

196 FERC ¶ 61,240
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

September 28, 2026

In Reply Refer To:
ISO New England Inc.
Docket No. ER26-3213-000

ISO New England Inc.
One Sullivan Road
Holyoke, MA 01040-2841

NEPOOL Participants Committee
Day Pitney LLP
Goodwin Square
225 Asylum Street
Hartford, CT 06103

Attention: Kelly Caiazzo and Rosendo Garza, Jr.

Dear Kelly Caiazzo and Rosendo Garza, Jr.:

1. On July 21, 2026, pursuant to Rule 1907 of the Commission's Rules of Practice and Procedure¹ and section 206 of the Federal Power Act,² ISO New England Inc. (ISO-NE), joined by the New England Power Pool Participants Committee (together, Filing Parties), submitted revisions to the ISO-NE Transmission, Markets and Services Tariff (Tariff)³ to cap the Capacity Balancing Ratio (Balancing Ratio)⁴ at 1.0 and to make conforming changes necessary to effectuate the Balancing Ratio cap, in compliance with the directives in a January 22, 2026, Commission order.⁵ As discussed below, we accept the proposed Tariff revisions, effective October 1, 2026, as requested.

¹ 18 C.F.R. § 385.1907 (2025).

² 16 U.S.C. § 824e.

³ See Appendix for tariff records accepted in this order.

⁴ Capitalized terms used but not otherwise defined in this order have the meanings ascribed to them in the Tariff.

⁵ *New Eng. Power Generators Ass'n v. ISO New Eng. Inc.*, 194 FERC ¶ 61,052 (2026) (Complaint Order).

2. Under ISO-NE's pay for performance (Pay for Performance) construct, ISO-NE employs a two-settlement design whereby a resource's total capacity market revenue is comprised of a Capacity Base Payment and a Capacity Performance Payment.⁶ The Capacity Base Payment is typically determined by the associated Forward Capacity Auction clearing price.⁷ The Capacity Performance Payment is determined by the resource's performance—in the form of delivery of energy and reserves in real time—during periods where there are reserve deficiencies known as Capacity Scarcity Conditions.⁸ The Capacity Performance Payment is calculated as follows. For each resource, whether or not it has a Capacity Supply Obligation,⁹ ISO-NE calculates a Capacity Performance Payment for each five-minute interval in which a Capacity Scarcity Condition exists in the Capacity Zone in which the resource is located.¹⁰ A resource's Capacity Performance Payment for an interval equals the resource's Capacity Performance Score for the interval multiplied by the Capacity Performance Payment Rate, which is stated in the Tariff.¹¹

3. A resource's Capacity Performance Score for the interval is equal to the resource's Actual Capacity Provided¹² during the interval minus the product of the resource's

⁶ Tariff, § III.13.7 (Performance, Payments and Charges in the FCM) (75.0.0).

⁷ The Capacity Base Payment can also be based on prices established in Reconfiguration Auctions, Capacity Supply Obligation Bilaterals, and Substitution Auctions. Tariff, § III.13.7 (Performance, Payments and Charges in the FCM) (75.0.0), § III.13.7.1.1. An exporting resource's payments may also be adjusted. *Id.* § III.13.7.1.3.

⁸ ISO-NE excludes Energy Efficiency resources from its Pay for Performance construct. *ISO New Eng. Inc.*, 174 FERC ¶ 61,252, at P 26 (2021).

⁹ Capacity Supply Obligation is “an obligation to provide capacity from a resource, or a portion thereof, to satisfy a portion of the Installed Capacity Requirement that is acquired through a Forward Capacity Auction in accordance with Section III.13.2 or an Annual Capacity Auction in accordance with Section III.15.4, a reconfiguration auction in accordance with Section III.13.4 or Section III.15.5, or a Capacity Supply Obligation Bilateral in accordance with Section III.13.5.1 or Section III.15.6.1 of Market Rule 1.” Tariff, § I.2 (Rules of Construction; Definitions) (177.0.0).

