196 FERC ¶ 61,185
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Laura V. Swett, Chairman;
David Rosner, Lindsay S. See,
Judy W. Chang, and David LaCerte.

ISO New England Inc. Docket No. EL26-45-000

ORDER ON SHOW CAUSE PROCEEDING AND DIRECTING COMPLIANCE FILING

(Issued September 10, 2026)

1. On May 8, 2026, ISO New England Inc. (ISO-NE) submitted a response to the Commission's March 10, 2026 order instituting a show cause proceeding pursuant to section 206 of the Federal Power Act (FPA),[1] regarding whether ISO-NE's Transmission, Markets and Services Tariff (Tariff) may be unjust and unreasonable because it lacks provisions that would enable ISO-NE to correct improper or erroneous payments or charges to market participants in ISO-NE's markets.[2]

2. As discussed below, we find that the Tariff is unjust and unreasonable because it lacks provisions that would enable ISO-NE to accept payments from market participants that were erroneously or improperly received in ISO-NE's markets, make billing corrections for certain erroneous or improper payments to market participants, and refund the charges or payments, which yields unjust and unreasonable market outcomes for market participants and customers. Accordingly, we direct ISO-NE, within 120 days of the date of this order, to submit a compliance filing to revise the Tariff, as discussed below.

I. Background

A. Recent Relevant Proceedings

3. In the Show Cause Order, the Commission described how, in several recent Commission proceedings, ISO-NE and ISO-NE market participants have requested

[1] 16 U.S.C. § 824e.

[2] *ISO New Eng. Inc.*, 194 FERC ¶ 61,187 (2026) (Show Cause Order).

waivers from the Commission to allow for corrections to ISO-NE energy and capacity program payments that were not permitted under the Tariff.[3]

1. Canal Marketing Waiver Request

4. In Docket No. ER24-1407-000, Canal Marketing L.L.C. (Canal Marketing) requested waiver of Schedule 22 of the Tariff to allow it to return to ISO-NE improperly received net revenues related to Canal Marketing's participation in the ISO-NE Inventoried Energy Program (IEP).[4] Canal Marketing had received net revenues for its expected provision of IEP service; however, due to an outage for its resource, Canal Marketing was unable to provide the IEP service. In its waiver request, Canal Marketing stated that it informed ISO-NE in mid-December 2023 that the forced outage at its Canal 3 Facility was anticipated to last longer than expected, and Canal Marketing requested to withdraw the Canal 3 Facility from participation in the IEP and return all revenues that it had received through participation in the IEP.[5] Canal Marketing stated that ISO-NE informed it that there were no provisions in Appendix K to effectuate these requests, and based on those conversations, Canal Marketing understood "that neither Appendix K nor any other provision of the Tariff contains provisions that would allow for the return of net revenues to ISO-NE by a market participant in this particular situation, or for a participant to withdraw from the [IEP]."[6] Canal Marketing stated that ISO-NE recommended that Canal Marketing submit a waiver request to the Commission to resolve this issue.[7] On August 12, 2024, the Commission issued an order establishing settlement judge procedures,[8] and the parties reached a settlement that the Commission approved on January 29, 2025.[9]

2. Brookfield Renewable Waiver Request

5. In Docket No. ER26-143-000, Brookfield Renewable Trading and Marketing LP (Brookfield Renewable) requested waiver of the Tariff to allow it to return to ISO-NE

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[3] *Id.* PP 5-7.

[4] *Canal Marketing*, Transmittal, Docket No. ER24-1407-000 (filed Mar. 4, 2024).

[5] *Id.* at 5-6.

[6] *Id.* at 2.

[7] *Id.*

[8] *Canal Mktg. LLC*, 188 FERC ¶ 61,122 (2024) (*Canal Marketing*).

[9] *Canal Mktg. LLC*, 190 FERC ¶ 61,055 (2025).

improperly received net revenues related to its participation in the ISO-NE Forward Capacity Market given that certain of its Capacity Supply Obligations could not be fulfilled because Brookfield Renewable had entered into a power purchase agreement that had sold capacity from a certain resource to another company.[10] In its waiver request, Brookfield Renewable stated that it subsequently engaged in discussions with ISO-NE to explore how to refund an amount equal to the improperly received payments to ISO-NE, but ISO-NE concluded that there are no provisions in the Tariff that govern the receipt of the Brookfield Renewable refund or how ISO-NE should implement a refund to the market.[11] Concurrently with the order in Docket No. EL26-45-000, the Commission issued an order in Docket No. ER26-143-000 establishing settlement judge procedures.[12] On August 6, 2026, the Commission approved an uncontested settlement agreement setting forth a refund amount of $125,328 that Brookfield Renewable will pay to ISO-NE and the process by which ISO-NE will distribute the refund among market participants in ISO-NE's Forward Capacity Market.[13]

