

To: NEPOOL Markets Committees

From: Market Development

Date: January 4, 2022

Subject: Competitive Capacity Markets without a Minimum Offer Price Rule (WMPP ID: 159)
– **Further Updates to Tariff Revisions**

Following the December NEPOOL Markets Committee meeting, the ISO has continued to evaluate its proposed buyer-side market power review mechanism. As a result of feedback received from the Committee at the December meeting, as well as additional feedback from the Internal Market Monitor (IMM) and External Market Monitor (EMM), the ISO has made several revisions to the proposed Tariff revisions.

The large majority of these changes are intended to be clarifications or corrections that do not significantly change the ISO's proposal. Indeed, most are in the nature of non-substantive changes. One substantive change is a modification to the buyer-side market power analysis in Section III.A.21.2, which is the analysis the IMM is required to perform for any resource that does not qualify for one of the provisions in Section III.A.21.1. The balance of this memorandum reviews this change to Section III.A.21.2, and then details the remaining updates to the proposed Tariff revisions.

Removal of the Impact Test from the Buyer-Side Market Power Review in Section III.A.21.2.

By way of background, the ISO's original proposal envisioned that new resources subject to buyer-side market power review would need to provide the IMM with a certification demonstrating that they are not intending to exercise buyer-side market power. The original proposal further anticipated that, in evaluating the certification, the IMM would assess whether the project sponsor has the ability and incentive to exercise market power.

In response to concerns voiced by the IMM that evaluating the intent of a project sponsor could be fraught with difficulty, the ISO jettisoned that element of its original proposal and replaced it with the IMM's then-recommended "conduct and impact" test.¹ This conduct and impact test assesses whether the project sponsor's offer is below cost (suggesting the resource is receiving out-of-market support, *i.e.*,

¹ See Memorandum of ISO New England Internal Market Monitor to NEPOOL Markets Committee regarding Preliminary Views on the ISO's Post-MOPR Self-Certification Proposal, dated October 12, 2021, *available at* https://www.iso-ne.com/static-assets/documents/2021/10/a03b_mc_2021_10_13_14_iso_ne_memo_preliminary_views_post_mopr_self_certification_proposal.pdf.

conduct), and second whether the resource's below-cost offer will materially reduce the clearing price in the auction (*i.e.*, impact). The EMM and IMM have more recently indicated to the ISO that, upon further consideration, they believe the impact test should be eliminated and only the conduct test should be performed. The EMM has indicated that it does not believe the impact test is necessary, and the IMM has noted implementation challenges.

After evaluating the EMM's and the IMM's concerns, the ISO agrees with their more recent recommendation to eliminate the impact test component from the ISO's proposal. While the ISO believes there is merit to the impact test in some circumstances, its use is addressed in (and made redundant by) the incentive rebuttal provisions (in Section III.A.21.2.2) provided under the ISO's proposal. Under this provision, any new resource that fails the IMM's review under the conduct test can nevertheless avoid mitigation by demonstrating that the new resource (and any associated load-side interest) does not have an incentive to exercise buyer-side market power—*i.e.*, that any reduction in load-side capacity payments resulting from a below-cost (*i.e.*, subsidized) offer would be outweighed by the costs to subsidize the new resource.

A central component of an incentive rebuttal analysis is the impact that a resource's offer has on the clearing price—a new resource that has no impact would not receive a material net financial benefit from its below-cost offer, and therefore would be successful in rebutting the incentive presumption and avoiding mitigation. In this way, the impact analysis remains a component of the buyer-side market power review through the incentive rebuttal provision, despite its elimination from the IMM's initial review.

Additional Updates to the Tariff Revisions

The ISO has made a number of additional modifications to the proposed Tariff redlines. Many of these simply update cross-references and make other non-substantive changes, such as revisions to the table of contents. The more substantive of these changes are itemized below.

