148 FERC ¶ 61,179
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Chairman;
Philip D. Moeller, Tony Clark,
and Norman C. Bay.

ISO New England Inc.	Docket Nos. ER14-2407-000
New England Power Pool Participants Committee	ER14-2407-001
	ER14-2407-002

ORDER ACCEPTING TARIFF REVISIONS

(Issued September 9, 2014)

1. On July 11, 2014, as amended on July 14, 2014, ISO New England Inc. (ISO-NE) and the New England Power Pool (NEPOOL) Participants Committee filed, pursuant to section 205 of the Federal Power Act (FPA),[1] proposed revisions to Market Rule 1 of its Transmission, Markets and Services Tariff (Tariff), intended to aid ISO-NE in maintaining reliability during winter 2014-2015 (2014-2015 Winter Reliability Program, or Program).[2] In this order, we accept the 2014-2015 Winter Reliability Program for filing, with the Tariff revisions regarding dual-fuel capability, unused fuel inventory, market monitoring, and demand response to become effective September 9, 2014, as requested, and the Tariff revisions regarding market monitoring to become effective December 3, 2014, as requested. We also require ISO-NE to initiate a stakeholder process to develop a proposal to address reliability concerns for the 2015-2016 winter and future winters, as necessary, and submit informational progress reports, as described herein.[3]

[1] 16 U.S.C. § 824d (2012).

[2] ISO-NE submitted the proposed Tariff revisions in Docket Nos. ER14-2407-000 and ER14-2407-001. In Docket No. ER14-2407-001, ISO-NE submitted a substantially similar version of the proposed revisions to Sections III.A.3.2 and III.A.5.5.6.1 of its Tariff, to become effective December 3, 2014, which incorporates the energy market offer flexibility rule changes approved in Docket No. ER13-1877-000.

[3] As discussed below, we also direct ISO-NE to analyze and include certain data as part of the Internal Market Monitor's (IMM) Annual Markets Report.

I. Summary of ISO-NE's Filing

2. ISO-NE states that the 2014-2015 Winter Reliability Program is a temporary out-of-market solution intended to maintain reliability. Specifically, the Program is designed to ensure there will be adequate fuel supplies, by creating incentives for dual-fuel resource capability and participation, offsetting the carrying costs of unused firm fuel purchased by generators, and providing compensation for demand response services.

3. The Program is modeled on last year's winter reliability program (sometimes referred to as 2013-2014 Winter Reliability Program),[4] which ISO-NE states bridged the reliability gap created by the colder than average winter weather. ISO-NE states that natural gas prices exceeded oil prices on 57 percent of winter days and oil units' production increased from the average of one percent, to nearly a quarter of the region's electricity during cold periods. ISO-NE states that last year's winter program supported the procurement of more than three million barrels of oil and generators burned 88 percent of it.

4. ISO-NE states that, leading up to winter 2014-2015, it was hopeful that market improvements such as offer flexibility changes[5] and the Commission's clarification of generator obligations[6] would sufficiently address the region's dependence on natural gas for the upcoming winter. However, three factors caused ISO-NE to conclude that a program for the upcoming winter is necessary. First, ISO-NE states that the retirements of non-gas generation capable of producing 2.6 million MWh during the winter period (more than the entire program targeted last year) will potentially make the region more reliant on natural gas this year as compared to last year. Second, ISO-NE reports that there were more natural gas pipeline constraints last winter than it had expected. Third, ISO-NE reports that, last winter, resources had difficulty replenishing oil inventories

[4] *See ISO New England Inc.*, 144 FERC ¶ 61,204 (2013) (accepting subject to condition 2013-2014 Winter Reliability Program); *see also ISO New England Inc.*, 145 FERC ¶ 61,023 (2013) (accepting, subject to condition, 2013-2014 Winter Reliability Program bid results).

[5] *See ISO New England Inc. & New England Power Pool*, 145 FERC ¶ 61,014 (2013), *order on compliance*, 147 FERC ¶ 61,073 (2014). The offer flexibility changes refer to a set of market rule changes that will allow market participants to, among other things, submit hourly reoffers in the real-time market and submit offers that vary by hour.

[6] *See New England Power Generators Ass'n, Inc. v. ISO New England Inc.*, 144 FERC ¶ 61,157 (2013) (absent demonstrated inability to obtain natural gas or transportation, ISO-NE's Tariff imposes a strict performance obligation on capacity resources).

mid-season which led ISO-NE to consider the benefits of incenting resources to fill their tanks ahead of the winter period.

