



Margo Caley
Senior Regulatory Counsel

February 24, 2022

VIA ELECTRONIC FILING

The Honorable Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Re: ISO New England Inc.'s Informational Filing, Docket No. ER22-355-000, -001

Dear Secretary Bose:

Pursuant to the Commission's Order Addressing Arguments Raised on Rehearing,¹ ISO New England Inc. respectfully submits this informational filing, which contains non-public versions of its November 4, 2021 Resource Termination Filing and its December 20, 2021 Motion for Leave to File Answer and Answer, both previously submitted confidentially in Docket No. ER22-355-000.

Respectfully submitted,

/s/
Margo Caley
Senior Regulatory Counsel

Attorney for ISO New England Inc.

cc: Service List for Docket No. ER22-355 (via email)

¹ *ISO New England Inc.*, 178 FERC ¶ 61,130 (2022) at P 12.



November 4, 2021

VIA ELECTRONIC FILING

The Honorable Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

Re: *ISO New England Inc.*
Resource Termination Filing; Docket No. ER22- -000

Dear Secretary Bose:

Pursuant to Section 205 of the Federal Power Act,¹ ISO New England Inc. (the “ISO”)² hereby electronically submits to the Federal Energy Regulatory Commission (“Commission”) this resource termination filing for Killingly Energy Center (“Killingly”) - Resource No. 38663/ Project 12280.

Pursuant to Section III.13.3.4.A of the Tariff if, as a result of milestone date revisions, the date by which a resource will have achieved all its critical path schedule milestones is more than two years after the beginning of the Capacity Commitment Period for which the resource first received a Capacity Supply Obligation (“CSO”), then, after consultation with the Project Sponsor, the ISO has the right, through a filing with the Commission, to terminate the resource’s CSO for any future Capacity Commitment Periods.³ The termination also removes the resource’s right to any payments associated with that CSO and the resource’s qualified capacity for participation in the Forward Capacity Market. If the Commission accepts this termination filing, then the ISO will

¹ 16 U.S.C.A. § 824d (2012).

² Capitalized terms used but not otherwise defined in this filing have the meanings ascribed thereto in the ISO’s Transmission, Markets and Services Tariff (the “Tariff”).

³ Pursuant to Section III.13.3.4A, the ISO also has the right to terminate a CSO, through a filing with the Commission, if a Project Sponsor covers a CSO for two Capacity Commitment Periods. At this point, NTE has covered Killingly’s CSO only for one Capacity Commitment Period.

terminate Killingly's CSO and the Project Sponsor, NTE Connecticut, LLC ("NTE"), will forfeit any financial assurance provided with respect to that CSO.⁴

As more fully described below, NTE has revised Killingly's milestone dates such that Killingly will achieve all its critical path schedule milestones (including commercial operation, which is Killingly's final critical path schedule milestone)⁵ more than two years after the beginning of the 2022-2023 Capacity Commitment Period,⁶ the Capacity Commitment Period for which Killingly first received a CSO. This determination is based on Killingly's revised financing milestone dates, combined with NTE's anticipated 30-31 month construction schedule, which would result in a commercial operation date after June 1, 2024. Accordingly, after consultation with NTE, the ISO is exercising its right to seek to terminate Killingly's CSO. If the Commission accepts this termination filing, then the ISO will terminate the CSO, draw down the financial assurance that NTE provided for Killingly's CSO, and remove Killingly's qualified capacity. These actions will make Killingly ineligible to participate in the sixteenth Forward Capacity Auction ("FCA"), which will commence on February 7, 2022. The ISO respectfully requests an order accepting termination of Killingly's CSO within 60 days from the date of this filing and providing an effective date of January 3, 2022 for the termination. This will enable the ISO to reflect the termination, as appropriate, in the auction input file for the sixteenth FCA.

