

196 FERC ¶ 61,252
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.
New England Power Pool Participants Committee

Docket No. ER26-3379-000

ORDER ACCEPTING TARIFF REVISIONS

(Issued September 30, 2026)

1. On July 31, 2026, pursuant to section 205 of the Federal Power Act (FPA),¹ ISO New England Inc. (ISO-NE) and New England Power Pool Participants Committee (NEPOOL) (together, Filing Parties) filed proposed revisions to the ISO-NE Transmission, Markets and Services Tariff (Tariff) to charge net System-Backed Exports the Performance Payment Rate during Capacity Scarcity Conditions.² As discussed below, we accept Filing Parties' proposed Tariff revisions,³ effective October 1, 2026, as requested.

I. Background

2. Under ISO-NE's pay for performance construct (Pay for Performance), 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.⁴ The Capacity Base Payment is typically determined by the associated Forward Capacity Auction clearing price.⁵ The Capacity Performance Payment is determined by the

¹ 16 U.S.C. § 824d.

² Capitalized terms used but not otherwise defined in this order have the meanings ascribed to them in the Tariff.

³ See Appendix for tariff records accepted in this order.

⁴ ISO-NE, Tariff, § III (Market Rule 1- Standard Market Design), § III.13.7 (Performance, Payments and Charges in the FCM) (75.0.0).

⁵ The Capacity Base Payment can also be based on prices established in Reconfiguration Auctions, Capacity Supply Obligation Bilaterals, and Substitution Auctions. *Id.*, § III.13.7 (Performance, Payments and Charges in the FCM) (75.0.0),

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.⁶ The Capacity Performance Payment is calculated as follows: for each resource, whether or not it has a Capacity Supply Obligation,⁷ ISO-NE calculates a Capacity Performance Payment for each five-minute interval in which a Capacity Scarcity Condition exists in the Capacity Zone where the resource is located.⁸ 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.⁹ A resource's Capacity Performance Score for the interval is equal to the resource's Actual Capacity Provided¹⁰ during the interval minus the product of the resource's Capacity Supply Obligation and the applicable Balancing Ratio.¹¹

§ III.13.7.1.1. An exporting resource's payments may also be adjusted. *Id.* § III.13.7 (75.0.0) (Performance, Payments and Charges in the FCM), § III.13.7.1.3.

⁶ ISO-NE excludes Energy Efficiency resources from its Pay for Performance construct. *ISO New Eng. Inc.*, 174 FERC ¶ 61,252, at P 26 (2021).

⁷ 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, a reconfiguration auction in accordance with Section III.13.4, or a Capacity Supply Obligation Bilateral in accordance with Section III.13.5.1 of Market Rule 1.” Tariff, § I.2 (Rules of Construction; Definitions) (177.0.0).

⁸ *Id.* § III.13.7 (Performance, Payments and Charges in the FCM) (75.0.0), § III.13.7.2.6.

⁹ *Id.* § III.13.7 (Performance, Payments and Charges in the FCM) (75.0.0), § 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.”).

¹⁰ *Id.* § III.13.7 (Performance, Payments and Charges in the FCM) (75.0.0), § III.13.7.2.2.

¹¹ *Id.* § III.13.7 (Performance, Payments and Charges in the FCM) (75.0.0), § III.13.7.2.4. The Tariff notes that for this calculation, the resource's Capacity Supply Obligation cannot be negative. *Id.* The Tariff also explains how the Capacity Performance Score for certain demand resources may be adjusted further. *Id.*

3. Exports of energy from the New England Control Area during a Capacity Scarcity Condition can reduce a resource's Actual Capacity Provided, and, thus, in the case of a resource with a Capacity Supply Obligation, can lead to a negative Capacity Performance Score and negative Capacity Performance Payment when exports reduce a resource's contribution of energy and reserves below its share-of-system obligation.¹² However, since the Tariff also sets a floor for the calculation of Actual Capacity Provided at 0 MW, exports that exceed a Capacity Supply Obligation or non-Capacity Supply Obligation resource's provision of energy and reserves to the New England system do not incur a Pay for Performance charge.¹³