3. ISO-NE Waiver Request

6. In Docket No. ER25-3253-000, ISO-NE requested waiver of section III.13.7.2.6 (Calculation of Capacity Performance Payments) of the Tariff so that ISO-NE did not assess a charge to Brookfield White Pine Hydro LLC's (Brookfield White Pine Hydro) Harris Hydro Unit 2 of approximately $68,000 for six five-minute intervals during the June 24, 2025 Capacity Scarcity Condition and section 3.3(e) (Late Payment Account) of the ISO-NE Billing Policy to allow ISO-NE to use funds accrued in ISO-NE's Late Payment Account to return the Capacity Performance Payment charge to Brookfield White Pine Hydro.[14] In its waiver request, ISO-NE explained that due to the actions of its operators, Brookfield White Pine was not able to fulfill its Capacity Supply Obligation during a Capacity Scarcity Condition, leading Brookfield White Pine to incur a Capacity Performance Payment charge. To address its mistake, ISO-NE asked the Commission to: (1) waive the application of the calculation of the Capacity Performance Payment charge on Brookfield White Pine; and (2) allow ISO-NE to use the Late Payment Account to return the $68,000 back to Brookfield White Pine. ISO-NE stated that the "waivers will

[10] *Brookfield Renewable*, Transmittal, Docket No. ER26-143-000, at 2-3 (filed Oct. 15, 2025).

[11] *Id.* at 4.

[12] *Brookfield Renewable Trading & Mktg. LP*, 194 FERC ¶ 61,186 (2026) (*Brookfield Renewable*).

[13] *Brookfield Renewable Trading & Mktg. LP*, 196 FERC ¶ 61,110 (2026).

[14] *ISO-NE*, Transmittal, Docket No. ER25-3253-000, at 1-2 (filed Aug. 20, 2025).

allow the ISO to return the amount of the Capacity Performance Payment charge to [Brookfield White Pine] during the Tariff-based settlement finalization process" and cited to section III.3.6 of the Tariff and the applicable Correction Limit.[15] ISO-NE filed its waiver request prior to the finalization of the settlement process and issuance of a final invoice to Brookfield White Pine.[16] On October 31, 2025, the Commission granted ISO-NE's waiver request.[17]

B. Show Cause Order

7. In the Show Cause Order, the Commission found that ISO-NE's existing Tariff appears to be unjust and unreasonable because it lacks provisions that would enable ISO-NE to return amounts of money that it erroneously charged to market participants and to accept payments from market participants that were erroneously or improperly received in ISO-NE's markets, potentially yielding unjust and unreasonable market outcomes for market participants and customers.[18] The Commission noted that in *Brookfield Renewable* and *Canal Marketing*, market participants received improper compensation from ISO-NE and sought to return such compensation to ISO-NE, but were unable to do so because no Tariff provision addresses such circumstances. The Commission further noted that in *ISO-NE*, ISO-NE sought waiver to be permitted to return funds from the initial settlement of the relevant operating day with a Capacity Scarcity Condition to a market participant when ISO-NE's dispatch error caused the market participant to be penalized for non-performance.

8. The Commission stated that, based on these proceedings, it appears that the Tariff does not allow ISO-NE to make billing corrections for certain erroneous or improper payments to market participants.[19] While noting the importance of avoiding interference with Tariff provisions that limit challenges to market results in the interest of market finality, the Commission stated that it similarly appears that the Tariff has no mechanism to address the adjustment of erroneous Capacity Performance Payment charges due to an ISO-NE operational error identified prior to the finalization of the settlement process.[20] The Commission found that this could result in unjust and unreasonable payments and

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[15] *Id.* at 2.

[16] *Id.*

[17] *ISO New Eng. Inc.*, 193 FERC ¶ 61,084 (2025) (*ISO-NE*).

[18] Show Cause Order, 194 FERC ¶ 61,187 at P 8.

[19] *Id.* P 9.

[20] *Id.* P 9 & n.26.

charges to market participants. The Commission also noted that it has previously encouraged public utilities to file tariff revisions to avoid the need for repeated waiver requests going forward.[21]

9. The Commission directed ISO-NE, within 60 days of the date of the Show Cause Order, to either: (1) show cause as to why the Tariff remains just and reasonable and not unduly discriminatory or preferential; or (2) explain what changes to the Tariff it believes would remedy the identified concerns if the Commission were to determine that the Tariff has in fact become unjust and unreasonable or unduly discriminatory or preferential and, therefore, proceeds to establish a replacement Tariff.[22] The Commission stated that interested entities could respond within 30 days of ISO-NE's filing.[23]

II. Notice of Filing and Responsive Pleadings

10. Notice of the Show Cause Order was published in the *Federal Register*, 91 Fed. Reg. 12595 (Mar. 16, 2026). Timely motions to intervene were filed by: NEPOOL Participants Committee; Public Citizen, Inc.; Brookfield Renewable; Constellation Energy Generation, LLC; Dynegy Marketing and Trading, LLC; National Grid; New England Power Generators Association, Inc.; Massachusetts Municipal Wholesale Electric Company, Connecticut Municipal Electric Energy Cooperative, and Vermont Public Power Supply Authority (collectively, Public Systems); and Eversource Energy Service Company. Avangrid Networks, Inc. and Avangrid Power Inc. filed a motion to intervene out-of-time.