In support of the termination of Killingly's CSO, the ISO is submitting with the non-public version of this filing: (1) Killingly's August 2021 and September 2021 critical path schedule reports; (2) answers that NTE provided to the ISO in response to follow-up questions on Killingly's August 2021 critical path schedule report; (3) the Interim Limited Notices to Proceed, contingent upon financing, that NTE issued to its Engineering, Procurement and Construction ("EPC") contractor and equipment manufacturer for the Killingly project on October 22, 2021; (4) NTE's October 28, 2021 letter to the ISO and CL&P updating the Large Generator Interconnection Agreement ("LGIA") milestone dates; (5) an October 29, 2021 report from the ISO's consultant, Lummus Consultants International LLC ("Lummus") entitled "Review of Critical Path Schedule Project 12280" ("Lummus Report"); and (6) a November 4, 2021 letter from Korea Western Power Co. to the ISO. Because these documents contain confidential Market Participant information, they are being submitted as part of the non-public version of this filing. Confidential information has also been redacted in the public version of this filing letter. As such, pursuant to the Commission's regulations,⁷ as part of the public version of this filing, the ISO is submitting a form of a Non-

⁴ See, also, ISO Financial Assurance Policy, Section VII.D.

⁵ Killingly does not need transmission upgrades to address overlapping impacts; accordingly, because there is no transmission upgrade-related milestone, Killingly would meet all its critical path schedule milestones when it achieves commercial operation.

⁶ The 2022-20223 Capacity Commitment Period begins on June 1, 2022.

⁷ 18 C.F.R. § 388.112 (2018).

Disclosure Agreement, which any participant or intervener can then submit to the ISO in order to request a copy of the complete, non-public version of this filing.

I. DESCRIPTION OF THE ISO; COMMUNICATIONS

The ISO is the private, independent non-profit entity that serves as the Regional Transmission Organization (“RTO”) for New England. The ISO plans and operates the New England bulk power system and administers New England’s organized wholesale electricity market pursuant to the Tariff and the Transmission Operating Agreement with the New England Participating Transmission Owners. In its capacity as an RTO, the ISO has the responsibility to protect the short-term reliability of the New England Control Area and to plan and operate the system according to reliability standards established by the Northeast Power Coordinating Council and the North American Electric Reliability Corporation.

Correspondence and communications in this proceeding should be addressed to:

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II. BACKGROUND

Killingly is a proposed combined cycle generator that acquired a 631.955 MW CSO with a seven year rate lock in the thirteenth FCA, which is associated with the 2022-2023 Capacity Commitment Period. Accordingly, Killingly was required to achieve commercial operation on June 1, 2022 (*i.e.*, the first day of the 2022-2023 Capacity Commitment Period, which is associated with the thirteenth FCA).⁸ Killingly also acquired 631.9555 MW CSOs in the fourteenth and fifteenth FCAs. NTE has covered Killingly’s CSO for the 2022-2023

⁸ Killingly’s proposed commercial operation date in the New Capacity Qualification Package submitted for the thirteenth FCA was March 1, 2022. By obtaining a CSO in the thirteenth FCA, Killingly was required to achieve commercial operation by June 1, 2022.

Capacity Commitment Period.⁹ Killingly is currently qualified to participate in the sixteenth FCA as an Existing Generating Capacity Resource.

As part of the qualification process for participation in an FCA, a non-commercial resource must provide a critical path schedule, which must include dates for milestones related to, among other things, financing, permitting, major equipment orders, and commercial operation.¹⁰ Once a resource acquires a CSO, the ISO is required to monitor that resource's compliance with its critical path schedule until the resource achieves FCM Commercial Operation, loses its CSO pursuant to Section III.13.3.4A of the Tariff, or withdraws from critical path schedule monitoring pursuant to Section III.13.3.6 of the Tariff.¹¹ Killingly provided a critical path schedule when it qualified for participation in the thirteenth FCA. As such, the ISO has been monitoring Killingly's critical path schedule since Killingly obtained a CSO in the thirteenth FCA, which was held in February 2019. As with all other resources, at the outset, NTE was required to submit quarterly critical path schedule reports for Killingly.¹² However, because NTE delayed its financing milestone, since November 2019, NTE has been required to submit monthly critical path schedule reports for Killingly.¹³

In its critical path schedule updates, NTE has delayed the date for Killingly's financing milestone fourteen times (which has resulted in multiple delays to subsequent milestones, including Killingly's commercial operation date). In the August 2021 report for Killingly, NTE moved the financing milestone to October 31, 2021, and the commercial operation milestone to April 14, 2024. The ISO then sent follow-up questions to NTE. In its answers, NTE indicated that similar projects have been built in 30 or 31 months. In addition, in the project construction schedule that NTE included in its answers, NTE indicated that it would issue notices to proceed to its EPC contractor and the equipment manufacturer between October 1 and October 31, 2021. The ISO followed-up on this information, and NTE provided copies of two Interim Limited Notices to Proceed it issued on October 22, 2021 (with an October 1, 2021 reference date) to the EPC contractor and equipment manufacturer. The Interim Limited Notices to Proceed were contingent upon NTE completing financing during the month of October 2021.