5. ISO-NE anticipates the need for some form of a winter reliability program for each winter prior to implementation of the so-called Pay-for-Performance (PFP)[7] market design scheduled to take effect in June 2018. However, ISO-NE states that it will evaluate whether it is feasible to design and implement a market-based solution for the remaining winters before Pay-for-Performance is effective.[8] The 2014-2015 Winter Reliability Program's six components are described below. The unused oil inventory, unused liquefied natural gas (LNG) contract volume, and demand response components are temporarily in place for only this winter. The dual-fuel commissioning component in Appendix K, Section III.K.5, of the Tariff has elements which are in place until 2018. The dual-fuel auditing component in Section III.1.5.2 of the Tariff and the market monitoring changes will be effective indefinitely.

A. Compensation for Unused Oil Inventory

6. Under this proposed component, generators that meet a minimum oil requirement at the beginning of the winter will receive an end-of-season payment. This is intended to encourage generators to rely on upfront inventory rather than replenishment and to ensure that there is sufficient oil to meet the region's needs during winter. To participate, a generator's inventory as of December 1, 2014[9] must meet the lesser of either (i) 85 percent of the usable fuel storage capability, or (ii) supply sufficient to operate the generator for 10 days at full load. At the end of the winter, program participants will be compensated for the lesser of their December 1 and March 15 inventory, subject to a cap that is the lesser of either (i) 95 percent of the usable fuel storage capability, or (ii) supply

[7] *See ISO New England Inc.*, 147 FERC ¶ 61,172 (2014). Pay-for-Performance refers to the impending two-settlement market design under which a resource that produces energy or provides reserves during Capacity Scarcity Conditions in excess of a pro rata share of its capacity supply obligation would receive additional revenue, while a resource that produces less than its pro rata share would face a reduction in its net capacity revenue. According to ISO-NE, Pay-for-Performance would create strong financial incentives for resources to perform during scarcity conditions, when energy and reserves are most needed, and remedy the problem that many New England resources currently fail to perform during scarcity conditions.

[8] ISO-NE July 11, 2014 Transmittal at 9 (ISO-NE July 11 Transmittal); Parent Testimony at 6-7.

[9] Generators will have a grace period until January 1, 2015 to reach their targets. If a generator does not reach its target by January 1, 2015, it will not be eligible for an end-of-season payment.

sufficient to operate the generator for 15 days at full load. ISO-NE will monitor inventory levels of participants that add oil after February 1 to ensure that the oil is used for energy and is not resold.

7. Participants will be paid based on a set rate of $18/barrel, a rate developed by Analysis Group,[10] which represents the carrying costs, price risk, availability cost and liquidity risk of the last resource needed to meet a cumulative inventory of 3.5 million barrels of oil. ISO-NE explains that this $18/barrel rate intends to offset some, but not necessarily all, costs of holding unused oil inventory. According to ISO-NE, it is not necessary to compensate generators for 100 percent of their carrying costs due to the existence of other incentives, such as inframarginal returns and generator obligations. Unlike last year, the only performance penalty is that generators will lose a pro rata portion of their payment for hours that they are fully unavailable, unless the unavailability is due to a transmission outage.[11]

B. Compensation for Unused LNG Contract Volume

8. Under this proposed component, generators that contract for LNG will receive an end-of-season payment to offset the risk of unused LNG contract volume. ISO-NE states that this component is intended to create incentives for generators to acquire LNG as a peaking fuel and to augment the use of natural gas delivered from pipelines. ISO-NE will provisionally accept, on a "first come/first served basis," contracts up to the aggregate cap of 6 Bcf. ISO-NE states that this cap was calculated by considering the amount of LNG that could reasonably be used as a peaking product and reviewing the latest ICF International analyses of LNG flows.[12]

9. Eligible participants must submit a certificate that confirms that the contract has a "take or pay"[13] construct. Unlike the unused oil inventory program, there is no required minimum amount of LNG because some generators require small amounts of LNG and because the reliability need for New England can be met through the unused oil program

[10] Analysis Group is a consulting group retained by ISO-NE to assist in developing the Winter Reliability Program.

[11] ISO-NE July 11 Transmittal at 10-11; Parent Testimony at 9-15.

[12] ISO-NE July 11 Transmittal at 12.