11. On May 8, 2026, ISO-NE filed an answer. On June 8, 2026, Public Systems filed comments.

III. ISO-NE's Answer

12. ISO-NE states that its answer: (1) explains potential changes to the ISO-NE Billing Policy[24] that, if adopted, would address the majority of the issues that the Commission raises in the Show Cause Order; (2) explains why it is not appropriate to modify certain discrete market settlement provisions that are at issue in this proceeding; and (3) requests that the Commission provide guidance with respect to adding a provision

[21] *Id.* P 9 & n.27.

[22] *Id.* P 10.

[23] *Id.* P 11.

[24] ISO-NE, Transmission, Mkts. & Servs. Tariff, Ex. ID (ISO-NE Billing Policy) (20.0.0).

to the Tariff to enable the extension of settlement deadlines by Commission action to address settlement errors.[25] ISO-NE states that should the Commission deem its response adequate to address the issues raised in the Show Cause Order, it should issue a further order directing ISO-NE to submit a compliance filing within 120 days of the date of the further order containing the changes to the ISO-NE Billing Policy proposed in its answer, a period that it states would be sufficient to engage stakeholders in review and feedback regarding the proposed Tariff revisions.[26] ISO-NE states that the discrete Tariff changes it describes, along with the explanation of the need to maintain the current limitations on correcting the errors at issue in the *ISO-NE* waiver proceeding, together, fully address the issues the Commission identifies in the Show Cause Order.[27] Additional relevant details of ISO-NE's answer are described further below.

IV. Public Systems' Comments

13. Public Systems states that it supports Tariff changes that will allow ISO-NE to accept repayments of erroneously or otherwise improperly received funds and distribute them among the entities that paid the underlying charges or that should have received the funds in the first instance.[28] Public Systems states that since ISO-NE has not yet proposed Tariff language, Public Systems reserves comment on any specific Tariff language that ISO-NE may file and upon ISO-NE's implementation in specific cases.

V. Discussion

A. Procedural Matters

14. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2025), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

15. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d), we grant the late-filed motion to intervene of Avangrid Networks, Inc. and Avangrid Power Inc. given their interests in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

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[25] ISO-NE Answer at 1.

[26] *Id.* at 1-2. ISO-NE did not submit a Tariff record.

[27] *Id.* at 5.

[28] Public Systems Comments at 2-3.

B. Substantive Matters

1. ISO-NE's Proposal to Accept Payments from Market Participants that Were Erroneously or Improperly Received in ISO-NE's markets, and for ISO-NE to Refund the Charges or Payments

a. ISO-NE Billing Policy and Settlement Process

16. Section 6 of the ISO-NE Billing Policy, Billing Dispute Procedures, governs billing disputes related to violations or inconsistencies in the Tariff, or correction of errors.[29] This policy allows for any Covered Entity to dispute the amount due on any fully paid monthly Invoice or any amount owed on a Remittance Advice and to seek a Requested Billing Adjustment (RBA).[30] The procedures require that the "Disputing Party must submit its RBA within three months of the date that the Invoice or Remittance Advice containing the Disputed Amount was issued by ISO-NE unless the Disputing Party could not have reasonably known of the existence of the alleged error within such time."[31]

b. ISO-NE's Answer

17. ISO-NE states that due to the volume of meters, and because estimated initial meter readings are often used in the initial submission of meter data to ISO-NE, it is anticipated that initial bills may require adjustment.[32] Thus, the settlement rules provide for a 101-day data reconciliation process after the issuance of the initial bill. The purpose

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[29] ISO-NE, Transmission, Mkts. & Servs. Tariff, Ex. ID (ISO-NE Billing Policy) (20.0.0), § 6 (Billing Dispute Procedures).

[30] The ISO-NE Billing Policy sets the rules for payments and billing across ISO-NE's markets. ISO-NE processes both payments and billing through the same statement. Where a Covered Entity's total charges exceed its total payments for all amounts being billed together in a billing period, ISO-NE issues an Invoice for the net charge owed by such Covered Entity. Where a Covered Entity's total payments exceed its total charges for all amounts being billed together in a billing period, ISO-NE issues a Remittance Advice for the net payment owed to the Covered Entity. Invoices and Remittance Advices are collectively referred to as statements. *Id.*, Ex. ID (ISO-NE Billing Policy) (20.0.0), § 1 (Overview).

[31] *Id.* § 6.3.1 (Submission of Requested Billing Adjustment to the ISO; Required Contents of Requested Billing Adjustment).

