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

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| **ISO New England Inc. and NEPOOL Participants Committee** | ) ) ) ) | **Docket No. ER24-275-000** |

**ANSWER OF ISO NEW ENGLAND INC.**

Pursuant to Rule 213(a)(3) of the Rules of Practice and Procedure[1] of the Federal Energy Regulatory Commission ("Commission"), ISO New England Inc. (the "ISO" or "ISO-NE") hereby submits this answer to the pleadings filed to date in the above-captioned proceeding (the "Answer").

## I. INTRODUCTION

On October 31, 2023, ISO-NE and the New England Power Pool ("NEPOOL") Participants Committee (collectively, the "Filing Parties") jointly filed a proposal to revise Section I.2.2, Market Rule 1, and Appendix A to Market Rule 1 of the ISO New England Inc. Transmission, Markets and Services Tariff (the "Tariff") that will establish a jointly optimized Day-Ahead market for energy and ancillary services (the proposed "Day-Ahead Market").[2] In the filing ("Transmittal"), the Filing Parties propose to establish a new Day-Ahead Ancillary Services Market that will procure ten- and thirty-minute operating reserves and a new product referred to as the Day-Ahead Energy Imbalance Reserve. This new Day-Ahead Ancillary Services Market, which will be jointly run with the current Day-Ahead Energy Market as part of the combined Day-Ahead Market, will provide a market-based mechanism for creating reliable

[1] 18 C.F.R. §385.213(a)(3) (2023).

[2] Capitalized terms used but not otherwise defined in this filing have the meanings ascribed thereto in the Tariff, the Second Restated NEPOOL Agreement, the Participants Agreement, and the proposed Tariff provisions contained in the Transmittal. Market Rule 1 is Section III of the Tariff. Appendix A to Market Rule 1 contains the Tariff provisions on Market Monitoring, Reporting and Market Power Mitigation.

next-day Operating Plans in accordance with North American Electric Reliability Corporation ("NERC") and Northeast Power Coordinating Council ("NPCC") standards. In conjunction with the new Day-Ahead Market, the Filing Parties also propose a market-power mitigation framework for the Day-Ahead Ancillary Services Market, and to eliminate the current Forward Reserve Market ("FRM"). The entirety of the proposal presented in the Transmittal is referred to as the Day-Ahead Ancillary Services Initiative ("DASI") proposal. The Filing Parties support the DASI proposal with ISO-sponsored testimony from Dr. Matthew White ("White Testimony"), Benjamin Ewing ("Ewing Testimony"), and Dr. Parviz Alivand ("Alivand Testimony").

On November 21 and 24, 2023, various entities filed formal comments regarding the DASI proposal.[3] No party protests the DASI proposal or argues that the proposal is unjust and reasonable, and the comments generally support the DASI proposal. Despite the generally positive comments, one commenter noted concerns about how the DASI proposal, and in particular the elimination of the FRM, impacts compensation to flexible resources and about the market power mitigation framework. Here, the ISO responds to concerns raised by this commenter regarding compensation in light of the FRM's elimination and the mitigation framework, as well as the specific request by commenters for the ISO to develop additional types of operating reserve products.

[3] Formal comments included the Comments of the New England States Committee on Electricity, Docket No. ER24-275-000 (filed Nov. 21, 2023) ("NESCOE Comments"); Comments of the Internal Market Monitor of ISO New England Inc. in Support of the Day-Ahead Ancillary Services Initiative, Docket No. ER24-275-000 (filed Nov. 21, 2023) ("IMM Comments"); Comments of the Electric Power Supply Association, Docket No. ER24-275-000 (filed Nov. 21, 2023) ("EPSA Comments"); Comments of LS Power Development, LLC on Proposal to Establish a Jointly Optimized Day-Ahead Market for Energy and Ancillary Services, Docket No. ER24-275-000 (filed Nov. 21, 2023) ("LS Power Comments"); Motion to Intervene and Comments of the National Hydropower Association, Docket No. ER24-275-000 (filed Nov. 21, 2023) ("NHA Comments"); Comments in Support of the New England Power Generators Association, Inc., Docket No. ER24-275-000 (filed Nov. 21, 2023) ("NEPGA Comments"); and Motion to Intervene and Comments of the ISO New England's External Market Monitor, Docket No. ER24-275-000 (filed Nov. 24, 2023) ("EMM Comments").