In the September 2021 critical path schedule report for Killingly, NTE submitted revised financing milestones of January 14, 2022 (Equity) and March 3, 2022 (Debt), along with a

⁹ NTE covered Killingly's CSO for the 2022-2023 Capacity Commitment Period by shedding the CSO in the first annual reconfiguration auction for that Capacity Commitment Period, which took place on June 1-3, 2020.

¹⁰ Section III.13.1.1.2.2.2 of the Tariff.

¹¹ Section III.13.3.1.2 of the Tariff.

¹² Section III.13.3.2 of the Tariff.

¹³ Section III.13.3.3 of the Tariff.

commercial operation date of May 31, 2024.¹⁴ The September 2021 critical path schedule report indicates that NTE will issue full notices to proceed on January 1, 2022; however, given that financing will not be completed until later dates, a January 1, 2022 date for notices to proceed assumes that those notices can be issued without financing in place. Furthermore, on October 28, 2021, NTE sent a letter to the ISO and CL&P to inform them of new LGIA milestone dates, including a November 30, 2021 date for NTE to issue a notice to proceed to CL&P.

The ISO consulted with NTE on September 15, 2021 and November 4, 2021, and, as part of that consultation, the ISO has informed NTE that it is exercising its right to seek termination of Killingly's CSO.

III. REASONS FOR TERMINATION

Pursuant to Section III.13.3.4.A of the Tariff if, as a result of milestone date revisions, the date by which a resource will have achieved all its critical path schedule milestones is more than two years after the beginning of the Capacity Commitment Period for which the resource first received a CSO, then, after consultation with the Project Sponsor, the ISO has the right, through a filing with the Commission, to terminate the resource's CSO for any future Capacity Commitment Periods. The termination also removes the resource's right to any payments associated with that CSO and the resource's qualified capacity for participation in the Forward Capacity Market.

As described above, Killingly first acquired a CSO in the thirteenth FCA, which took place in February 2019 (*i.e.*, over two and a half years ago). However, since then, NTE has not initiated any construction activities or equipment procurements. This is because, throughout this time, NTE has failed to close financing for Killingly and has postponed the financing milestone fourteen times (which has resulted in multiple delays to subsequent milestones). In NTE's answers to the ISO's follow-up questions to the August 2021 critical path schedule report, NTE provided no evidence to support that the financing milestone would not be delayed yet again. In fact, in the September 2021 critical path schedule report, NTE further delayed Killingly's financing milestone to January 14, 2022 (Equity) and March 3, 2022 (Debt). In its responses, NTE also provided evidence that it takes 30-31 months to build similar projects from the time of the notice to proceed.¹⁵ Accordingly, even if NTE issues notices to proceed on the same day that financing closes, by NTE's own admission, Killingly will not be able to achieve commercial operation, at the earliest, until July 1, 2024 or September 1, 2024 (*i.e.*, 30 months from closing equity financing on January 14, 2022, or 30 months from closing debt financing on March 3, 2022). Even the earliest of those potential dates (July 1,

¹⁴ May 31, 2024 is only one day before the commencement of the 2024-2025 Capacity Commitment Period on June 1, 2024.

¹⁵ A notice to proceed is normally provided to major equipment suppliers and engineering, procurement and EPC contractors to instigate work effort and expenditures.

2024) is more than two years after June 1, 2022, the beginning of the 2022-2023 Capacity Commitment Period in which Killingly first received a CSO.