II. Filing

4. Filing Parties propose a new System-Backed Exports Charge to be assessed to System-Backed Exports during Capacity Scarcity Conditions.¹⁴ Filing Parties propose new Tariff sections to define "System-Backed Exports" and set forth the calculation of the System-Backed Export Charges.¹⁵ Filing Parties explain that the proposal defines System-Backed Exports as External Transaction sales that are either: (1) not associated with a generator; or (2) associated with a generator but exceeding the energy and reserves the generator provides. Additionally, Filing Parties propose revisions to Tariff section III.13.7.2.A.2 to calculate a System-Backed Export Charge for each five-minute interval during which a Capacity Scarcity Condition occurs for External Transactions associated with a generator and for External Transactions not associated with a generator.¹⁶ Filing Parties clarify that exports that are backed by generation or offset by imports are not subject to a System-Backed Export Charge under the proposal.¹⁷

5. Filing Parties explain that under the current Pay for Performance design, resources that perform below their share-of-system obligation during a Capacity Scarcity Condition

¹² Transmittal at 7 (citing Filing, Testimony of Enrico De Magistris, at 9 (De Magistris Test.)).

¹³ *Id.* (citing De Magistris Test. at 10).

¹⁴ *Id.* at 8.

¹⁵ *Id.* at 9-10 (citing Proposed Tariff § III.13.7 (Performance, Payments and Charges in the FCM) (75.0.0), § III.13.7.2.A (System-Backed Export Charges) (76.0.0); Proposed Tariff § III.15 (Annual Capacity Market) (1.0.0), § III.15.8.2.A (System-Backed Export Charges) (4.0.0)).

¹⁶ *Id.*

¹⁷ *Id.* at 10.

are charged a negative Capacity Performance Payment, and those negative Capacity Performance Payments are used to pay resources that perform above their share-of-system obligation.¹⁸ Under the proposal, the new System-Backed Export Charges will be added to negative Capacity Performance Payments but the proposal will not make any additional changes to the allocation of deficient or excess Capacity Performance Payments.¹⁹ Filing Parties propose subtracting the total net System-Backed Export values from the load component of the Balancing Ratio.²⁰ Filing Parties explain that this would align the treatment of System-Backed Exports with the treatment of exports in the calculation of the Balancing Ratio.²¹

6. Filing Parties propose several additional revisions to incorporate the System-Backed Export Charges into the Financial Assurance Policy.²² Filing Parties explain that, consistent with the Financial Assurance Policy's collateralization requirements for potential exposure to negative Capacity Performance Payments, the proposal establishes a new financial assurance requirement, SBE Financial Assurance. Accordingly, Filing Parties propose to add a new subsection titled "SBE Financial Assurance" to section VII of the Financial Assurance Policy, which outlines the calculation of SBE Financial Assurance.²³ Filing Parties propose several additional conforming changes to section III.A. of the Financial Assurance Policy, which specifies a market participant's Financial Assurance Obligations, and to the Billing Policy.²⁴

7. Filing Parties explain that the proposal also removes the total net System-Backed Exports value from the calculation of the load component of the Balancing Ratio to allow

¹⁸ *Id.* at 12-13.

¹⁹ *Id.* at 13. Filing Parties explain no changes are being proposed to the stop-loss mechanism, and System-Backed Exports will not contribute to the accrual of negative Capacity Performance Payments used in the calculation of the monthly or annual stop-loss limit. *Id.*

²⁰ *Id.* at 14.

²¹ *Id.*

²² *Id.* at 15.

²³ *Id.* at 15-18; Proposed Tariff, § I, Ex. IA (ISO New England Financial Assurance Policy) (68.0.0), § VII.C (SBE Financial Assurance) (70.0.0).