[13] A take or pay contract for LNG is one where a buyer must take the LNG it has purchased or pay the supplier if it does not. ISO-NE explains that it requires this contract construct in the Program because it makes the LNG component most comparable to the unused oil inventory component, which requires a physical commodity to be delivered. According to ISO-NE, constructs other than take or pay can often reflect financial, rather than physical, transactions. Parent Testimony at 18.

alone. Generators will be compensated at the end of the winter based on the lesser of December 1 LNG contract volume and March 1 remaining LNG contract volume, not exceeding the amount of fuel necessary to permit the generator to operate for four days at full load. ISO-NE states that compensation will be set at the oil program rate of $3/MMBTU because calculating an LNG-specific rate is challenging and ISO-NE cannot justify paying more than $3/MMBTU for LNG when the region could meet its reliability needs using oil alone. Like the unused oil inventory program, payments to generators will be reduced by a performance adjustment—the number of hours in which the generator was fully or partially available or in which there was a transmission outage rendering them fully unavailable, divided by the total number of winter hours.[14]

C. Dual-Fuel Incentives

10. Under this proposed component of the program contained in new Appendix K, Section III.K.5, of the Tariff, natural gas-fired generators that commission or recommission dual-fuel capability are eligible for compensation to offset some of their costs. ISO-NE states that dual-fuel generators can provide valuable fuel flexibility to replace a fuel that is unavailable to the generator or to preserve gas supplies that can be allocated to other non-dual-fuel generators. To be eligible, generators must not have operated on oil since at least December 1, 2011 and must notify ISO-NE before December 1, 2014 with a plan for commissioning, including a target date on or before December 1, 2016. Eligible generators will be compensated for testing costs up to a certain cap, calculated by ISO-NE, which will decrease for units commissioning after December 1, 2015. Testing costs will be paid through the method described in Appendix K, Section III.1.5.2(e) of the Tariff, which contains the dual-fuel auditing rules for the Program and establishes that audits are compensated through Net Commitment Period Compensation.[15]

11. Eligible generators must meet three conditions, proposed by ISO-NE, for successful commissioning: (1) an oil tank that holds enough fuel to start the generator from a cold state and support its operation at its Economic Minimum Limit for the greater of four hours or the generator's minimum run time; (2) the ability to switch fuels within eight hours from an online state and, if the generator must shut down to switch fuels, a return to operation at the Economic Minimum Limit within eight hours; and (3) the ability to run on oil at the Economic Maximum Limit for one hour. Generators must also maintain fuel inventory and perform annual audits through 2018. If a generator fails to

[14] ISO-NE July 11 Transmittal at 11-13; Parent Testimony at 15-21.

[15] ISO-NE's Tariff refers to uplift as Net Commitment Period Compensation credits. This Net Commitment Period Compensation credit paid to the resource is charged to Real-Time Load Obligation in the same way the Net Commitment Period Compensation credits for the existing auditing rules are charged.

meet these obligations, it must pay back its commissioning compensation on a pro rata basis.[16]

D. Market Monitoring Changes

12. The proposed market monitoring changes are intended to introduce additional operational flexibility for dual-fuel resources to manage fuel inventory and would remain in effect beyond winter 2014-2015. With these changes, when fuel markets are volatile,[17] a resource will not be required to demonstrate to ISO-NE's IMM that it burned the fuel associated with its offer that cleared in the day-ahead market.

13. ISO-NE explains that the existing Tariff includes a "higher-priced fuel burn requirement,"[18] whereby, if a resource clears in the day-ahead market on its higher cost fuel, it must demonstrate to the IMM that the more expensive fuel was burned and justify the decision to burn the higher cost fuel. The burn requirement was put in place at a time when the prices for natural gas and oil were relatively constant. The intent was to discourage a resource that anticipated that it would be committed for reliability from offering on its higher cost fuel, but burning its lower cost fuel in order to increase its earnings.

14. However, ISO-NE explains that the burn requirement rule did not contemplate an environment where the price of natural gas was so volatile that natural gas and oil prices frequently converged, as occurred last winter. Under these conditions, the economic benefit of the dual-fuel investment is diminished if a resource does not have complete flexibility to manage its own fuel inventory. The proposed market rule change removes the burn requirement at times when natural gas prices are volatile. ISO-NE states that relaxing the burn requirement during times of fuel price volatility will allow resources greater flexibility to optimize their fuel supply inventory, in turn, increasing the likelihood that resources will be able to meet day-ahead supply offer obligations throughout the winter months.[19]

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[16] ISO-NE July 11 Transmittal at 13-14; Parent Testimony at 21-25.

[17] Volatility is measured by the ratio of the higher cost fuel to the lower cost fuel. If that ratio is less than or equal to 1.75, fuel costs are judged to be volatile and resources are not required to justify their fuel management decision to the IMM. Laurita Testimony at 7-8,10-12; ISO-NE July 11, 2014 Filing at Appendix A, § III.A.3.2.

[18] Laurita Testimony at 5; ISO-NE July 11 Transmittal at 17.