## II. ANSWER

Numerous parties filed comments in support of the DASI proposal as filed, including the New England States Committee on Electricity, the ISO's market monitors, and the New England Power Generators Association ("NEPGA"), among others. Although some commenters make requests regarding how the ISO should monitor the performance of the new market or other potential ISO market initiatives, none argue that the DASI proposal is unjust and unreasonable or otherwise urge the Commission to reject the DASI proposal as filed. One commenter, LS Power Development, LLC ("LS Power") describes DASI as "a reasonable starting point" and notes twice that it is "not protesting" the DASI proposal.[4] Yet, LS Power raises certain concerns focused on the revenue impacts of eliminating the FRM and what it perceives as forced participation in the proposed voluntary Day-Ahead Ancillary Services Market; it also urges further market design work and market performance monitoring.[5] The following addresses some of the analysis and statements made by LS Power in its comments in order to clarify and correct some misperceptions on the record.[6]

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[4] LS Power Comments at 1, 4, 7.

[5] *See id.* at 3.

[6] This Answer does not address all of the statements LS Power made its comments with which the ISO disagrees or which the ISO believes could benefit from correction or clarification. For example, LS Power describes the potential for Day-Ahead cleared energy to fall below the load forecast as a "long-standing flaw" of the existing market structure. *See id.* at 2. Regional Day-Ahead energy markets traditionally have not sought to clear energy in amounts that satisfy a region's load forecast, when that amount exceeds buyers' bid-in energy demand levels. Although the ISO proposes the incorporation of the Forecast Energy Requirement into the proposed Day-Ahead Market as an improvement to the current method of ensuring a reliable next-day Operating Plan, it has not considered the current Day-Ahead Energy Market's clearing of energy supply against bid-in demand to be a "long-standing flaw." Further, LS Power claims, without any analytical support, that the FRM "has done well" in attracting investments in reserve-capable resources and credits the FRM with remedying "a one-time dearth of flexible generation." *Id.* at 5. Rather than fully analyze these types of claims casually asserted by LS Power in its comments, the Answer focuses primarily on clarifying the record with regard to the revenue impacts of DASI and the proposed mitigation framework. Consequently, the ISO's silence with regard to any particular assertion by LS Power in its comments does not signal the ISO's agreement or any belief in the assertion's accuracy.

### A. The DASI Proposal's Elimination of the FRM Is Just and Reasonable, and LS Power's Revenue-Impact Analysis Warrants Clarification.

No party, including LS Power, argues that the proposed elimination of the FRM is unjust and unreasonable.[7] LS Power raises concerns about the FRM's elimination because the ISO's Impact Assessment estimated net incremental revenues from Day-Ahead Ancillary Services sales that are less than the net revenues from the FRM.[8] As explained in the Transmittal, the ISO proposes to eliminate the FRM because of the FRM's incompatibility with the proposed Day-Ahead Ancillary Services Market and other issues associated with the FRM. Maintaining the existing FRM along with the proposed Day-Ahead Ancillary Services market risks (1) double compensation for the same reserve capabilities and (2) undermining the effectiveness and competitiveness of both markets.[9] The FRM also has the potential to distort Real-Time energy prices and to experience uncompetitive conditions, and the Internal Market Monitor ("IMM") and External Market Monitor ("EMM") both strongly support the FRM's elimination.[10] Despite this, LS Power appears to suggest that the region could easily retain the FRM and that elimination of the FRM in conjunction with DASI will result in a dramatic reduction in revenues to reserve-capable resources. LS Power does not provide reliable support for either suggestion.