²⁴ *Id.* at 19-20; Proposed Tariff, § I, Ex. IA (ISO-NE Financial Assurance Policy) (68.0.0), § III.A (Determination of Financial Assurance Obligations) (70.0.0); Proposed Tariff, § I, Ex. ID (ISO-NE Billing Policy) (20.0.0), § 2.4 (21.0.0).

the FCM Delivery Financial Assurance calculation to more accurately capture the necessary collateral for the updated Pay for Performance rules.²⁵

8. Filing Parties assert that, under the current design, not all exports receive the same treatment during a Capacity Scarcity Condition and the proposed System-Backed Export Charge will eliminate this asymmetry. Filing Parties contend that imposing a charge on System-Backed Exports that exceed the energy and reserves that a resource contributes to the system aligns the treatment of such exports with imports, and with the Pay for Performance objective of incentivizing performance during scarcity conditions.²⁶

9. Filing Parties explain the new charge will eliminate a money-for-nothing problem created by setting the Actual Capacity Provided floor at 0 MW. Filing Parties state that, under the current Tariff, an exporting market participant and an importing market participant could coordinate their external transactions in a manner that would result in no net energy flowing yet result in a Capacity Performance Payment to the importing participant.²⁷ Filing Parties assert that the proposal implements recommendations from the Internal Market Monitor for ISO-NE (IMM) and the ISO-NE External Market Monitor regarding the treatment of exports under Pay for Performance.²⁸

10. Filing Parties request that the Commission accept the Tariff revisions to be effective on October 1, 2026.

III. Notice and Responsive Pleadings

11. Notice of Filing Parties' filing was published in the *Federal Register*, 91 Fed. Reg. 50531 (Aug. 5, 2026), with interventions and protests due on or before August 21, 2026. Constellation Energy Generation, LLC, Shell Energy North America (US), L.P., and Rhode Island State Energy Center, LP each filed a timely motion to intervene. On August 21, 2026, the Financial Marketers Coalition filed a timely motion to intervene and protest. On September 3, 2026, the IMM filed a motion for leave to answer and answer to the Financial Marketers Coalition protest. On September 8, 2026, NEPOOL filed a

²⁵ *Id.* at 18.

²⁶ *Id.* at 9.

²⁷ *Id.*

²⁸ *Id.* at 5-6 (citing Potomac Economics, 2025 Assessment of the ISO New England Electricity Markets, at 64 (June 2025), <https://www.iso-ne.com/static-assets/documents/100037/iso-ne-2025-emmreport-final.pdf>; ISO-NE Internal Market Monitor, 2024 Annual Markets Report, at 22-23 (May 23, 2025), <https://www.iso-ne.com/static-assets/documents/100023/2024-annual-marketsreport.pdf>).

motion for leave to answer and answer to the Financial Marketers Coalition protest. On September 10, 2026, ISO-NE filed a motion for leave to answer and answer to the Financial Marketers Coalition protest. On September 16, 2026, the Financial Marketers Coalition filed a motion for leave to answer and answer to ISO-NE's, NEPOOL's and the IMM's answers.

A. Financial Marketers Coalition Protest

12. The Financial Marketers Coalition states that ISO-NE has failed to demonstrate that its proposal is just and reasonable.²⁹ The Financial Marketers Coalition states that ISO-NE does not address the chilling impacts of the proposal on interchange transactions among ISO-NE and its neighbors, or acknowledge that exporters are not in a position to curtail their transactions when a Capacity Scarcity Condition is announced.³⁰ The Financial Marketers Coalition states that, in other proceedings where a proposal under FPA section 205 may cause harms to existing market participants, the Commission has found that ISO-NE's proposal is just and reasonable where it addresses the risk of negative impacts and narrowly tailors such proposal to minimize such negative impacts.³¹ The Financial Marketers Coalition states that ISO-NE has failed to meet its burden of proof and the Commission must reject its proposal.³²

13. In addition, the Financial Marketers Coalition argues that the Performance Payment Rate is unavoidable for non-Forward Capacity Market exporters. The Financial Marketers Coalition explains that exporters must schedule transactions in the day-ahead and real-time markets in advance and cannot change those transactions once market-specific scheduling windows close.³³ The Financial Marketers Coalition highlights that ISO-NE does not provide advance notice of Capacity Scarcity Conditions, and instead issues a Capacity Scarcity Condition Report days after the operating day.³⁴ The Financial Marketers Coalition states that penalties are unavoidable because market participants learn of Capacity Scarcity Conditions only through five-minute real-time

²⁹ Financial Marketers Coalition Protest at 1-3.