[19] Laurita Testimony at 6.

E. Dual-Fuel Audits

15. ISO-NE proposes to expand the existing rules for generator audits initiated by ISO-NE. The existing audit rules allow ISO-NE to audit certain generator operating parameters such as economic maximum level, start-up time, and automatic response rate. The proposal adds to those auditable operating parameters the ability to audit a dual-fuel generator on a specific fuel. When conducting the audit of dual-fuel generators, ISO-NE will provide notice of the audit and consult with the lead market participant to develop an audit plan. ISO-NE will then provide a time frame for conducting the audit and the lead market participant may propose the exact date and time for the audit within that time frame.[20]

16. Prior to December 3, 2014, audited resources will be compensated through Net Commitment Period Compensation credits for their audit costs, which are primarily fuel costs.[21] Beginning December 3, 2014, ISO-NE states that the energy market offer flexibility changes will ensure that resources are properly compensated for their audits because resources will then be able to accurately reflect offers on an hourly basis during real-time operation.[22]

F. Demand Response

17. The proposed demand response component is similar to the demand response service in last winter's program. Participation is available to demand response assets that are not otherwise participating in the wholesale markets or have capacity in excess of Capacity Supply Obligations already committed in the region's Forward Capacity Market. Similar to last year's program, participants will receive both monthly payments for participating in the Program and demand reduction payments. The demand reduction payment will be the greater of either (1) $250/MWh; or (2) the locational marginal price in the load zone where the asset is located, multiplied by the MWh reduction and net supply[23] provided by the asset, then multiplied by an avoided energy loss factor. Demand response participants will be subject to non-performance charges, as discussed below.

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[20] Brandein Testimony at 13-15.

[21] ISO-NE July 11 Transmittal at 20.

[22] ISO-NE July 11 Transmittal at 10-11; Parent Testimony at 9-15.

[23] ISO-NE defines net supply as energy injected into the power grid by a demand response asset with distributed generation.

18. In its filing, ISO-NE highlighted five changes which distinguish the demand response component of the 2014-2015 Winter Reliability Program from last year's program. First, this year's Program modifies the payment structure to avoid potential double payment for net supply. The calculation in this year's Program subtracts, from payments made to demand response assets, any coincident energy payments made to generation assets located at the same retail delivery point. Second, this year's Program gives system operators additional dispatch flexibility. For instance, demand response assets are dispatchable up to 30 times this winter (six hours per dispatch), whereas 10 dispatches were the maximum last year. For this year's Program, there can be no more than two dispatches per day, with a minimum of four hours between each dispatch.[24] Third, this year's Program pays participants a fixed monthly rate of $1.80/kW-month rather than their "as bid" price.[25] Fourth, a demand response asset will lose its entire monthly payment if it fails to achieve at least 75 percent of its committed MW quantity for a month. This is different from last year's underperformance penalty that could have resulted in charges to participants that exceeded program revenues.[26] Lastly, the demand response component is limited to 100 assets and 100 MW, which is lower than last year's cap of 200 assets. ISO-NE explains that this limitation was changed given ISO-NE's experience last year and the amount of manual work required to calculate the performance and settlement computation, and that the new limitation also serves as a ceiling that allows load to better estimate maximum program costs.[27]

II. Notice of Filings and Responsive Pleadings

19. Notice of the July 11, 2014 filing was published in the *Federal Register*, 79 Fed. Reg. 42,310-42,311 (2014), with interventions and protests due on or before August 1, 2014. Notice of the July 14, 2014 filing was published in the *Federal Register*, 79 Fed. Reg. 42,310 (2014), with interventions and protests due on or before August 4, 2014.

20. Numerous parties filed timely motions to intervene and some of those parties filed comments.[28] The Vermont Public Service Board filed a notice of intervention.

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[24] Parent Testimony at 28.

[25] Parent Testimony at 25-26; ISO-NE July 11 Transmittal at 16.

[26] ISO-NE July 11 Transmittal at 16.

[27] ISO-NE July 11 Transmittal at 14-16; Parent Testimony at 25-29.

[28] *See* Appendix A.

21. On August 15, 2014, ISO-NE filed an answer to the comments filed on August 1, 2014. On August 18, 2014, NEPOOL filed an answer to Exelon's and GDF Suez's comments.

III. Discussion

A. Procedural Matters

22. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2014), the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

23. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2014), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We accept ISO-NE's and NEPOOL's answers because they provided information that assisted us in our decision-making process.