#### 1. Alleged "modest adjustments" to the FRM are neither explained nor an issue before the Commission.

LS Power suggests that only "modest adjustments to the FRM design could allow the 'long' forward aspect of the FRM to be complementary to the DASI market design."[11] It does

[7] *See Atlantic City Elec. Co. v. FERC*, 295 F.3d 9 (D.C. Cir. 2002) (noting FERC can reject proposed rate changes filed under Section 205 only when such changes are "not 'just and reasonable'").

[8] *See* LS Power Comments at 8 (focusing specifically on stakeholder presentation showing $1 million in incremental revenue to gas-only combustion turbines from DASI).

[9] Transmittal at 43.

[10] *Id.* at 44; IMM Comments at 18–20; EMM Comments at 3–4.

[11] LS Power Comments at 11.

not explain, however, what the adjustments to the FRM would be that would allow compatibility with the proposed Day-Ahead Ancillary Services Market, or identify any modifications to address the underlying concerns that the ISO, the IMM, and the EMM have with the design of the FRM, independent of the compatibility issues.[12] In fact, addressing both compatibility and fundamental FRM issues would require abandoning the Forward Reserve Threshold Price ("FRTP"), a fundamental component of the FRM's design.[13] It also would require designing an entirely new FRM settlement system that would reflect Day-Ahead Ancillary Services awards—which are settled in a way that is entirely at odds with the existing Real-Time penalty structure of the FRM. As stated in the Transmittal, addressing the FRM's issues would require a complete redesign of that market.[14] Even if LS Power had made suggested changes to the FRM, though, the issue before the Commission is whether the DASI proposal contained in the Transmittal is just and reasonable, not a hypothetical alternative proposal that would have retained but modified the current FRM.[15]

**2. LS Power provides an unreliable analysis of the potential overall revenue impacts to reserve-capable resources.**

LS Power's concerns are centered primarily on the loss of revenues it perceives it will experience as a result of the elimination of the FRM. As detailed in the Transmittal, the ISO's Impact Assessment simulated the change in Day-Ahead revenues for resources for study years 2019 through 2021. This Impact Assessment showed an increase in net revenues (credits for Day-Ahead Ancillary Services awards minus close-out charges) to Day-Ahead Ancillary

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[12] *See* Transmittal at 43–44.

[13] *See* EMM Comments at 3.

[14] Ewing Testimony at 78–79.

[15] *See Cities of Bethany v. FERC*, 727 F.2d 1131, 1136 (D.C. Cir. 1984); *see also ISO New England Inc.*, 114 FERC ¶ 61,315 at P 33 and n.35 (2006) (citations omitted).

Services suppliers of, on average, $21.5 million annually.[16] For the same study years of 2019 through 2021, the net FRM credits to FRM suppliers was, on average, $26.4 million annually.[17] This $4.9-million-dollar difference between the Impact Assessment's simulated net Day-Ahead Ancillary Services revenues and the net FRM credits is not the yawning gap in compensation described by LS Power in its comments.[18]

Notably, the $21.5 million net-revenues figure may even understate the net revenues a Day-Ahead Ancillary Services supplier may earn after DASI is implemented. The Impact Assessment did not model additional potential revenue resulting from the FRM's elimination. For example, elimination of the FRM (and the FRTP in particular) may result in additional revenue to current FRM sellers in the ISO's Day-Ahead and Real-Time energy markets. Absent the FRM, current FRM sellers will no longer have to submit energy offers at or above the FRTP, and they will be able to submit their energy offers at lower, competitive prices reflective of their actual marginal costs. Lower-priced offers by these sellers will increase their chances of clearing the energy market and receiving energy market revenues. The Impact Assessment did not study or evaluate any such potential increase in revenues from additional energy sales by these suppliers. Consequently, although the Impact Assessment attempts to capture the most direct changes in Day-Ahead revenues, it does not model any and all impacts from the implementation of the DASI proposal and may understate the revenues that will be earned by reserve-capable suppliers, compared to those currently earned through the FRM.

