

To: NEPOOL Markets Committee

From: Chris Hamlen

Date: January 6, 2021

Subject: Compliance with FERC Order Requiring Removal of FCM Price-Lock (WMPP ID: 156)

On December 2, 2020, the Federal Energy Regulatory Commission (the “Commission”) issued an order requiring the ISO to eliminate the “price-lock” mechanism in the Forward Capacity Market.¹ The price-lock rules currently permit new resources that clear in a Forward Capacity Auction to receive the capacity clearing price from the initial year for up to seven years.

This memorandum explains the ISO’s plan for compliance with the Commission’s order.

A. Summary of December 2, 2020 Price-Lock Order Obligations

In its order, the Commission found that the price-lock is no longer necessary as a mechanism to incent investment in the FCM, and further that its price-suppressive and discriminatory effects outweigh any potential benefit the mechanism may have. The order requires the ISO to act within 60 days to eliminate the price lock effective for FCA 16. The order is clear that resources that elected the price-lock for prior auctions (or have done so for FCA 15) are permitted to retain the price-lock for the period they have elected (*i.e.*, up to seven years). The operative provision from the order is as follows:

As discussed below, we find that, in light of changed circumstances, the New Entrant Rules are unjust and unreasonable because they result in unreasonable price distortion. Based upon the record, we find that the FCA price assurance that the Commission previously found necessary in approving these rules is no longer required to attract new entry. Consequently, the benefits provided by the price certainty afforded by the New Entrant Rules for new capacity resources no longer outweigh their price suppressive effects. We clarify that our termination of the price lock will not impact price-lock agreements in effect prior to the issuance of this

¹ 173 FERC ¶ 61,198 (2020).

order. We direct ISO-NE to submit a compliance filing, within 60 days of the date of this order, to revise its Tariff to eliminate the price lock and associated zero-price offer rule for new entrants starting in FCA 16.²

Price-lock elections for FCA 15 were made in June 2020, when suppliers submitted their qualification packages for new resources.³ That election is binding, and the ISO must honor that election for FCA 15, in accordance with the order.

B. ISO Plan for Compliance

The ISO will propose two changes to specify in the Tariff that the price-lock may be elected for auctions up through FCA 15, and not thereafter. These two changes will be made in Section III.13.1.1.2.2.4 for New Capacity Resources and in Section III.13.1.4.1.1.2.7 for New Demand Capacity Resources. At this time, we will not propose removal of any Tariff language, as the remaining provisions for price-locked resources will need to stay in place until the completion of all price-lock elections, accounting for any deferrals that are permitted under Section III.13.3.7 of Market Rule 1. At this time, we are tentatively planning to request an April 2, 2021 effective date for the proposed revisions, which is approximately a week before the FCA 16 show of interest window opens.

The ISO must make its compliance filing to remove the price-lock on or before February 1, 2021. We will request a vote on the proposed tariff changes at the January 19, 2021 Markets Committee meeting.

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We look forward to discussing the ISO's compliance plan with the Markets Committee at its upcoming meetings.

² 173 FERC ¶ 61,198 at P 68.

³ See Market Rule 1, Section III.13.1.1.2.2.4.