¹⁰ *Id.* § III.13.7.2.6.

¹¹ *Id.* § III.13.7.2.5 (“The ISO shall review the Capacity Performance Payment Rate in the stakeholder process as needed and shall file with the Commission a new Capacity Payment Rate if and as appropriate.”).

¹² *Id.* § III.13.7.2.2.

Capacity Supply Obligation and the applicable Balancing Ratio.¹³ ISO-NE calculates the Balancing Ratio using the formula: (Load + Reserve Requirement) / Total Capacity Supply Obligation.¹⁴ The Balancing Ratio generally reflects the total system needs during the Capacity Scarcity Condition (i.e., energy and reserves) relative to the aggregate Capacity Supply Obligations of all resources (i.e., the Total Capacity Supply Obligation).¹⁵ A Balancing Ratio of less than 1.0 reflects that the total energy and reserves required during the Capacity Scarcity Condition were less than the sum of Capacity Supply Obligations. A Balancing Ratio of greater than 1.0 reflects that the total energy and reserves required during the Capacity Scarcity Condition were greater than the sum of Capacity Supply Obligations.

4. To limit suppliers' downside exposure, the Pay for Performance design includes a monthly stop-loss limit, which limits a capacity resource's net financial losses in each month of the Capacity Commitment Period, and an annual stop-loss limit, which limits a capacity resource's net financial losses over the entire annual Capacity Commitment Period.¹⁶

5. The Tariff also includes provisions for determining the allocation of excess or deficient Capacity Performance Payments.¹⁷ Excesses occur when negative payments exceed positive payments, meaning that ISO-NE collects more funds than needed. Deficiencies occur in cases where capacity resources underperform and meet their stop-loss limit and when positive payments exceed negative payments, meaning that

¹³ *Id.* § III.13.7.2.4. The Tariff notes that for this calculation, the resource's Capacity Supply Obligation cannot be negative. The Tariff also explains how the Capacity Performance Score for certain demand resources may be adjusted further.

¹⁴ *Id.* § III.13.7.2.3.

¹⁵ *Id.* § III.13.7.2.3(b). The capacity associated with Energy Efficiency measures is excluded from both the Load and the Total Capacity Supply Obligation in the Balancing Ratio formula.

¹⁶ The monthly stop-loss limit caps a resource's negative Capacity Performance Payment to an amount equal to the product of the applicable Forward Capacity Auction Starting Price multiplied by the resource's Capacity Supply Obligation for the month. *Id.* § III.13.7.3.1. Under the annual stop-loss limit, a capacity resource cannot be worse off due to its Capacity Supply Obligation, on an annual basis, than three times its maximum monthly potential net loss. *Id.* § III.13.7.3.2.

¹⁷ *Id.* § III.13.7.4. Under this Tariff provision, load is not allocated deficient or excess deficient Capacity Performance Payments.

ISO-NE lacks funds to make all the positive payments.¹⁸ Excesses and deficiencies are allocated to all Capacity Supply Obligation holders (i.e., all capacity resources) on a pro rata basis, in proportion to each such capacity resource's Capacity Supply Obligation, thereby increasing or decreasing net payments to capacity resources.¹⁹

6. On July 25, 2025, pursuant to FPA section 206,²⁰ the New England Power Generators Association (NEPGA) filed a complaint against ISO-NE arguing that certain Tariff provisions that provide for the Balancing Ratio and the allocation of stop-losses in ISO-NE's Pay for Performance design are unjust and unreasonable because they hold capacity resources to a performance standard greater than their Capacity Supply Obligation during Capacity Scarcity Conditions.²¹ With respect to the Balancing Ratio, NEPGA argued that because the Tariff provisions allowed the Balancing Ratio to rise above 1.0, capacity resources could be held to a performance standard greater than their Capacity Supply Obligation and could be required to provide more power than their maximum output, which NEPGA asserted is impossible.²²