Notwithstanding the Impact Assessment's incremental revenue estimates, LS Power

[16] Ewing Testimony at 87.

[17] *Id.* at 97–98.

[18] *See* LS Power Comments at 8 (claiming reduction in ancillary services revenues by nine-tenths for "highly flexible, dispatchable generation").

claims that the DASI proposal will eliminate nine-tenths of ancillary services revenues, and in some cases 94 percent of such revenues, to flexible resources.[19] In doing so, LS Power employs a methodology that both (1) improperly compares historical FRM clearing prices for years not studied by the Impact Assessment to the net incremental DASI revenues for the Impact Assessment's study years and (2) conflates the purpose of Forecast Energy Requirement payments and Day-Ahead Ancillary Services payments. Specifically, LS Power uses the Impact Assessment's net incremental DASI revenues reported for each technology type and divides that number by the aggregate Seasonal Claimed Capabilities (as reported in the 2023 CELT report) of each resource within the technology type.[20] It then uses this number to express net incremental DASI revenues for each technology type in $/MW-month. Finally, it compares the incremental $/MW-month for only one type of resource—gas-only combustion turbines—to the FRM clearing prices from 2017 through 2023 in an attempt to demonstrate the purported loss in revenue.[21]

This methodology is flawed in a number of aspects. First, LS Power's comparison of FRM clearing prices to its calculated $/MW-month net incremental DASI revenue values provides no meaningful information about the revenue impacts of DASI to the region's fleet of reserve-capable resources. LS Power's comparison ignores the fact that resources do not necessarily offer or clear the entirety of their reserve capability in the FRM and are not going to earn FRM clearing prices on every MW of their reserve capability. For example, in the summer 2019 FRM auction, the total supply offered for forward TMNSR was 2,559.37 MW, with only 1,551.37 MW clearing, and the total supply offered for forward TMOR was 983.77 MW, with

[19] *Id.*

[20] *Id.* at 9 (Table 1).

[21] *Id.* at 10 (Table 2).

only 845.63 MW clearing.[22] Even though the FRM clearing prices are not a price paid on every MW of reserve capability for the fleet's reserve-capable resources, LS Power invites the Commission to directly compare the FRM clearing prices to LS Power's incremental DASI revenue rates presented in Table 1, which are calculated based on the entirety of resources' capacity.[23] It does this to purportedly demonstrate how "[r]evenue increases from DASI are more than offset by the proposed elimination of the FRM."[24] Yet, treating the FRM clearing prices akin to revenue rates paid on every MW of capacity for each of the region's reserve-capable resources ignores the significantly smaller quantities of reserve capability that such resources collectively clear in the FRM and, thus, for which FRM clearing prices are paid. Ultimately, such a "rate" comparison does not tell the Commission anything about actual revenue impacts to the entire fleet of reserve-capable resources.

Second, LS Power's use of FRM clearing prices fails to consider resources' FRM revenues net of FRM charges: Forward Reserve Failure-to-Activate Penalties, Forward Reserve Failure-to-Reserve Penalties, and Forward Reserve Obligation Charges. Although LS Power uses incremental DASI revenues that are net of close-out charges in its comparison, it considers only gross FRM revenues by looking only to FRM clearing prices. The comparison of net incremental DASI revenues to FRM clearing prices without accounting for FRM charges is another way in which LS Power's analysis does not provide a meaningful analysis of actual revenue impacts to the region's reserve-capable resources.

Third, LS Power compares Impact Assessment results determined from simulations that

[22] ISO New England Inc., *ISO-NE Forward Reserve Auction Results Report: Summer 06/2019–09/2019*, available at https://www.iso-ne.com/static-assets/documents/2019/04/fr_auction_sum2019.pdf.