³⁰ *Id.* at 4.

³¹ *Id.* (citing *Cal. Indep. Sys. Operator Corp.*, 180 FERC ¶ 61,143, at P 41 (2022)).

³² *Id.*

³³ *Id.* at 5.

³⁴ *Id.*

price signals, long after the opportunity to curtail exports has passed.³⁵ The Financial Marketers Coalition states that the Commission has held that where market participants cannot modify their behavior to avoid a particular charge or penalty, that charge or penalty cannot stand.³⁶ The Financial Marketers Coalition suggests ISO-NE could adjust its proposal in one or more of three ways: (1) provide advance notice of Capacity Scarcity Conditions, (2) restrict the applicability of the System-Backed Export Charges to only exports that can be curtailed by the market participant, (3) cut exports itself where a Capacity Scarcity Condition occurs without advance notice.³⁷

14. The Financial Marketers Coalition asserts that applying Pay for Performance penalties to entities that do not hold Capacity Supply Obligations is asymmetrical and inherently unduly discriminatory. The Financial Marketers Coalition states that there are two clear categories of market participants in ISO-NE: those who hold Capacity Supply Obligations they obtained through the capacity market, and those who do not. The Financial Marketers Coalition argue that it is inherently unjust, unreasonable and unduly discriminatory to apply the obligations and resulting risk of penalties for entities that hold Capacity Supply Obligations to market participants that do not hold a Capacity Supply Obligation.³⁸ The Financial Marketers Coalition notes that resources with Capacity Supply Obligations receive capacity payments throughout the delivery year in exchange for an obligation to perform during scarcity conditions, while exporters with no Capacity Supply Obligations carry no such obligation.³⁹

15. The Financial Marketers Coalition observes that ISO-NE frequently curtails exports during periods of capacity shortage and that ISO-NE's proposal ignores this existing non-punitive tool.⁴⁰ The Financial Marketers Coalition explains that ISO-NE curtailed external transactions on July 2, 2026, demonstrating ISO-NE's ability to cut exports itself where necessary.⁴¹ The Financial Marketers Coalition states that, by ignoring an existing tool currently at its disposal and instead proposing a far more punitive option, ISO-NE has not acted in a just and reasonable and not unduly

³⁵ *Id.* at 6.

³⁶ *Id.* (citing *El Paso Nat. Gas Co.*, 125 FERC ¶ 61,309, at P 105 (2008)).

³⁷ *Id.* at 6-7.

³⁸ *Id.* at 8.

³⁹ *Id.*

⁴⁰ *Id.* at 9.

⁴¹ *Id.* at 11-12.

discriminatory manner.⁴² The Financial Marketers Coalition argues that, at a minimum, ISO-NE should be required to explain to the Commission why its existing ability to curtail exports is insufficient to resolve the concerns necessitating the System-Backed Exports Proposal.⁴³

16. The Financial Marketers Coalition argues that ISO-NE's asserted "money for nothing" scheme is speculative, noting ISO-NE admits no market participant has ever engaged in such behavior.⁴⁴ The Financial Marketers Coalition states that ISO-NE is essentially proposing to upend its otherwise vibrant and critical interchange market out of unfounded fears of a speculative problem that has never occurred.⁴⁵ The Financial Marketers Coalition asserts that if ISO-NE's concern is potential affiliate behavior, ISO-NE could tailor its proposal to net the imports and exports of affiliates rather than upending interchange markets.⁴⁶