B. Comments and Protests

24. Algonquin characterizes the 2014-2015 Winter Reliability Program as a stopgap measure. It asserts that, in order to fully resolve pipeline constraint issues, electric generators must commit to firm gas capacity rights to support infrastructure development.[29]

25. NESCOE generally supports the proposal as a short-term fix and states that the addition of LNG is a positive step. Nevertheless, NESCOE encourages ISO-NE to begin stakeholder discussions and program development as soon as possible for a comprehensive solution for addressing short-term winter constraints, rather than a year-by-year strategy. NESCOE also raises concerns that the Pay-for-Performance program will not incent generators to contract for incremental natural gas pipeline capacity and reliance on dual-fuel will result in higher costs and higher emissions than natural gas. NESCOE states that, to the extent that ISO-NE believes that the implementation of the Pay-For-Performance provisions will negate the need for future winter reliability solutions, ISO-NE should provide proposed metrics that would enable periodic stakeholder reviews to address the degree of confidence that Pay-For-Performance will provide the expected outcomes for future winter programs after Pay-For-Performance is implemented.

26. Exelon does not oppose the 2014-2015 Winter Reliability Program due to the "timing and exigencies of the circumstances" facing the region.[30] Exelon states that ISO-

[29] Algonquin Comments at 5.

[30] Exelon Comments at 3.

NE's elimination of the higher priced fuel burn requirement is an improvement to ISO-NE's market monitoring rules which will allow the market to function more freely and give generators flexibility to respond to volatile market conditions. However, Exelon argues that the Program is unduly discriminatory because it pays oil-based resources for unused fuel inventory, but does not pay coal or nuclear resources for the identical firm fuel service. Exelon further states that the Program discriminates against certain gas-fired resources because it only permits participation from those resources directly connected to a pipeline and those that have "must take" contracts.[31]

27. Exelon asserts that, while the Commission should accept the Program, it should also invoke its authority pursuant to section 206 of the FPA,[32] to find that the failure of ISO-NE's current Tariff to provide a market-based, long-term solution to the region's winter reliability needs is unjust and unreasonable. Exelon states that the Commission should order ISO-NE to file, within 60 days, a market-based program for future winters, in which (1) the attributes of winter reliability service are clearly defined in fuel-neutral terms, (2) all generators that provide the same service are compensated at the same market clearing price, (3) sufficient resources are procured to cover the peak requirement plus reserves based on resources' historic performance during winter, and (4) significant performance incentives are established and meaningful penalties are imposed on generators that fail to meet Capacity Supply Obligations.[33]

28. NEPGA asserts that the primary objective of the Program is incenting incremental fuel supplies and that excluding certain resource types from competing in the Program interferes with the ability to find an efficient price to meet that goal. According to NEPGA, the most efficient, market-based and cost effective mechanism to meet reliability concerns is to set a fuel-neutral energy production standard, with meaningful availability criteria, allowing any resource that can meet the product definition to do so.[34]

29. NEPGA further asserts that the administratively fixed payment rate, intended to reflect the carrying cost of oil and LNG resources, lacks any characteristics of a market mechanism, as it is designed to reflect the carrying cost of some amount of fuel the resource procured to help meet system reliability needs. In any case, NEPGA asserts that it is irrational to measure a resource's oil inventory on March 15 when it has satisfied its performance obligations on March 1. NEPGA states that the need for another winter

[31] Exelon Comments at 4-5. We understand Exelon's reference to "must take" contracts to be synonymous with what ISO-NE refers to as "take or pay" contracts.

[32] 16 U.S.C. § 824e (2012).

[33] Exelon Comments at 10.

[34] NEPGA Comments at 4.

program is symptomatic of the failure of ISO-NE markets to properly price the reliability services ISO-NE proposes to procure. NEPGA contends that the capacity, reserve, and energy markets should be designed to allow for proper price formation and send appropriate price signals to incent investment in the resources necessary to maintain system reliability. Thus, similar to Exelon, NEPGA requests that the Commission order ISO-NE to commence, within 60 days of the Commission's order in this proceeding, the NEPOOL stakeholder process to consider Tariff changes to take effect for the 2015-2016 winter season and thereafter. NEPGA states that the Tariff changes should reflect a market-based, resource-neutral mechanism that allows for the identification of the economically efficient price for ISO-NE system reliability, rather than a third consecutive out of market proposal. NEPGA requests that the Commission order ISO-NE to file such Tariff changes with the Commission within 180 days of the Commission's order.[35]

30. PSEG does not oppose implementing the Program this year, but argues that it is discriminatory because it is limited to certain types of resources and that the Program fails to follow competitive market rules. In particular, PSEG argues that the Program does not provide sufficient incentives for the oil-fired steam units to meet the desired oil inventory program levels.[36] PSEG states that the flawed market design should be addressed in the proceeding regarding price formation in Docket No. AD14-14-000.[37] PSEG requests that the Commission order ISO-NE to develop a market solution for future winters.

