Total Cleared DR (MW)	2012 Forecast Peak Load	Peak Load with Passive DR Load Reduction	Capacity Cost Allocation by Load Zone	Annual Capacity Cost w/o Reconstitution (\$M)	Peak Load after Reconstitution	Capacity Cost Allocation by Load Zone	Annual Capacity Cost with Reconstitution (\$M)	Cost Shifting w/o Reconstitution	Percent Change in Cost Allocation
New Hampshire	63.3	0.0	41.5	11.9	116.7	2,590	2,527	9.0%	\$ 102.3	2,590	8.9%	\$ 101.0	\$ (1.31)	-1.30%
WCMA	96.2	19.2	133.6	88.9	337.8	3,895	3,780	13.5%	\$ 153.1	3,895	13.4%	\$ 151.9	\$ (1.16)	-0.76%
SEMA	113.8	1.7	149.7	72.5	337.7	3,780	3,664	13.1%	\$ 148.4	3,780	13.0%	\$ 147.4	\$ (0.98)	-0.66%
Maine	60.0	0.0	273.6	33.5	367.2	2,165	2,105	7.5%	\$ 85.3	2,165	7.5%	\$ 84.4	\$ (0.81)	-0.96%
NEMA	208.0	0.0	240.7	132.2	581.0	5,805	5,597	20.0%	\$ 226.7	5,805	20.0%	\$ 226.4	\$ (0.27)	-0.12%
Rhode Island	68.7	1.7	49.4	80.0	199.8	1,935	1,865	6.7%	\$ 75.5	1,935	6.7%	\$ 75.5	\$ (0.05)	-0.06%
Vermont	75.3	0.0	33.2	8.0	116.5	1,115	1,040	3.7%	\$ 42.1	1,115	3.8%	\$ 43.5	\$ 1.38	3.18%
CT	114.1	250.7	272.8	203.5	841.1	7,735	7,370	26.4%	\$ 298.5	7,735	26.7%	\$ 301.7	\$ 3.20	1.06%
<b>Total</b>	<b>799.5</b>	<b>273.4</b>	<b>1194.5</b>	<b>630.3</b>	<b>2897.6</b>	<b>29,020</b>	<b>27,947</b>	<b>100.0%</b>	<b>\$ 1,131.9</b>	<b>29,020</b>	<b>100.0%</b>	<b>\$ 1,131.9</b>	<b>\$ -</b>	
FCA Clearing Price (\$/kW-Month)							\$ 2.951							
ICR (MW)							31,965							
Annual Capacity Cost (\$M)							\$ 1,131.9							
<b>Total Amount of Cost Shifting (\$M)</b>							<b>\$ 4.6</b>							

## **Attachment 4**

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