B. IMM Answer

17. The IMM clarifies two points made by the Financial Marketers Coalition concerning prior statements by the IMM. First, the IMM clarifies that net interchange transactions have been "falling" and not "chilling" over the last five years due to exogenous events that are not related to the ISO-NE proposal. Further, the IMM argues that the proposal should increase the efficiency of the market design by charging exports to increase demand, thereby reducing the net supply available during Capacity Scarcity Conditions.⁴⁷ Second, the IMM argues that the protest misses the intended goal of the proposal by claiming the money-for-nothing scheme is speculative. The IMM explains that it recommended the change ISO-NE is proposing to address an inefficient misalignment in the current market design and for a general (not specific) enforcement concern.⁴⁸ The IMM argues that there is no sound economic basis for netting transactions by a single market participant but not netting transactions on a system-wide basis, given that the overall contribution of external flows to the system is the same in

⁴² *Id.* at 9.

⁴³ *Id.*

⁴⁴ *Id.* at 9–10.

⁴⁵ *Id.*

⁴⁶ *Id.* at 10.

⁴⁷ IMM Answer at 2.

⁴⁸ *Id.*

both scenarios. The IMM states that asymmetry in treatment of export transactions also creates an opportunity for coordination or outright collusion which would be difficult to identify if it were to occur. The IMM argues that the proposal addresses inefficient misalignment in the current market design while also having the additional benefit of closing this potential loophole.⁴⁹

C. NEPOOL Answer

18. NEPOOL argues that the Commission should accept the proposal as it is filed, without condition or modification.⁵⁰ NEPOOL asserts that the Financial Marketers Coalition should have raised its concerns and proposed alternative market design changes through the stakeholder process.⁵¹ While NEPOOL takes no substantive position on the merits of the Financial Marketers Coalition's proposed alternatives, NEPOOL objects to the protest on procedural grounds and asks that the Commission not use those unvetted proposals as a basis for rejecting or modifying the proposal.⁵²

D. ISO-NE Answer

19. ISO-NE argues that the protest makes very broad and unsupported claims that should be rejected by the Commission.⁵³ ISO-NE clarifies that the proposal does not impose additional performance obligations on Capacity Supply Obligation or non-Capacity Supply Obligation participants, nor does it charge Capacity Supply Obligation or non-Capacity Supply Obligation participants for underperforming their share-of-system obligation.⁵⁴ ISO-NE explains that the proposal instead charges participants' net System-Backed Exports at the Performance Payment Rate.⁵⁵ ISO-NE contends this change is necessary to provide efficient incentives for the scheduling of external

⁴⁹ *Id.* at 3.

⁵⁰ NEPOOL Answer at 3.

⁵¹ *Id.* at 5.

⁵² *Id.* at 4.

⁵³ ISO-NE Answer at 2.

⁵⁴ *Id.* at 3, 6-7.

⁵⁵ *Id.* at 3.

transactions, and that the current Pay for Performance design fails to reflect the full cost of those exports to the system during scarcity conditions.⁵⁶

20. ISO-NE explains that under the current rules, and under the proposal, all resources without a Capacity Supply Obligation have a share-of-system obligation of 0 MW, and no participant with a 0 MW share-of-system obligation would be charged for non-performance.⁵⁷ ISO-NE states that the System-Backed Export Charges are not imposed for “underperformance,” i.e., for failing to provide energy or reserves to the ISO-NE system during a Capacity Scarcity Condition. In contrast, ISO-NE explains that exports that exceed a resource’s provision of energy and reserves to the system will be charged at the Performance Payment Rate, regardless of whether the resource has a Capacity Supply Obligation.⁵⁸ Therefore, ISO-NE asserts that the protest’s allegation that applying the proposal to participants without a Capacity Supply Obligation constitutes an unduly discriminatory performance charge is misplaced.