31. GDF Suez supports inclusion of LNG service in the 2014-2015 Winter Reliability Program. GDF Suez contends that there is adequate, existing LNG infrastructure to provide significant opportunities to address New England's peak winter demand for natural gas, particularly for the types of short notice transactions often required by natural gas-fired electric generators. However, GDF Suez states that ISO-NE's proposed payment rate of $3/MMBTU for unused LNG take or pay service is significantly below market, and will be inadequate to incentivize sufficient contracting given the volatility of the natural gas market and the risk of holding unused LNG inventory under the design of the Program.[38]

32. GDF Suez explains that United Illuminating (UI) offered an amendment during the stakeholder process to increase the payment rate to $8/MMBTU to better offset the

[35] NEPGA Comments at 5-6.

[36] PSEG Comments at 6-7.

[37] PSEG Comments at fn. 13 (referring to a Commission initiative to evaluate issues regarding price formation in the organized energy and ancillary services markets).

[38] GDF Suez Protest at 1-2.

cash-out risks faced by LNG buyers under take or pay arrangements. GDF Suez supports this UI Amendment to compensate LNG at $8/MMBTU as a more realistic approach to attract LNG service and believes this reform is needed to secure LNG to relieve New England's winter peaking needs. GDF Suez contends that the higher rate for LNG contracting is consistent with ISO-NE's stated objective "to compensate generators that adopt the ISO's estimates of how much fuel is needed" while not compensating generators for meeting their own capacity performance obligations. [39]

C. Answers

33. In its Answer, ISO-NE asserts that the 2014-2015 Winter Reliability Program is necessary to maintain reliability through fuel adequacy and that there is broad consensus among stakeholders regarding the necessity of the Program.[40]

34. In response to GDF Suez, ISO-NE argues that the $3/MMBTU compensation for unused LNG is appropriate. ISO-NE explains that while LNG might help improve fuel security, the region could meet its incremental reliability needs using oil alone, so it is not economically practical to pay more for LNG than for oil. ISO-NE also explains that the lack of adequate information regarding LNG contracts, limited suppliers, and the complexity of measuring baseline inventory levels contributed to ISO-NE's decision to make LNG compensation equivalent to the oil rate.[41]

35. In response to complaints regarding the lack of a market mechanism to determine compensation prices, ISO-NE states that "given the voluntary nature of the 2014-2015 Winter Reliability Program, and the robust analytical framework that was used to establish the rate, ISO-NE defends its choice of payment mechanism as the most efficient (i.e., least expensive) way of meeting the Program's purpose." ISO-NE states that Exelon's proposal to reallocate the costs of the Program among all megawatts is fair, but ISO-NE contends that it would not provide fuel security, as no unit would receive enough compensation to influence its fuel procurement strategy. ISO-NE argues that while future winter programs could be designed to pay all units enough to influence the fuel procurement decisions of some resources, such a program is likely to be significantly more expensive without commensurate benefits. ISO-NE contends that choosing resource types over others does not, *per se*, violate the FPA and argues that this is being done so in a discrete, time-limited approach out of necessity. ISO-NE points out that this

[39] GDF Suez Protest at 4-6.

[40] ISO-NE Answer at 2.

[41] ISO-NE Answer at 4-5.

is similar to last year's program, which the Commission approved despite similar complaints about resource choices.[42]

36. In response to calls for a market-based solution for future winters, ISO-NE reiterates that any redesign of the market now would be premature, given that, according to ISO-NE, the Pay-For-Performance design should incent generator performance and thereby help ensure winter reliability. ISO-NE states that it is committed to discussing future winter programs with stakeholders, which will dictate the design and cost of future programs.[43]

37. NEPOOL filed an answer reiterating support for the Winter Reliability Program.[44] NEPOOL states that, contrary to Exelon's arguments, the instant proceeding is not the appropriate forum to direct changes beyond winter 2014-2015. However, if the Commission were to be persuaded by Exelon's comments and direct changes similar to those proposed, NEPOOL urges the Commission to direct that those changes be vetted through the full NEPOOL Participant Process and not the abbreviated 60-day process proposed by Exelon.