7. On January 22, 2026, the Commission issued an order granting the complaint in part, with respect to ISO-NE's uncapped Balancing Ratio, and denying in part, with respect to the allocation methodology for the stop-loss mechanism.²³ The Commission directed ISO-NE to submit a compliance filing within 180 days of the date of the order proposing Tariff revisions to cap the Balancing Ratio at 1.0 and to make any conforming changes that ISO-NE finds necessary to effectuate the Balancing Ratio cap.²⁴

8. Filing Parties state that the proposed Tariff revisions comply with the Commission's directives to cap the Balancing Ratio at 1.0 and to make any conforming

¹⁸ *ISO New Eng. Inc.*, Transmittal, Docket No. ER14-1050-000, at 45 (filed Jan. 17, 2014).

¹⁹ For a capacity resource subject to the stop-loss mechanism, such credits are reduced (though not to less than zero) by the amount not charged to the capacity resource due to the application of the stop-loss mechanism, and the remaining excess will be further allocated to other resources in the same manner. Tariff, § III.13.7 (Performance, Payments and Charges in the FCM) (75.0.0), § III.13.7.4(b).

²⁰ 16 U.S.C. § 824e.

²¹ NEPGA, Complaint, Docket No. EL25-106-000 (filed July 25, 2025).

²² *Id.* at 24-32.

²³ Complaint Order, 194 FERC ¶ 61,052.

²⁴ *Id.* P 23.

changes that ISO-NE finds necessary to effectuate the Balancing Ratio cap.²⁵ Specifically, Filing Parties propose to add language to the formula for calculating the Balancing Ratio to state that “the Capacity Balancing Ratio shall not exceed a value of 1.0.”²⁶ Regarding the conforming changes, Filing Parties explain that their proposal to cap the Balancing Ratio at 1.0 necessarily causes potential payment fund deficiencies due to the absence of charges that otherwise would be collected during an event in which the Balancing Ratio exceeds 1.0.²⁷ Filing Parties propose to allocate any such deficiencies to overperforming resources such that, all else equal, overperformers may receive an effective Capacity Performance Payment Rate that is lower than the rate stated in the Tariff.

9. Next, Filing Parties state that because the Commission did not find the allocation methodology for stop-loss-related payment fund deficiencies to be unjust and unreasonable, Filing Parties propose Tariff changes to separate payment fund deficiencies based on their source (i.e., Balancing Ratio capping or stop-loss-related).²⁸ Filing Parties explain that as a result, Balancing Ratio-related deficiencies are allocated only to overperforming resources, as discussed above, while stop-loss related deficiencies continue to be allocated to all resources with Capacity Supply Obligations.

10. Filing Parties also propose to eliminate Capacity Performance Bilaterals.²⁹ Filing Parties explain that under this construct, if a resource has a Capacity Performance Score that is greater than zero in a five-minute interval that is subject to a Capacity Scarcity Condition, that resource may transfer all or some of that Capacity Performance Score to another resource for that same five-minute interval so long as both resources were subject to the same Capacity Scarcity Condition.³⁰ Filing Parties state that such a transaction has the effect of modifying the Capacity Performance Scores of the transferring and receiving resources for the Capacity Scarcity Conditions subject to the Capacity Performance Bilateral for purposes of calculating Capacity Performance Payments.³¹ Filing Parties

²⁵ Transmittal at 1 (citing Complaint Order, 194 FERC ¶ 61,052).

²⁶ *Id.* at 6.

²⁷ *Id.* at 7-9.

²⁸ *Id.* at 9-10 (citing Complaint Order, 194 FERC ¶ 61,052 at PP 82-83).

²⁹ *Id.* at 10-11.

³⁰ *Id.* at 10 (citing Tariff, § III.13.5 (Bilateral Contracts in the Forward Capacity Market) (27.0.0), § III.13.5.3.1; *id.* § III.15 (Annual Capacity Market) (1.0.0), § III.15.6.3.1).