[32] ISO-NE Answer at 7.

of this process is to ensure that the data relied on by ISO-NE in the settlement process is accurate and, if not, to provide an extended opportunity to submit corrected meter data and correct other market settlement-related errors discovered after initial bills are issued. At the end of the 101-day period, ISO-NE issues a bill with the processed data from the data reconciliation process.[33]

18. ISO-NE states that its Tariff also places limits on the types of errors that ISO-NE may correct through the data reconciliation process. ISO-NE states it may not correct errors that impact unit commitment or real-time dispatch, but it can correct errors that impact the settlement during the data reconciliation process so long as fixing the error does not require assuming that resources were dispatched differently than they were.[34]

19. ISO-NE states that the dispute process in section 6 of the ISO-NE Billing Policy constitutes a mechanism for extending the settlement deadlines by an additional three months from the date a final invoice is issued, when a market participant alleges that ISO-NE has misapplied the Tariff in completing the settlement process, thus resulting in a settlement error.[35]

20. ISO-NE states that its settlement and billing rules and procedures provide an appropriate balance between settlement accuracy and finality.[36] However, ISO-NE acknowledges that the repeated need for Tariff waivers to resolve certain discrete settlement issues, which the current Tariff does not permit ISO-NE to address, presents a substantial burden for regional stakeholders, ISO-NE, and the Commission.[37] ISO-NE states that to address the Commission's concerns, ISO-NE proposes two narrow changes to the ISO-NE Billing Policy.

21. First, ISO-NE proposes to add a mechanism to the ISO-NE Billing Policy to enable it to: (1) accept erroneous or improper payments received by market participants—including interest, when applicable—whether the need for such refunds is

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[33] *Id.*

[34] *Id.* (citing ISO-NE, Transmission, Mkts. & Servs. Tariff, §§ III.3.6.2 (Eligible Data), III.3.7(a) (34.0.0)).

[35] *Id.* at 8.

[36] *Id.* at 3 (citing *N.Y. State Elec. & Gas Corp.*, 133 FERC ¶ 61,094, at P 63 (2010) ("[O]nce invoices are finalized, they should generally remain unchanged, even if later found to contain errors, so Market Participants can rely on the charges contained in the invoices.")).

[37] *Id.*

identified prior to the end of the Tariff-defined settlement process or sometime thereafter; and (2) allocate those payments to the appropriate market participants.[38] ISO-NE states that, to properly allocate the amounts refunded under this provision, the mechanism would include a cost allocation provision to return funds to market participants using the cost allocation rules employed when those funds were originally collected and settled.[39] ISO-NE states that this change would have allowed it to correct the settlement errors at issue in *Canal Marketing* and *Brookfield Renewable*, thus avoiding the need for the submission of Tariff waiver requests to the Commission.[40] ISO-NE states that this proposed revision to the ISO-NE Billing Policy would permit the settlement of such refunds regardless of when the erroneous or improper charge or payment is brought to ISO-NE's attention and thus would not be limited by the current settlement and billing deadlines.[41]

22. Second, ISO-NE proposes to modify the ISO-NE Billing Policy RBA process to provide ISO-NE the ability to address a greater number of post-settlement issues. ISO-NE states that the RBA process has been interpreted as permitting redress only of settlement issues that arise from an ISO-NE error and does not permit the correction of settlement issues when the error is not clearly and directly tied to an ISO-NE action.[42] ISO-NE proposes to eliminate the language that limits the RBA process to ISO-NE errors. ISO-NE states that this change would reasonably expand the current RBA process and allow ISO-NE to address and correct a confirmed settlement error, even when that error cannot be causally linked to an action on the part of ISO-NE.[43]

23. ISO-NE states that while this proposed change to the ISO-NE Billing Policy RBA process does not directly address the settlement issues that prompted the need for the waivers at issue in the Show Cause Order, it is nevertheless within the spirit of addressing the types of concerns identified therein.[44] Furthermore, ISO-NE states that this change

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[38] *Id.* at 10.

[39] *Id.* at 10-11.

[40] *Id.* at 11.

[41] *Id.*

[42] *Id.* at 11-12.

[43] *Id.* at 12.

[44] *Id.*

would expand Tariff-based mechanisms for correcting settlement errors without upsetting the balance between settlement accuracy and finality that the current Tariff strikes.

24. ISO-NE argues that, taken together, its proposed changes are narrow ones that preserve the existing settlement and billing structure while addressing the core of the Commission's concerns outlined in the Show Cause Order and would allow ISO-NE to correct a greater range of improper or erroneous charges and payments without the need for waivers from the Commission.[45] ISO-NE requests that the Commission direct compliance consistent with this proposal within 120 days to allow it to finalize the proposed Tariff changes and provide sufficient time for stakeholder review and feedback.[46]

c. Commission Determination

25. We find that the Tariff is unjust and unreasonable because it lacks provisions that would enable ISO-NE to accept payments from market participants that were erroneously or improperly received in ISO-NE's markets, make billing corrections for certain erroneous or improper payments to market participants, and refund the charges or payments, which yields unjust and unreasonable market outcomes for market participants and customers.