38. NEPOOL also disputes GDF Suez's arguments that the proposed rate for unused LNG is too low. According to NEPOOL, the standard that must be applied by the Commission is whether the rate proposed for the Program is within a just and reasonable range, and the LNG rate falls within that range.[45]

D. Substantive Matters

39. For the reasons discussed below, we accept the 2014-2015 Winter Reliability Program, with the proposed Tariff revisions regarding demand response, dual-fuel capability, unused fuel inventory, and market monitoring provisions to become effective September 9, 2014, as requested, and the proposed market monitoring Tariff revisions to become effective December 3, 2014, as requested. While the Commission still prefers a long-term, market-based solution, we agree with most commenters that the Program is necessary to ensure reliability this winter.

40. ISO-NE has identified several circumstances that raise reliability concerns, such as over 1,200 MW of non-gas generator retirements in the past year, greater gas pipeline constraints, and difficulty replenishing oil inventories during the winter season. We find

[42] ISO-NE Answer at 5-7.

[43] ISO-NE Answer at 7-8.

[44] NEPOOL Answer at 4.

[45] NEPOOL Answer at 8.

that the 2014-2015 Winter Reliability Program is a just and reasonable solution to help address these risks to reliability by creating incentives for market participants to provide additional reliability services (i.e. incremental fuel procurement, incremental demand reductions, or dual-fuel switching capabilities) which they would not have provided absent the Program.

41. While we accept the 2014-2015 Winter Reliability Program as an out-of-market solution because of its temporary nature, we expect ISO-NE to abide by its commitment to develop a long-term, market-based solution to address winter reliability issues. We therefore require ISO-NE to initiate a stakeholder process by January 1, 2015 to develop a proposal to address reliability concerns for the 2015-2016 winter and future winters, as necessary. We also require ISO-NE to submit to the Commission a stakeholder meeting schedule within 30 days of the date of this order and progress reports every 60 days thereafter for the next 12 months.[46] We note that ISO-NE has made efforts to address the region's dependence on natural gas by initiating market improvements through the stakeholder process, such as offer flexibility changes in the energy market, as well as reserve market improvements including changes to the failure-to-reserve penalty, the failure-to-activate penalty,[47] and introducing a reserve constraint penalty factor for replacement reserves.[48] Given ISO-NE's recent and ongoing efforts to develop and propose long-term, market-based solutions through the stakeholder process, the Commission will not initiate a section 206 proceeding or direct any specific Tariff revisions at this time, as commenters have requested.[49] Similarly, we will not direct ISO-NE to submit metrics for assessing whether the Pay-For-Performance design adequately addresses winter reliability concerns, as NESCOE requests. We believe that NESCOE's request for metrics is largely unrelated to the 2014-2015 Winter Reliability Program. The NESCOE request for metrics challenges ISO-NE's assertion that Pay-For-Performance will help address future winter reliability concerns. We therefore find

[46] The schedule and progress reports will be for informational purposes only, and not noticed for comment or subject to Commission action.

[47] *ISO New England, Inc.*, Docket No. ER13-1733-000 (Aug. 15, 2013) (delegated letter order).

[48] *ISO New England, Inc.*, Docket No. ER13-1736-000 (Aug. 15, 2013) (delegated letter order).

[49] We note that concerns regarding market price formation may be raised in the Commission's ongoing initiative in Docket No. AD14-14-000. *See* Notice of Proceeding regarding the Price Formation in Energy and Ancillary Services Markets Operated by Regional Transmission Organizations and Independent System Operators, Docket No. AD14-14-000 (June 19, 2014).

NESCOE's request to be beyond the scope of this proceeding which is narrowly focused on the 2014-2015 Winter Reliability Program.

42. We further note that, despite arguments to the contrary, the Program's unused fuel inventory design is closer to a market-based solution than last year's design. For instance, in the event of a mild winter in which resources that procured additional fuel for the Program are *not* run in merit, those resources will be appropriately compensated through the Winter Reliability Program for unused fuel inventory (i.e., for taking action ahead of winter to ensure reliability even if those reliability benefits did not materialize). In the alternative, if the winter is colder and resources that have procured additional fuel for the Program are operated in merit, in-market payments will be made to those resources. As more fuel is burned in exchange for in-market payments, less compensation for unused fuel inventory will be made through the out-of-market Winter Reliability Program.

43. We also reject arguments that, because the Winter Reliability Program does not pay all resources for providing firm fuel service, it is unduly discriminatory. The Program is designed to help ensure fuel adequacy by creating incentives for resources to procure more fuel than they would have procured in the absence of the Program.[50] Given this objective, we find that ISO-NE reasonably limited participation in the Program to market participants that ISO-NE, as the system operator responsible for ensuring reliability in the region, determined will procure *additional* fuel ahead of winter as a result of payments through the Program. For instance, ISO-NE explained that identifying incremental fuel requirements for hydro or nuclear resources is challenging because those resources typically have low-cost fuels or extended fuel supplies.[51] Thus, it would not be appropriate to make separate payments intended to incent resources to make the same fuel procurement decisions they would have made, and been compensated for, absent the Program. To the extent that the Program is not entirely fuel-neutral, we expect that a long-term market-based solution should address these concerns in the future.