[23] *See* LS Power Comments at 8–9 (showing total capacity expressed in terms of Seasonal Claimed Capability).

[24] *Id.* at 9.

employ 2019 through 2021 data to FRM clearing prices from 2017 through 2023. Comparing simulation results for 2019 through 2021 to a seven-year average of FRM clearing prices that is derived using FRM clearing prices from 2022 and 2023—a period for which the IMM has found FRM auctions to be "structurally uncompetitive" with elevated clearing prices—is also inapt.[25] Even if the ISO were to retain the FRM, it would not do so in a way that would allow FRM auctions to remain structurally uncompetitive, and FRM sellers could not expect to see such windfalls in the future. Moreover, 2022 FRM clearing prices were likely impacted by that year's extraordinarily high global fuel costs, which had the effect of increasing energy and reserve prices across the ISO's markets to their highest levels. Any direct comparison of 2022 FRM clearing prices to simulated DASI revenues for 2019 through 2021, which had an ordinary range of fuel costs among them, overstates the impacts of the FRM's elimination.

For these reasons, LS Power's revenue-reduction analysis is flawed and has the potential to mislead the Commission as to the true revenue impacts to reserve-capable resources from the implementation of DASI. The ISO's Impact Assessment, which compares simulated net Day-Ahead Ancillary Services revenues for 2019 through 2021 to net FRM credits from 2019 through 2021, provides a much more reliable basis from which to understand the potential revenue impacts to reserve-capable resources, notwithstanding the limitation noted above that the Impact Assessment did not study all potential revenue impacts from the FRM's elimination.

**3. LS Power's revenue-impact analysis that focuses on technology-type also confuses the objectives of the DASI proposal.**

Further, LS Power appears to conflate the operating reserve and load forecast aspects of the proposed Day-Ahead Market in its revenue-reduction analysis. LS Power implies that DASI

[25] ISO New England Inc. Internal Market Monitor, *Summer 2023 Quarterly Markets Report*, at 54 (Oct. 27, 2023), available at https://www.iso-ne.com/static-assets/documents/100004/2023-summer-quarterly-markets-report.pdf.

rewards "inflexible generators" that will not "need[] to make changes to their behavior or need[] to take on any incremental risk" at the expense of reserve-capable resources.[26] This conflates the purpose of compensating Day-Ahead Flexible Response Services with the purpose of compensating resources for contributing to the Forecast Energy Requirement. The additional revenues to *all* physical resources that clear Day-Ahead energy, whether by way of increased Day-Ahead energy sales or through Forecast Energy Requirement payments, is to compensate for such resources' contribution to satisfying the load forecast. This is a contribution that currently goes uncompensated when there is a Day-Ahead energy gap and the ISO must identify resources capable of covering this gap when developing the Day-Ahead Operating Plan.[27] Application of the Forecast Energy Requirement in the Day-Ahead Market will result in technology-neutral compensation to resources that have Day-Ahead energy or Day-Ahead Energy Imbalance Reserve awards, including LS Power's resources, for their currently uncompensated contributions to the load forecast.[28]

Notably, LS Power's revenue-reduction analysis is concerned with how it believes the few gas-only combustion turbines in New England may be impacted by DASI.[29] In light of LS Power's focus on whether approximately 332 MW of gas-only combustion turbine resources stand to gain or lose under DASI, it bears repeating that the proposed Day-Ahead Ancillary Services Market has a technology-neutral design focused on compensating reserve capabilities,

[26] LS Power Comments at 10.

[27] *See* Transmittal at 10.

[28] Notably, the Impact Assessment showed that the Forecast Energy Requirement Price in the majority of hours will be zero. *See id.* at 61. DASI does not simply increase Day-Ahead energy revenues in all circumstances; through the Forecast Energy Requirement, it ultimately compensates for those circumstances where additional energy or reserves (in the form of Day-Ahead Energy Imbalance Reserves) are required to cover the load forecast.