While NTE's September 2021 critical path schedule report for Killingly indicates that NTE will issue full notices to proceed to the EPC contractor and equipment manufacturer on January 1, 2021, it is unlikely that these notices to proceed will be executed without financing in place. Rather, the Interim Limited Notices to Proceed that NTE issued to the EPC contractor and equipment manufacturer on October 22, 2021, which were contingent upon NTE completing financing during the month of October 2021, show that NTE will not move forward without having financing in place.¹⁶ Accordingly, NTE's own admissions establish that it will be unable to achieve commercial operation of Killingly within two years after the commencement of the 2022-2023 Capacity Commitment Period.

The ISO retained Lummus to assist in reviewing Killingly's critical path schedule, and its review supports that the date by which Killingly will achieve all its critical path schedule milestones is more than two years after the beginning of the Capacity Commitment Period for which Killingly first received a CSO. Specifically, Lummus noted that the commercial operation date of May 31, 2024 would require that the EPC contractor and equipment vendor be given notices to proceed before financing is in place, which Lummus concluded is "unlikely."¹⁷

Lummus has provided a more realistic scenario that incorporates financing availability as a requirement to execute full notices to proceed for the power island equipment vendors and the EPC contractor. Under that scenario, the likely commercial operation date for Killingly is around July 31, 2024 which is about two months past the commencement of the 2024-2025 Capacity Commitment Period. Accordingly, under that more realistic scenario, Lummus states that Killingly will achieve all its critical path schedule milestones (including commercial operation, which is Killingly's final critical path schedule milestone) more than two years after the beginning of the 2022-2023 Capacity Commitment Period, which is the Capacity Commitment Period for which Killingly first received a CSO.¹⁸ The full Lummus Report is included in the non-public version of this filing.

In addition to the foregoing, on October 28, 2021, NTE sent a letter to the ISO and CL&P to inform them of new LGIA milestone dates, including a November 30, 2021 milestone date for NTE to issue a notice to proceed to CL&P. This notice to proceed would also have to be issued

¹⁶ Generally, significant sums of money are required at the time of providing notices to proceed for major equipment and EPC contractors. Accordingly, the financing milestone should be early enough to provide the necessary funds through equity or debt.

¹⁷ Lummus report at 5.

¹⁸ *Id.* at 5-6.

before financing is in place, which, again, is unlikely. This further supports that Killingly is unlikely to achieve commercial operation by NTE's stated commercial operation date of May 31, 2024.

The ISO consulted with NTE on September 15, 2021 (*i.e.*, after NTE submitted the August 2021 critical path schedule report), and again on November 4, 2021.¹⁹ Because a trigger for CSO termination in Section III.13.3.4A of the Tariff has been met, the ISO is now exercising its right to seek termination of Killingly's CSO through this filing with the Commission.²⁰

IV. REQUESTED EFFECTIVE DATE

The ISO respectfully requests that the Commission accept the termination of Killingly's CSO to become effective on January 3, 2022 (which is 60 days from the filing date), so that the ISO can reflect the termination, as appropriate, in the auction input file for the sixteenth FCA, which is scheduled to commence on February 7, 2022.

V. ADDITIONAL SUPPORTING INFORMATION

Materials included herewith are as follows:

- This transmittal letter - **CONTAINS CONFIDENTIAL INFORMATION – DO NOT RELEASE**
- Attachment A: Form of a Non-Disclosure Agreement – **PUBLIC**
- Attachment B: August 2021 and September 2021 Critical Path Schedule Reports for Killingly Energy Center – **CONTAINS CONFIDENTIAL INFORMATION – DO NOT RELEASE**
- Attachment C: NTE Answers to ISO New England's Follow-Up Questions to August 2021 Critical Path Schedule Report – **CONTAINS CONFIDENTIAL INFORMATION – DO NOT RELEASE**

¹⁹ After the November 4, 2021 teleconference between the ISO and NTE, NTE sent to the ISO a letter from Korea Western Power Co. that describes an intention to provide funding, but does not indicate a clear date or commitment for funding the project.

²⁰ The CSO will be terminated for the 2022-2023, 2023-2024, and 2025-2026 Capacity Commitment Periods. As already mentioned, Killingly's qualified capacity will also be removed such that Killingly will not be able to participate in the sixteenth FCA, which will commence on February 7, 2022. In addition, NTE will forfeit any financial assurance provided with respect to the CSO.