³¹ *Id.* (citing Tariff, § III.13.5 (Bilateral Contracts in the Forward Capacity Market) (27.0.0), § III.13.5.3.3; *id.* § III.15 (Annual Capacity Market) (1.0.0), § III.15.6.3.3).

propose eliminating Capacity Performance Bilaterals because capping the Balancing Ratio at 1.0 could create asymmetrical performance and charge rates and thus the potential for counter-productive Capacity Performance Bilateral transactions. Filing Parties note that Capacity Performance Bilaterals have “been utilized minimally since Pay for Performance was established.”³²

11. Finally, Filing Parties propose to amend the amount of capacity market financial assurance due to cover Pay for Performance risk based on historical Balancing Ratios capped at 1.0.³³ Filing Parties explain that in doing so, financial assurance will more accurately capture future Pay for Performance risk with the Balancing Ratio capped at 1.0.

12. Notice of Filing Parties’ filing was published in the *Federal Register*, 91 Fed. Reg. 46780 (July 24, 2026), with interventions and protests due on or before August 11, 2026. Timely motions to intervene were filed by: Constellation Energy Generation, LLC; NEPGA; Rhode Island State Energy Center, LP; Shell Energy Norther America (US), L.P.; and Vistra Corp. Massachusetts Department of Public Utilities filed a notice of intervention. NEPGA filed comments asking the Commission to approve Filing Parties’ filing.

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

14. We find that Filing Parties have complied with the directives in the Complaint Order to cap the Balancing Ratio at 1.0 and to make any conforming changes that ISO-NE finds necessary to effectuate the Balancing Ratio cap.³⁴ First, we find that the proposed Tariff revisions cap the Balancing Ratio at 1.0, as directed. Second, we find that each conforming change described above is just and reasonable and necessary to conform the existing market construct to a Balancing Ratio capped at 1.0. We agree with Filing Parties that the newly capped Balancing Ratio will cause potential payment fund deficiencies due to the absence of charges that otherwise would have been collected. We find that Filing Parties’ proposal to allocate any such deficiencies to overperforming resources reasonable because, as the Commission found in the Complaint Order, overperforming resources will still have strong incentive to perform even after being allocated these deficiencies.³⁵ Regarding Filing Parties’ proposal to separate payment

³² *Id.* at 10 n.46.

³³ *Id.* at 11-12.

³⁴ Complaint Order, 194 FERC ¶ 61,052 at P 23.

³⁵ Complaint Order, 194 FERC ¶ 61,052 at P 58.

fund deficiencies based on their source (i.e., Balancing Ratio capping or stop-loss-related), we agree with Filing Parties that these revisions are necessary to maintain the existing allocation methodology for stop-loss-related payment fund deficiencies. We also find Filing Parties' proposed elimination of Capacity Performance Bilaterals to be a reasonable approach to address potential inefficiencies. Finally, we agree with Filing Parties that their proposed revisions to the amount of capacity market financial assurance due to cover Pay for Performance risk be based on historical Balancing Ratios capped at 1.0 will more accurately capture future Pay for Performance risk with the Balancing Ratio capped at 1.0.

By direction of the Commission

Carlos D. Clay,
Deputy Secretary.

Appendix – Tariff Records

ISO New England Inc.
ISO New England Inc. Transmission, Markets and Services Tariff

- [I.2, I.2 Rules of Construction; Definitions \(178.0.0\)](#)
- [Exhibit IA, Exhibit IA ISO-NE Financial Assurance Policy \(69.0.0\)](#)
- [Section III TOC, Section III - Table of Contents \(57.0.0\)](#)
- [III.1, III.1 Market Operations \(78.0.0\)](#)
- [III.13.5, III.13.5 Bilateral Contracts in the Forward Capacity Market \(29.0.0\)](#)
- [III.13.7, III.13.7 Performance, Payments and Charges in the FCM \(74.0.0\)](#)
- [III.15, III.15 Annual Capacity Market \(2.0.0\)](#)