[29] *See* LS Power Comments at 10 (Table 2).

not technology types.[30] In addition to this focus on gas-only combustion turbines, LS Power purports to calculate a $/MW-month incremental revenue stream from DASI for other technology types, such as pumped hydro, in service of its apparent claim that these resources make insufficient revenue gains under DASI.[31] Yet it does not attempt to explain how other technology types stand to gain or lose with the proposed Day-Ahead Market and elimination of the FRM, or account for other technologies' FRM costs (which may be very different from gas-only combustion turbines).[32] Such an analysis is only possible by comparing the simulated net incremental DASI revenues to actual net FRM revenues from 2019 to 2021 for those technology types, a comparison which LS Power does not attempt. Again, the Impact Assessment, subject to its own limitations, provides a much more reliable assessment of the revenue impacts to the entire fleet of resources, independent of technology-type.

### B. The DASI Mitigation Framework Does Not Impose a Must-Offer Requirement.

LS Power does not argue that the proposed DASI mitigation framework or any of the elements of that framework are unjust and unreasonable. However, it asserts in its comments that it believes the combined physical withholding and economic withholding market power mitigation rules proposed as part of DASI create a "de facto" must-offer requirement.[33] LS Power's assertion appears to result from a misunderstanding of the Commission's requirements for market-based rates, the IMM consultation process, the cost recovery process, and the

[30] *See* Transmittal at 26 (noting Day-Ahead Flexible Response Services require same reserve capabilities as Real-Time Operating Reserves).

[31] *See* LS Power Comments at 9 (claiming revenue increases "more than offset" by elimination of FRM and claiming "no reason to suspect that [battery storage and demand response] *would fare better* than the CTs or pumped hydro") (emphasis added).

[32] *Id.* at 10 (presenting its comparison of FRM clearing prices to purported $/MW-month incremental revenue streams from DASI for gas-only combustion turbines, and no other resource types).

[33] *See id.* at 11–14.

proposed physical withholding rules.

LS Power does not appear to claim that the proposed physical and economic withholding conduct test thresholds are unsupported or inappropriate. Rather, LS Power notes that its portfolio of resources is large enough such that the portfolio exceeds the physical withholding conduct test threshold.[34] It then goes on to assert that (1) there may be days during which LS Power might "disagree[]" with the ISO-calculated strike prices and expected close-out costs, (2) it might "have meaningful disagreements" with the IMM during the consultation process regarding the costs it may wish to include in its Day-Ahead Ancillary Services Offers, (3) it might then decide not to participate in the Day-Ahead Ancillary Services Market, and (4) this set of circumstances might result in a threat of referral to the Commission for physical withholding.[35] LS Power has not explained, though, how it will come to predict dramatically high Real-Time prices when the ISO model and commercial models do not. Beyond positing an entirely speculative circumstance where the Real-Time LMP might reach or exceed $2,500/MWh but the ISO's strike price will be set at $250/MWh, it also does not explain why LS Power's market expectations will be so far from the ISO's modeling that the economic withholding conduct test threshold that accommodates offers twice the Expected Close-Out Component will be insufficient to accommodate a difference in market expectations.[36] LS

[34] *Id.* at 12.

[35] *Id.* at 12–13.

[36] LS Power also claims that it will "lose a full year of incremental DASI revenues in less than 75 minutes" if it is "unavailable . . . when LMPs exceed $2500/MWh." LS Power Comments at 14, n.34. This claim is grounded in an entirely speculative scenario where Real-Time LMPs would exceed $2,500/MWh while the ISO's model sets a strike price of only $250/MWh. LS Power provides no support to establish this scenario as a realistic concern. Moreover, the risk of loss here can be avoided if LS Power stays out of the market or ensures that it is able to perform for the hours for which it has a Day-Ahead Ancillary Services award. This is no different than if LS Power sells its energy in the Day-Ahead Energy Market. If LS Power takes on a Day-Ahead energy award but then fails to deliver all of the MWh of such award during the award-hour, it will face a deviation settlement charge at the applicable Real-Time LMP.