21. In addition, ISO-NE explains that treatment of exports under the current Pay for Performance market design creates asymmetries that would be addressed by charging net System-Backed Exports the Performance Payment Rate during Capacity Scarcity Conditions.⁵⁹ ISO-NE explains that transactions that export energy out of the ISO-NE system during a Capacity Scarcity Condition are currently treated differently under the Pay for Performance settlement rules depending on whether they exceed a resource’s contribution of energy and reserves to the system. According to ISO-NE, the fact that some resources may have a Capacity Supply Obligation while others do not does not provide an economic justification for maintaining this difference in treatment.⁶⁰ ISO-NE states that the Financial Marketers Coalition does not provide a rationale for why the current ineffective incentives should remain unaddressed. Additionally, ISO-NE states that while the protest claims the money-for-nothing problem is speculative, the protest does not dispute that the asymmetries in the current rules produce this inefficiency or that the proposal is an effective means to address this problem.⁶¹

⁵⁶ *Id.*

⁵⁷ *Id.* at 6.

⁵⁸ *Id.* at 7.

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.* at 9.

22. ISO-NE explains that the proposal to charge net System-Backed Exports the Performance Payment Rate during Capacity Scarcity Conditions aligns the treatment of exports with the objective of incenting resource performance during scarcity conditions. ISO-NE states that currently this scarcity is priced at the Performance Payment Rate for net imports and exports that do not exceed a resource's contribution of energy and reserves to the system. ISO-NE argues that the proposal correctly prices System-Backed Export Charges at the Performance Payment Rate and not doing so would directly undercut the objective of incenting resource performance during scarcity conditions.⁶²

23. ISO-NE also states that the proposal does not impose unavoidable charges on a participant, and that the Financial Marketers Coalition's proposed adjustments are beyond the scope of this proceeding and not necessary for the proposal to function as intended.⁶³ ISO-NE explains that Capacity Scarcity Conditions arise only when certain levels of reserve deficiencies persist for defined periods of time in real-time operations and this makes providing advanced notice infeasible.⁶⁴ ISO-NE states that it proactively publishes information for participants to assess the likelihood of Capacity Scarcity Conditions and take necessary actions to prepare for them. ISO-NE explains that participants voluntarily choose to engage in external transactions, and in doing so, they assume the risks of participating in the energy market.⁶⁵ ISO-NE argues that such participation would require accounting for scheduling, curtailment rules, and managing price and congestion risk. ISO-NE asserts that these participants can manage the risk that a Capacity Scarcity Condition may occur using available tools such as backing the scheduled export with generation.⁶⁶ ISO-NE states that the Financial Marketers Coalition fails to explain why exporters should be insulated from this risk, or why the proposal is unjust and unreasonable without the proposed adjustments.⁶⁷ In addition, ISO-NE states that the Financial Marketers Coalition's proposal that ISO-NE provide advanced notice of such conditions would require broader structural changes to the way a Capacity Scarcity Condition is defined and they provide no explanation as to why such changes would be appropriate, or why they would be necessary to maintain the justness and

⁶² *Id.* at 10.

⁶³ *Id.* at 11.

⁶⁴ *Id.*

⁶⁵ *Id.* at 13.

⁶⁶ *Id.* at 14.

⁶⁷ *Id.*

reasonableness of the current Pay for Performance rules.⁶⁸ Further, ISO-NE states that the Financial Marketers Coalition's suggestion that ISO-NE could modify its operations to choose to curtail participant-scheduled transactions overlooks the fact that the scheduling and curtailment of external transactions is governed by an existing set of Tariff rules, Operating Procedures, Manuals, and agreements, in accordance with, for example, North American Electric Reliability Corporation and North American Energy Standards Board standards, and that interact with other rules and procedures.⁶⁹

24. Moreover, ISO-NE states that the Financial Marketers Coalition does not substantiate assertions regarding the supposed impact of the System-Backed Export Charge proposal on ISO-NE interchange transactions. ISO-NE argues that the proposal is intended to make participants consider the risk that a Capacity Scarcity Condition may occur and they may incur a System-Backed Export Charge to address current inefficient incentives for external transaction scheduling.⁷⁰