26. We find that ISO-NE's proposed Tariff revisions, as described in its response, would address the Commission's concerns in the Show Cause Order. We agree with ISO-NE that its proposal to revise the ISO-NE Billing Policy to enable ISO-NE to accept and allocate erroneous or improper payments received by market participants by accepting refunds and distributing them to the appropriate market participants generally address the Commission's concerns about the lack of such mechanism in the Tariff and would have resolved the issues in *Canal Marketing* and *Brookfield Renewable* without the need for Tariff waivers from the Commission. In addition, we find that ISO-NE's proposal to modify the ISO-NE Billing Policy RBA process to provide the ability to address a greater number of post-settlement issues by removing language that limits the RBA process to ISO-NE errors would address the Commission's concerns in the Show Cause Order by allowing ISO-NE to correct a greater range of such errors without the need for Tariff waivers from the Commission.

[45] *Id.*

[46] *Id.*

27. Accordingly, we direct ISO-NE, within 120 days of the date of this order, to submit a compliance filing with the proposed Tariff revisions described in its response in eTariff format.[47]

2. Mechanism to Allow ISO-NE to Adjust an Erroneous Capacity Performance Payment Charge Prior to Final Settlement

a. ISO-NE's Answer

28. ISO-NE states that its market settlement rules are set forth in the Tariff section that governs the operation of New England's wholesale electricity markets and includes detailed information on pricing, scheduling, offering, bidding, settlement, and other requirements related to the purchase and sale of electricity, with additional implementation details contained in ISO New England Manual M-28.[48] ISO-NE states that the Tariff's settlement and billing procedures are intended to promote the identification of any settlement or billing errors within the prescribed timelines and to provide finality to the settlement process.[49] ISO-NE states that the Tariff places limits on the types of errors that ISO-NE may correct through ISO-NE's data reconciliation process, including that ISO-NE may not correct errors that impact unit commitment or real-time dispatch.[50]

29. ISO-NE urges the Commission to not require it to alter provisions in the market settlement rules that prohibit the correction of erroneous negative Capacity Performance Payments (i.e., Capacity Performance Payment charges), which were at issue in *ISO-NE*. ISO-NE opposes any such action because permitting such corrections would require modifying the Tariff's prohibition on settlement corrections that require assuming resources were committed or dispatched in a manner that differs from the actual commitment or dispatch.[51]

30. ISO-NE states that if a resource is incorrectly committed in the day-ahead market or incorrectly dispatched in real-time (e.g., committed or dispatched in a manner that is

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[47] *Elec. Tariff Filings*, Order No. 714, 124 FERC ¶ 61,270 (2008), *clarified*, Order No. 714-A, 147 FERC ¶ 61,115 (2014).

[48] ISO-NE Answer at 5 n.16.

[49] *Id.* at 5.

[50] *Id.* at 7 (citing ISO-NE, Transmission, Mkts. & Servs. Tariff, §§ III.3.6.2, III.3.7(a)).

[51] *Id.* at 12-13.

not consistent with the relevant Tariff requirements on market clearing, commitment, and dispatch) such that the resource will receive a settlement that differs from what it would have received but for the erroneous commitment or dispatch, then the Tariff expressly prohibits a change to the settlement to address the incorrect commitment or dispatch.[52] ISO-NE notes that section III.3.6.2, which addresses the types of data-related errors that can be corrected through the settlement process, states that "[d]ata handling errors that impacted unit commitment or the Real-Time dispatch will not be corrected."[53]

31. ISO-NE states that the current Tariff language regarding settlement finality for Capacity Performance Payment charges is appropriate for several reasons. First, ISO-NE states that to do otherwise and attempt to correct an operator dispatch error, it would need to know how the resource in question, as well as other resources on the system, would have operated absent the error. ISO-NE states that it cannot rerun the market to determine how resources would have operated but for the error and cannot know whether resources would have operated in accordance with that counterfactual clearing even if it could be determined.[54]

32. Second, ISO-NE states that, even if it could determine an accurate counterfactual operating scenario (and make the necessary resource operating assumptions), ISO-NE does not have funds at its disposal to settle the market in accordance with that counterfactual operating scenario; any resulting resettlement would necessarily involve paying and charging market participants in a manner that does not reflect the payments or charges that should apply based on actual market operation. ISO-NE also states that it is not evident under standard principles of cost allocation which market participants should be responsible for providing the necessary funds to correct the erroneous settlement.[55]

33. ISO-NE states that, while in *ISO-NE* it sought and received approval to implement a modification to a particular Capacity Performance Payment charge, it did so in as narrow a fashion as possible—by assuming only that the resource would have operated at its maximum output if permitted to do so, solely for purposes of reversing the relatively small ($68,000) Capacity Performance Payment charge, which was funded from the ISO-NE-managed Late Payment Account. However, ISO-NE explains that its resettlement request did not assume an entirely different resource dispatch to "correct" energy and reserve market settlements; instead, the latter issues were addressed by

[52] *Id.* at 13-14.

[53] *Id.* at 14.