- Definition of Sponsored Policy Resource:
 - moved the descriptor “net-zero carbon” to refer to the applicable standard rather than the resource type; some state and federal programs are net-zero carbon, making the revised descriptor appropriate;
 - clarified that the policy under which the resource receives revenues must be either a New England state or federal policy.
- Section III.13.1.1.2.2.3(a) on New Generating Capacity Resource offer information: removed an unnecessary reference to Section III.A.21.1.2, which is the section that contains the exemption for passive demand-side resources. This reference is unnecessary in a provision addressing offer requirements for New Generating Capacity Resources.
- Sections III.13.1.1.2.2.3(a) and III.13.1.4.1.1.2.8(a) on offer information for New Capacity Resources: in response to stakeholder feedback removed the word “promptly” from the sentence requiring a Project Sponsor to submit offer information in the event its Load-Side Relationship

Certification is rejected by the ISO; the ISO will detail all submittal deadlines in advance of the qualification period for the relevant Forward Capacity Auction.

- Section III.13.1.1.2.8(g) on the new resource qualification determination: updated cross-reference and added a sentence clarifying that the ISO will not disclose to the Project Sponsor whose resource is subject to buyer-side market power mitigation any information regarding the potential impact of the Project Sponsor's offer on Capacity Clearing Prices, given that such information may be highly market sensitive information and the release of such information could adversely impact the competitiveness of the (current or future) capacity auctions.
- Section III.13.1.3.5.5.A: clarification to reflect that a Project Sponsor may offer just a portion of its New Import Capacity Resource above the Dynamic De-List Bid Threshold (this clarification preserves existing treatment).
- Section III.13.1.3.5.7: removed redlining for certain language that is not new to the provision, and moved a cross-reference.
- Section III.13.2.3.2(c): clarified the language addressing the treatment of Self-Supplied FCA Resources subject to buyer-side market power mitigation to reflect correct terminology.
- Section III.13.8.1 related to the FCA informational filing and post-auction information release:
 - in subsection (c), the language is updated to reflect that price information and the project sponsors' privately-submitted Load-Side Relationship Certifications are not released post-auction;
 - subsection (c)(viii) is updated to clarify that any information employed by the IMM regarding the potential impact of the Project Sponsor's offer on Capacity Clearing Prices shall be filed confidentially and shall not be released to any party, given that such information may be highly market sensitive information and the release of such information could adversely impact the competitiveness of the (current or future) capacity auctions.
- Section III.A.21.2.2 on the incentive rebuttal provision:
 - reference to "outside of ISO-administered markets" is moved to more clearly apply to the revenues;
 - added sentence to reflect that a Project Sponsor cannot use the incentive rebuttal provision if the out-of-market revenues it is receiving for its resource are not from a load serving entity, but instead are from the state or an agency of the state, since it is not possible for the IMM to evaluate a net financial benefit analysis under such circumstances;
 - added a provision requiring the Project Sponsor to provide the IMM any supporting information it needs to evaluate the Project Sponsor's net financial benefit analysis.

- Section III.A.21.3(a) on the calculation of New Resource Offer Floor Prices: removed unnecessary references to Energy Efficiency, given that it is exempted from buyer-side market power review.
- Section III.A.21.3(b)(iv) on information submittal requirements for the calculation of New Resource Offer Floor Prices: removed “plus \$0.01/kW-month,” so that a resource’s offer will be set to the Forward Capacity Auction Starting Price if it does not provide sufficient documentation and information for the IMM to complete its analysis. Making this modification will allow a New Capacity Resource to participate in the FCA and clear if the auction were to clear at the FCA Starting Price; in that (admittedly unusual) circumstance, the offer is at the FCA Starting Price and the resource will help meet the system’s needs, but its participation will not (by this provision) be able to lower the Capacity Clearing Price.
- Section III.A.21.3(c) on New Resource Offer Floor Prices for resources composed of assets having different technology types: removed provision given that technology-specific Offer Review Trigger Prices are no longer calculated.
- Section III.A.21.4 on offer prices for New Import Capacity Resources: several updates to provisions to accurately reflect existing treatment of New Import Capacity Resources.