E. Financial Marketers Coalition Answer to Answers

25. The Financial Marketers Coalition argues that the answers filed by ISO-NE, NEPOOL, and the IMM mischaracterize its protest. In response to ISO-NE's argument that its proposal does not impose performance obligations on market participants, the Financial Marketers Coalition asserts that Capacity Supply Obligation holders and non-Capacity Supply Obligation holders are not similarly situated and that ISO-NE never explains why imposing identical Performance Payment Rate downside exposure on both groups is just and reasonable.⁷¹ The Financial Marketers Coalition explains that Capacity Supply Obligation holders voluntarily assumed scarcity-period risk as well as performance risk and receive capacity revenues year-round as compensation, while non-Capacity Supply Obligation holders did not assume that risk, receive no capacity revenues, and never undertook a share-of-system obligation.⁷² The Financial Marketers Coalition claims that, in this case, uniform treatment is not the same as non-discriminatory treatment.⁷³

⁶⁸ *Id.* at 12.

⁶⁹ *Id.* at 14-15.

⁷⁰ *Id.* at 15.

⁷¹ Financial Marketers Coalition Answer at 2.

⁷² *Id.* at 3.

⁷³ *Id.*

26. In addition, the Financial Marketers Coalition argues that, contrary to ISO-NE's assertions, under the proposal a power marketer has no way to mitigate the risk of incurring a System-Backed Export Charge because it does not have a way to back a scheduled export with generation.⁷⁴ The Financial Marketers Coalition states that a market participant who sees significant risk in a transaction will be less likely to engage in that transaction, or will price that transaction higher to reflect the elevated level of risk.⁷⁵ The Financial Marketers Coalition disagrees with the IMM and argues there is an economic basis for not netting external transactions on a system-wide basis since they are entered into by individual, unrelated market participants pursuing independent and unrelated energy market transactions.⁷⁶ Further, the Financial Marketers Coalitions states that while the Commission may consider stakeholder support, or lack thereof, as a non-dispositive element, section 205 of the FPA does not condition the right to protest on prior participation in the stakeholder process.⁷⁷

IV. Discussion

A. Procedural Matters

27. 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.

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

B. Substantive Matters

29. As discussed below, we find that Filing Parties' proposal to implement the System-Backed Export Charge is just and reasonable and not unduly discriminatory or preferential, and we therefore accept the proposed Tariff revisions, effective October 1, 2026, as requested.

⁷⁴ *Id.* at 4.

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.* at 5.

30. We find that the proposed revisions are just and reasonable because they ensure that all exports receive the same treatment and align the treatment of exports with imports during Capacity Scarcity Conditions. We agree with Filing Parties and the IMM that the proposal addresses asymmetries in the current Pay for Performance market design resulting from setting the Actual Capacity Provided floor at 0 MW. Under the current market rules, exports that do not exceed a resource's contribution of energy and reserves to the system can result in a Capacity Performance Payment charge, while exports that do exceed a resource's contribution of energy and reserves to the system are not accounted for in the current design and are not charged during Capacity Scarcity Conditions.⁷⁸ In contrast, all imports are accounted for during Capacity Scarcity Conditions, resulting in different financial incentives for imports and reduced exports, even though they contribute equally to system reliability.⁷⁹ As Filing Parties demonstrate, this misalignment could result in market participants coordinating their import and export transactions in a manner that results in no net flow of energy to the New England system yet results in a Capacity Performance Payment to the importing market participant.⁸⁰ We find that implementing the proposed System-Backed Exports Charge aligns the treatment of exports with imports, and in doing so appropriately prices the cost of these exports to the New England system during scarcity conditions.

31. In addition, we find just and reasonable Filing Parties' proposed Tariff revisions regarding the allocation of System-Backed Export Charges, the removal of net System-Backed Export values from the calculation of the Balancing Ratio, the establishment of a System-Backed Export financial assurance requirement, and the modification to ISO-NE's Billing Policy to reference System-Backed Export Charges. These revisions apply consistent treatment to all exports in the calculation of the Balancing Ratio and appropriately account for the new charges that market participants may incur as a result of the proposal.