[54] *Id.*

[55] *Id.*

correcting the Control Room Operating Procedures on a prospective basis to prevent similar issues in the future.[56]

34. ISO-NE states that while it used the Late Payment Account to refund an erroneous Capacity Performance Payment charge in *ISO-NE*, there are two primary reasons the Late Payment Account cannot serve as a repeated, long-term funding source to correct future erroneous charges. First, ISO-NE states that the Late Payment Account exists so that ISO-NE can "cover" Default Amounts when the collateral of a defaulting entity or setoff rights against the defaulting entity are insufficient. ISO-NE explains that, because of the frequency of ISO-NE billing, without the Late Payment Account, any market participant default (that cannot be covered by the market participant's collateral or setoff against the market participant's other earned revenues) would result in reduced payments or increased charges to other market participants; therefore, relying on the Late Payment Account to fund the reversal of settlement errors would risk a larger portion of defaults being socialized to other market participants, which, in turn, would increase the overall risk of participation in ISO-NE-administered markets. Second, ISO-NE states that the Late Payment Account is not a consistent source of funding, as it is funded by Late Payment Charges and penalties collected under the ISO New England Financial Assurance Policy and the ISO-NE Billing Policy, and these collections vary over time.[57]

b. Commission Determination

35. We find that the current Tariff is just and reasonable as it relates to the settlement of Capacity Performance Payments. In the Show Cause Order, the Commission stated that it appeared that the Tariff had no mechanism to address the adjustment of erroneous Capacity Performance Payment charges due to an ISO-NE operational error identified prior to the finalization of the settlement process, which could result in unjust and unreasonable payments and charges.[58] However, the Commission also noted the importance of avoiding interference with Tariff provisions that limit challenges to market results in the interest of market finality.[59] Based on ISO-NE's response, we find that the existing settlement and billing processes noted by ISO-NE provide sufficient mechanisms and opportunities for correcting errors within the scope of Tariff section III.3.6.2 using corrected meter data and the Tariff-based formula for calculating the resource's Capacity Performance Payment. As explained below, we agree with ISO-NE that requiring Tariff revisions that would allow for addressing a wider set of Capacity Performance Payment

[56] *Id.* at 14-15.

[57] *Id.* at 15.

[58] Show Cause Order, 194 FERC ¶ 61,187 at P 9.

[59] *Id.* n.26.

errors could upset market outcomes and would be technically and financially challenging to design and implement.

36. Specifically, we agree with ISO-NE that it is just and reasonable for the Tariff to limit the types of errors that ISO-NE may correct to those that do not impact unit commitment and real-time dispatch of the system. We further agree that attempts to resettle based on any counterfactual scenario may not be feasible because ISO-NE would need to know: (1) how the initial resource in question would have operated, and (2) how all other resources on the system would have operated. We further agree with ISO-NE that, even if this were possible, ISO-NE may lack sufficient funds to settle the market in accordance with that counterfactual operating scenario and that it is unclear which market participants should be responsible for providing the necessary funds to correct the erroneous settlement. We find that the complexities and drawbacks involved in designing and implementing revisions to the market rules to enable correction of Capacity Performance Payment errors in settlements reflecting system commitments and dispatch would likely outweigh any potential issue that the revisions would be aimed at remedying. We also note that the likelihood of a future operator dispatch error of the type that drove the need for a minor alteration of Capacity Performance Charges in *ISO-NE* has been reduced prospectively through Control Room Operating Procedure changes by ISO-NE.[60]

3. Revision to the Tariff to Enable the Extension of Settlement Deadlines by Commission Action to Address Settlement Errors

a. ISO-NE's Answer

37. ISO-NE states that, in addition to the proposed ISO-NE Billing Policy changes, it is also contemplating adding a provision to the Tariff that would allow itself or market participants to seek, through a filing with the Commission, the limited extension of a settlement deadline to address settlement errors identified outside the normal billing timelines.[61] ISO-NE states that it is considering adding a provision to the Tariff that is similar to section 7.4 of the New York Independent System Operator, Inc. (NYISO) Market Administration and Control Area Services Tariff, which provides:

> "[F]inalized" data and invoices shall not be subject to further correction, including by the ISO, except as ordered by the Commission or a court of competent jurisdiction; provided, however, that nothing herein shall be construed to restrict any

[60] ISO-NE Answer at 15.

[61] *Id.* at 16.

> stakeholder's right to seek redress from the Commission in accordance with the Federal Power Act.[62]

38. ISO-NE argues that, if it were to add such a provision, the provision would expressly limit its use to the extension of settlement deadlines to permit the correction of settlement-related errors that ISO-NE is otherwise permitted to correct within those settlement deadlines. Specifically, ISO-NE states that such a provision would limit corrections related to settlement errors that could be corrected but for the Tariff-imposed settlement deadlines, and that adding this language would provide notice to ratepayers that such resettlements may occur outside of the routine billing deadlines. ISO-NE asserts that this would avoid filed rate doctrine and retroactive ratemaking concerns.[63] ISO-NE states that the Commission has found that NYISO's provision provides sufficient notice to customers that finalized meter data and invoices could be subject to further correction by order of the Commission outside of the otherwise applicable time bar.[64]