Power similarly does not explain why it fears the IMM consultation process will be insufficient to accommodate its different market expectations, other than to suggest that disagreement is possible; it does not cite any history of the IMM consultation process being deficient in the ISO's energy markets to support its fears.

Because LS Power does not claim that the proposed conduct test thresholds are somehow inappropriate and appears to have only speculative concerns about those thresholds or the consultation process in extreme market conditions, LS Power's concerns are properly characterized as generalized concerns about being subject to both economic and physical withholding screens. These concerns, however, do not reflect a deficiency in the ISO's market power mitigation proposal as designed. As noted in the Transmittal, the ISO's Market Power Assessment identified circumstances under which economic or physical withholding in the new Day-Ahead Ancillary Services Market could result in uncompetitive increases in Day-Ahead prices.[37] Under Commission precedent, the potential for the successful exercise of market power in any market needs to be addressed.[38] The ISO designed, through extensive analysis, a conduct-and-impact test framework that addresses both economic and physical withholding.[39] Both economic and physical withholding need to be addressed because, as an economic matter, they are two methods to achieve the same result—elevated prices through the exercise of market power.[40] If the ISO had developed a framework that addressed only economic withholding but

[37] Transmittal at 47–48.

[38] *See Indep. Market Monitor for PJM v. PJM Interconnection, L.L.C.*, 178 FERC ¶ 61,121 at 96 (2022) ("In RTO/ISO markets, the Commission has long held that these market rules must be paired with an effective framework for monitoring and mitigating market power to ensure that the markets produce just and reasonable rates.").

[39] *See* Transmittal at 48–53, 58–59; *see also, generally*, Alivand Testimony at 56–134.

[40] *See* Transmittal at 45 n.236; *see also Southwest Power Pool, Inc.*, 129 FERC ¶ 61,163 at P 131 (2009) ("A seller attempting to raise market prices may withhold capacity from the market. Whether the seller does this by submitting an artificially high bid that will not be accepted in the market or by simply not offering into the market at

not physical withholding, or vice versa, it would have resulted in an incomplete mitigation framework that does not fully address the potential for market power concerns in the new Day-Ahead Ancillary Services Market.

LS Power's comments also suggest that it misunderstands the consultation process, the cost recovery process, and the physical withholding rules, generally. As explained in the Transmittal, the consultation process is available to Market Participants long before the Operating Day and up to the time not long before Day-Ahead Ancillary Services Offers must be submitted.[41] If LS Power develops or finds a supported methodology for calculating expected close-out values that differs from the ISO's methodology, it will be able to present this methodology to the IMM well in advance of the Operating Day.[42] Further, to the extent LS Power (or any other potential seller) decides not to offer Day-Ahead Ancillary Services on any given day, the IMM welcomes the opportunity to consult with the Market Participant about its rationales for abstaining from the market.[43] With regard to circumstances where LS Power does offer but cannot recover its costs due to mitigation, it also may take advantage of the cost recovery process.[44] Contrary to LS Power's belief that the cost recovery process is "prohibitively expensive," the current cost recovery process and one proposed under DASI both allow for Market Participants to request regulatory costs if they pursue cost recovery under Section III.A.15.2 of Appendix A.[45]

all does not matter. Both behaviors are withholding and can have the effect of artificially raising prices."), *r'hg denied, clarif. granted in part*, 137 FERC ¶ 61,011 (2011).

[41] Transmittal at 56, 69.

[42] *Id.* at 50, 56.

[43] *Id.* at 58–59.

[44] *Id.* at 56–57.

[45] LS Power Comments at 14; *see* Transmittal, Marked Tariff, Section III.A.15.2.1.