32. We disagree with the Financial Marketers Coalition that the proposal is unduly discriminatory because it imposes Pay for Performance requirements and penalties upon entities that do not hold Capacity Supply Obligations. While the Financial Marketers Coalition is correct that entities that hold Capacity Supply Obligations and those that do not are not similarly situated, the proposal does not treat these two groups

⁷⁸ See Transmittal at 14-15; ISO-NE Answer at 7.

⁷⁹ See Transmittal at 5-6; ISO-NE Answer at 8; IMM Answer at 2.

⁸⁰ See Transmittal at 9.

interchangeably, as the protesters allege.⁸¹ As ISO-NE explains, the proposal does not impose performance obligations on non-Capacity Supply Obligation participants or charge them for underperforming.⁸² Instead, the proposal imposes the *same charge on all exports* that exceed a resource's provision of energy and reserves to the system, regardless of whether those exports are associated with market participants that hold Capacity Supply Obligations, at the Capacity Performance Payment Rate. As a result, the proposal appropriately prices System-Based Exports to reflect their cost to the New England system during Capacity Scarcity Conditions and remedies the current asymmetry in the treatment of exports under the current Pay for Performance market design, as discussed above.

33. We find Financial Marketers Coalition's claims that Filing Parties' proposal addresses a speculative problem, will unjustly and unreasonably harm market participants, and will create uncertainty and risk that a market participant cannot mitigate, to be unfounded. To the contrary, the proposal better aligns market incentives for external transaction scheduling during Capacity Scarcity Conditions. We agree with ISO-NE that market participants are responsible for managing the risks they face from voluntary participation in the ISO-NE administered wholesale markets. We find that the Financial Marketers Coalition's suggested adjustments to the proposal, namely that ISO-NE provide more advanced notice of Capacity Scarcity Conditions and restrict applicability of the new charge to certain market participants, to be beyond the scope of this FPA section 205 proceeding and do not alter our finding that Filing Parties have demonstrated that their proposal is just and reasonable.⁸³

⁸¹ Under the current Tariff, only resources that hold Capacity Supply Obligations that underperform are penalized at the Capacity Performance Payment Rate, which is not changed by the proposal.

⁸² ISO-NE Answer at 3.

⁸³ FPA section 205 only requires Filing Parties to show that their proposal is just and reasonable, not that their proposal is the most just and reasonable. *See Cities of Bethany v. FERC*, 727 F.2d 1131, 1136 (D.C. Cir. 1984) (when determining whether a proposed rate was just and reasonable, the Commission properly did not consider "when a proposed rate schedule is more or less reasonable than alternative rate designs"); *OXY USA, Inc. v. FERC*, 64 F.3d 679, 692 (D.C. Cir. 1995) (finding that under the FPA, as long as the Commission finds a methodology to be just and reasonable, that methodology "need not be the only reasonable methodology, or even the most accurate").

The Commission orders:

Filing Parties' filing is hereby accepted, effective October 1, 2026, as discussed in the body of this order.

By the Commission.

(S E A L)

Debbie-Anne A. Reese,
Secretary.

Appendix – Tariff Records
ISO New England Inc.
Transmission, Markets and Services Tariff

- [I.2, I.2 Rules of Construction; Definitions \(179.0.0\)](#)
- [Exhibit IA, Exhibit IA ISO-NE Financial Assurance Policy \(70.0.0\)](#)
- [Exhibit ID, Exhibit ID ISO-NE Billing Policy \(21.0.0\)](#)
- [Section III TOC, Section III - Table of Contents \(58.0.0\)](#)
- [III.13.7, III.13.7 Performance, Payments and Charges in the FCM \(76.0.0\)](#)
- [III.15, III.15 Annual Capacity Market \(4.0.0\)](#)