39. However, ISO-NE states that it recognizes the Commission's desire to reduce repeated waiver requests and that the addition of a provision permitting extension of settlement deadlines by Commission order may be at odds with this objective.[65] ISO-NE states that the addition of a similar provision to the Tariff could have the effect of increasing waiver requests to address settlement errors.[66] ISO-NE states that it is possible, however, that it could take steps to mitigate this risk by, for example, adding a condition to the provision to narrow its applicability by requiring that any such request must demonstrate, to the Commission's satisfaction, that the market participant could not have identified the error prior to the settlement deadlines. ISO-NE requests guidance

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[62] *Id.* (citing NYISO, NYISO Tariffs, NYISO MST, § 7.4 (Billing Disputes) (4.0.0), § 7.4).

[63] *Id.*

[64] *Id.* at 16-17 (citing *Consol. Edison Co. of N.Y., Inc.*, 187 FERC ¶ 61,004, at P 24 (2024); *NRG Power Mktg. LLC*, 178 FERC ¶ 61,055, at P 10 (2022); *Consol. Edison Co. of N.Y., Inc.*, 168 FERC ¶ 61,047, at P 11 (2019); *Niagara Mohawk Power Corp.*, 123 FERC ¶ 61,314, at PP 24-25 (2008)).

[65] *Id.* at 17 (citing Show Cause Order, 194 FERC ¶ 61,187 at P 9 (citing *Waiver of Tariff Requirements*, 193 FERC ¶ 61,135, at P 23 (2025) ("[W]e encourage regulated entities to adopt tariff revisions that . . . allow the entities to cure good-faith errors themselves within a discrete period of time without the need for a Commission waiver . . . .")).

[66] *Id.*

regarding adding a provision to the Tariff to enable the extension of settlement deadlines by Commission action.

b. Commission Determination

40. While we appreciate the thought that ISO-NE has devoted to the provision that it is "contemplating adding" to its Tariff, we will decline ISO-NE's request to "provide guidance" on that provision, including with respect to the questions of whether the future proposal described in ISO-NE's answer would "comport with the Commission's goal[s]" or should instead be "narrow[ed]" or otherwise revised.[67] We encourage ISO-NE to submit whatever section 205 filing it believes is appropriate. To the extent that ISO-NE submits such a filing in the future, the Commission will evaluate ISO-NE's proposal at that time.

The Commission orders:

ISO-NE is hereby directed, within 120 days of the date of this order, to submit a compliance filing, as discussed in the body of this order.

By the Commission. Commissioner Rosner is concurring with a separate statement attached.
Commissioner See is concurring with a separate statement attached.

(S E A L)

Carlos D. Clay,
Deputy Secretary.

[67] ISO-NE Answer at 16-17.

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

ISO New England, Inc. Docket No. EL26-45-000

(Issued September 10, 2026)

ROSNER, Commissioner, *concurring*:

1. I agree with today's order that ISO-NE's proposed reforms will address the Tariff gaps identified in the Show Cause Order. ISO-NE also requested guidance on whether to add a particular remedial provision to its Tariff, and while today's order declines to provide that guidance on that specific provision, I write separately to express my views on this issue generally.

2. It is simply not enough for tariffs to contain sound *substantive* provisions. Rather, tariffs also need sound *remedial* provisions. That is, regulated entities must proactively anticipate that things will not always go according to plan. Unless tariffs include provisions to fairly and efficiently resolve those situations, serious but fixable errors can go unaddressed, while regulated entities' and the Commission's hands remain unnecessarily tied.

3. For that reason, I encourage utilities—and especially RTOs/ISOs—to consider adopting more robust remedial provisions in their tariffs that unlock flexibility to correct minor errors. For example, as I have mentioned previously,[1] and as the Commission has encouraged,[2] breaching parties could have discrete cure periods for fixing errors. Cure periods allow regulated entities to remedy deficiencies, such as missed deadlines, or other errors as a matter of course—all without having to come to the Commission for relief. In addition, tariffs could initially refer disagreements over certain errors to internal dispute resolution processes. Last, tariffs could specify that regulated entities can swiftly correct certain errors themselves,[3] or that the Commission can waive particular tariff provisions.[4]

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[1] *Urb. Grid Solar Projects, LLC v. PJM Interconnection, L.L.C.*, 189 FERC ¶ 61,208 (2024) (Rosner, Comm'r, concurring).

[2] *Waiver of Tariff Requirements*, 193 FERC ¶ 61,135, at P 23 (2025).

[3] 196 FERC ¶ 61,185, at P 26.

[4] *See, e.g.*, SPP Tariff, attach. AE (Integrated Marketplace), § 10.1.1(3)(a); PJM, Intra-PJM Tariffs, OATT, attach. DD, § 6.6(g) (Offer Requirement for Capacity

4. I support targeted provisions like these because they can help overcome some of the challenges that we have encountered with waiver requests in recent years. Time and time again, the Commission's hands have been tied by the filed rate doctrine, often leaving the Commission with no choice but to deny otherwise valid, and often *unopposed*, waiver requests. In other circumstances, tariffs that included cure provisions could have avoided contentious proceedings in which the passage of time exacerbated the consequences of otherwise minor errors.