44. GDF Suez expressed concerns that the Program's $3/MMBTU compensation for LNG resources is too low to incent sufficient contracting. However, ISO-NE, as the system operator, has determined that compensating LNG resources at the same price as oil resources will be sufficient to satisfy the reliability goals of the Program. ISO-NE states that it considered several factors in determining the appropriate compensation for unused LNG contract volume, including pricing difficulties from lack of adequate information on LNG contracts, limited suppliers, and the complexity of measuring baseline inventory levels.[52] In addition, ISO-NE states that the region's incremental

[50] Brandein Testimony at 8.

[51] Parent Testimony at 9.

[52] ISO-NE Answer at 4-5.

reliability needs could be met with oil alone.[53] Thus, we agree with ISO-NE that it would not be cost-justified to pay LNG resources a higher rate than oil resources in a program intended to aid reliability.

45. As to NEPGA's argument that it is irrational to measure unused fuel oil inventory on March 15 for purposes of compensation, we find this feature to be reasonable. The Program's payments for oil inventory are intended to encourage generators to procure additional oil by compensating them for the carrying costs of unused oil that might not otherwise be covered by payments through the market. If a generator uses oil to produce energy during the March 1-15 period, that generator would avoid further carrying costs on the oil used. If a generator chooses not to use the oil after March 1, it will be compensated for that oil on March 15. Moreover, participation in the Program is voluntary. Thus, each oil-fired generator may consider whether the administrative rate will cover its carrying costs in deciding whether to participate in the Program.

46. Finally, while we agree with the proposed modification of the higher-priced fuel burn requirement, reflected in the new market monitoring changes, the Commission is concerned that the 1.75 volatility ratio of higher-priced fuel index to lower-priced fuel index was derived using relatively limited data. Specifically, the Commission is concerned that this ratio was determined based on fourteen months of data which included the unusually cold 2013-2014 winter months, even though it is proposed as a permanent measure. Thus, we direct ISO-NE to continue to analyze the appropriateness of the 1.75 ratio and include its analysis and recommendations as part of the IMM's Annual Markets Report.

The Commission orders:

(A) ISO-NE's 2014-2015 Winter Reliability Program is hereby accepted, with the Tariff revisions regarding dual-fuel capability, unused fuel inventory, market monitoring, and demand response to become effective September 9, 2014, as requested, and the Tariff revisions regarding market monitoring to become effective December 3, 2014, as requested, as discussed in the body of this order.

(B) ISO-NE is hereby directed to initiate a stakeholder process by January 1, 2015 to develop a proposal to address reliability concerns for the 2015-2016 winter and future winters, as necessary.

(C) ISO-NE is hereby directed to submit a stakeholder meeting schedule within 30 days of the date of this order and progress reports every 60 days thereafter for the next 12 months, as discussed in the body of this order.

[53] ISO-NE Answer at 4.

(D) ISO-NE is hereby directed to include certain analysis and recommendations regarding the volatility ratio as part of the IMM's Annual Markets Report, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix A

Motions to Intervene	Comments and Protests
Algonquin Gas Transmission, LLC and Maritimes & Northeast Pipeline, L.L.C. (Joint)	Algonquin Gas Transmission, LLC and Maritimes & Northeast Pipeline, L.L.C. (together, Algonquin)
Calpine Corporation	Exelon Corp. & Entergy Nuclear Power Marketing, LLC (together, Exelon)
Consolidated Edison Energy, Inc.	GDF Suez Gas NA LLC (GDF Suez)
Dominion Resources Services, Inc.	New England Power Generators Association, Inc. and Electric Power Supply Association (together, NEPGA)
Dynegy Marketing and Trade, LLC	New England States Committee on Electricity (NESCOE)
Emera Energy Services Inc.	PSEG Companies (PSEG)
Entergy Nuclear Power Marketing, LLC	
Exelon Corp.	
GDF SUEZ and Its Indicated US Subsidiaries, et. al.	**Answers**
New England Power Generators Association, Inc. and Electric Power Supply Association (Joint)	ISO-NE
New England States Committee on Electricity	NEPOOL
Northeast Utilities Service Company	
NRG Companies	
PSEG Companies	
Retail Energy Supply Association	
Vermont Department of Public Service	
Verso Paper Corp.	
Vitol Inc.	