Finally, LS Power suggests that it would be subject to referral to the Commission "even if it feels it has a completely defensible assessment of its risk exposure" and refrains from offering into the Day-Ahead Ancillary Services Market in a way that triggers the physical withholding conduct test threshold.[46] As stated in the Tariff, the IMM's inquiry into physical withholding does not stop with the conduct test threshold. The IMM also must consult with the Market Participant and then, if necessary, conduct an impact test analysis.[47] Only after determining there was no valid economic reason for the Market Participant to withhold from the market will the IMM refer the Market Participant to the Commission.[48] LS Power's concerns that it will be referred to the Commission are not supported by a history of the IMM needlessly referring Market Participants to the Commission for violating the physical withholding rules of Section III.A.4 of Appendix A as they apply in the energy markets.

Contrary to what LS Power suggests, the proposed mitigation framework contains a number of built-in protections to prevent the possibility of unnecessary mitigation or needless Commission referral. These protections allow a supplier to (1) make an offer up to two times the ISO-calculated Expected Close-Out Component and 1.5 times its Avoidable Input Cost; (2) consult the IMM regarding an offer that exceeds conduct test thresholds, when necessary; (3) seek cost recovery when offer mitigation results in unrecoverable costs; and (4) refrain from participating in the Day-Ahead Ancillary Services market for any economic reason other than the exercise of market power or some other form of market manipulation.

In sum, the Filing Parties proposed a carefully constructed market power mitigation framework that is well-supported in light of the ISO's Market Power Assessment. LS Power's

[46] LS Power Comments at 13.

[47] Transmittal at 58; *see also* Transmittal, Marked Tariff, Section III.A.4.3.

[48] Transmittal at 58–59; *see also* Transmittal, Marked Tariff, Section III.A.4.1.

generalized concerns about the application of physical and economic withholding rules in the proposed Day-Ahead Ancillary Services Market provide no basis for finding the proposed market power mitigation framework to be unjust and unreasonable.

### C. The ISO Recognizes LS Power and Other Commenters' Suggestions for Additional Operating Reserve Products.

LS Power requests, among other things, that the ISO implement market rule changes to incorporate additional types of operating reserve products into the ISO's markets.[49] This request was echoed by other commenters as well.[50] As explained in the Transmittal, the ISO intends to explore the value of pursuing additional, potentially longer-duration reserve products.[51] In addition to what the ISO stated in its Transmittal, the ISO's 2024 Annual Work Plan, as of October 6, 2023, indicates that the ISO will evaluate new, longer-duration reserve products in both the Day-Ahead and Real-Time markets, with stakeholder discussions targeted to begin in 2025.[52] Whether the ISO ultimately proposes additional operating reserve products will depend on this evaluation, and any decision will be made in light of its ongoing assessment of the New England power system's evolving needs.

## III. CONCLUSION

The ISO respectfully requests that the Commission consider this Answer and, for the reasons discussed herein and in the Filing Parties' Transmittal, accept the proposal as just and

[49] *See* LS Power Comments at 15–18. Regarding the additional requests, including those regarding monitoring of the market and the mitigation framework, the ISO refers the commenters and the Commission back to its statements in the Transmittal about its commitment to monitoring different aspects of the proposed Day-Ahead Market. *See* Transmittal at 62–63. This includes referral back to the ISO's statements regarding future evaluation of the strike price adder, should changes in the market require. *See id.*

[50] EPSA Comments at 4–5; NEPGA Comments at 11–12.

[51] Transmittal at 7 n.19, 44; Ewing Testimony at 79.

[52] ISO New England Inc., *2024 Annual Work Plan (AWP)*, at 11 (Oct. 6, 2023), available at https://www.iso-ne.com/static-assets/documents/100004/2024_awp_final_10_06_23.pdf.

reasonable.

Respectfully submitted,

**ISO NEW ENGLAND INC.**

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Dated: December 6, 2023

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon the parties designated on the official service list for the above-captioned docket in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure. 18 C.F.R. § 385.2010.

Dated at Holyoke, Massachusetts on this 6th day of December, 2023.

/s/ *Julie Horgan*

Julie Horgan