5. These outcomes are not inevitable. Tariffs should be clear and promote compliance, but they should also provide mechanisms for quickly resolving errors and missteps to ensure that parties are not unduly penalized for inadvertent mistakes that cause no third-party harm. Ultimately, this approach supports efficient market operations and delivers better outcomes for consumers.

6. To be sure, no remedial provision is a silver bullet. But I nonetheless encourage ISO-NE and other transmission providers to consider adding remedial provisions to their tariffs. Doing so can help resolve uncontroversial errors more fairly and efficiently.

For these reasons, I respectfully concur.

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David Rosner
Commissioner

Resources), § 6.6(g); NYISO Market Administration and Control Area Services Tariff, § 7.4 (Billing Disputes); CAISO Tariff, § 37.8.10 (Review Of Determination).

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

ISO New England Inc. Docket No. EL26-45-000

(Issued September 10, 2026)

SEE, Commissioner, *concurring*:

1. I appreciate ISO-NE taking on what has become a repeated issue as it has increasingly found itself unable to correct erroneous charges and payments to and from market participants.[1] I fully agree with today's order accepting ISO-NE's proposal to address these concerns when it comes to accepting and reallocating refunds for payments market participants received in error, as well as modifying the Billing Policy RBA process to let the ISO address more post-settlement issues.[2] I also agree that—given the potential for market upset and other technical and financial challenges—FPA Section 206 does not require the Commission to mandate additional mechanisms to address cases where market participants overpay due to errors impacting unit commitment or real-time dispatch.[3]

2. With respect to ISO-NE's request for Commission guidance whether it should address some overpayment scenarios by allowing extended settlement deadlines in certain cases, I also agree with today's order declining to advise on a hypothetical Tariff revision.[4] Sound policy supports the Commission's practice not to weigh in on a potential Tariff change without full details of a proposal and the benefit of potential input from interested parties.[5]

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[1] *ISO New England Inc.*, 194 FERC ¶ 61,187 (2026); *see also See Canal Mktg. LLC*, 188 FERC ¶ 61,122 (2024); *Brookfield Renewable Trading & Mktg. LP*, 194 FERC ¶ 61,186 (2026); *ISO New England Inc.*, 193 FERC ¶ 61,084 (2025) (*ISO-NE*).

[2] *ISO New England Inc.*, 196 FERC ¶ 61,185 at PP 25-27 (2026).

[3] *Id.* PP 35-36.

[4] *Id.* P 40.

[5] *See, e.g., Advanced Energy Mgmt. All. v. FERC*, 860 F.3d 656, 662 (D.C. Cir. 2017) (citing *City of Winnfield v. FERC*, 744 F.2d 871, 875-76 (D.C. Cir. 1984) (describing the Commission's "passive and reactive role" with respect to section 205 filings)).

3. I write separately, however, to encourage ISO-NE and stakeholders to continue considering whether balanced solutions—like this hypothetical change or otherwise—could address the inequities from a lack of Tariff-based solutions to return overpayments. This task is particularly important because the Commission may not be able to come in with a remedial save to make up for the Tariff's gap in future cases. To my mind, if situations similar to those giving rise to this Show Cause proceeding recur, the Commission may be legally prohibited from granting relief no matter how compelling the facts. As I highlighted in *ISO-NE*, even when all the equities weigh in a waiver applicant's favor, the Commission has no legal authority to waive tariff provisions when doing so violates the filed rate doctrine and the corollary rule against retroactive ratemaking.[6] Although a three-member Commission granted case-specific relief over my dissent in that decision last year, the facts of a future case may well lead to a different result.

4. The filed rate doctrine and rule against retroactive ratemaking deal in notice and market participants' expectations.[7] As it stands today, this proceeding makes clear that ISO-NE does not think the Tariff currently allows relief in circumstances like those in *ISO-NE*—that is, errors impacting unit commitment or real-time dispatch. Arguably, then, market participants have even more notice now than they did a year ago that the rate on file does *not* leave room to resolve even exceedingly sympathetic inequities.

5. So while I agree that we should not opine on the specifics of a proposal that is not in front of us, I do encourage ISO-NE and interested parties to consider whether Tariff revisions allowing ISO-NE to remedy errors under more circumstances would be appropriate. Tacit reliance on extra-Tariff relief that the Commission may be statutorily barred from providing is not a durable fallback.

For these reasons, I respectfully concur.



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Lindsay S. See
Commissioner

[6] *See ISO-NE,* 193 FERC ¶ 61,084 (2025) (See, Comm'r, dissenting at P 2) ("ISO-NE has already applied the Tariff provision it now asks the Commission to waive. That's the definition of retroactive relief: The ISO wants to unring the bell, not get permission to keep from ringing it in the first place.").

[7] *Id.* P 7.