- Attachment D: NTE Interim Limited Notices to Proceed Contingent Upon Financing – **CONTAINS CONFIDENTIAL INFORMATION – DO NOT RELEASE**
- Attachment E: NTE Large Generator Interconnection Agreement – Updated Milestone Dates – **CONTAINS CONFIDENTIAL INFORMATION – DO NOT RELEASE**
- Attachment F: Lummus Consultants International Report – Review of Critical Path Schedule Project 12280 – **CONTAINS CONFIDENTIAL INFORMATION – DO NOT RELEASE**
- Attachment G: Korea Western Power Co. Letter to ISO-NE – **CONTAINS CONFIDENTIAL INFORMATION – DO NOT RELEASE**

VI. CONCLUSION

For the reasons explained in this filing letter, the ISO respectfully requests that the Commission accept this resource termination filing with an effective date of January 3, 2022. In addition, the ISO respectfully requests that the Commission issue an order within 60 days of the date of this resource termination filing. Commission action on this resource termination filing is important because the ISO and Market Participants need certainty on the status of Killingly prior to the sixteenth FCA, which is scheduled to commence on February 7, 2022.

Respectfully submitted,

/s/ Margoth Caley
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Senior Regulatory Counsel
ISO New England Inc.
One Sullivan Road
Holyoke, MA 01040-2841
(413) 535-4045
Attorney for ISO New England Inc.

Attachment A
Form of Non-Disclosure Agreement

NON-DISCLOSURE AGREEMENT

FOR DOCKET NO. ER22-____-000

THIS NON-DISCLOSURE AGREEMENT (the “Agreement”) is made as of this ____ day of _____, 2021, by and between the undersigned individual (the “Authorized Intervenor Representative”) and ISO New England Inc., a Delaware corporation, with offices at One Sullivan Road, Holyoke, Massachusetts, 01040-2841 (the “ISO”). The Authorized Intervenor Representative and the ISO shall be referred to herein individually as a “Party,” or collectively as the “Parties.”

RECITALS

Whereas, the ISO serves as the Regional Transmission Organization for the New England Control Area, and operates and oversees wholesale markets for electricity pursuant to the requirements of the ISO Tariff, as defined below; and

Whereas, the ISO New England Information Policy requires that the ISO maintain the confidentiality of Confidential Market Information; and

Whereas, the ISO has submitted a non-public version of a resource termination filing for Killingly Energy Center that includes Confidential Market Information; and

Whereas, Confidential Market Information is not available to Competitive Duty Personnel; and

Whereas, this Agreement is a statement of the conditions and requirements under which the ISO may provide the Confidential Market Information to Authorized Intervenor Representatives.

NOW, THEREFORE, intending to be legally bound, the Parties hereby agree as follows:

- 1. Definitions.** Capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the ISO Tariff.

1.1 Affected Governance Participant. A Governance Participant, which as a result of its participation in the markets administered by the ISO, provided Confidential Market Information to the ISO, which Confidential Market Information is requested by an Authorized Intervenor Representative under this Agreement. Affected Governance Participant shall include Killingly Energy Center, its agents and representatives, including without limitation its developer NTE Energy.

1.2 Authorized Intervenor Representative. A natural person who: (i) is employed by an entity that the FERC has designated as an intervenor in Docket No. ER22-____-000; (ii) is not a Competitive Duty Personnel; and (iii) has signed this Agreement.

1.3 Confidential Market Information. Shall mean the portions of ISO-NE's resource termination filing for Killingly Energy Center that the ISO filed confidentially with FERC in Docket No. ER22-____-000 on November 5, 2021.

1.4 Competitive Duty Personnel. Shall mean a person whose duties include (i) the marketing or sale of electric power at wholesale; (ii) the purchase or resale of electric power at wholesale; (iii) the direct supervision of any employee with duties specified in subparagraph (i) or (ii) of this paragraph; or (iv) the provision of electricity marketing consulting services to entities engaged in the sale or purchase of electric power at wholesale. Competitive Duty Personnel shall not have access to the Confidential Market Information provided under this Agreement.

1.5 FERC. The Federal Energy Regulatory Commission.

1.6 Governance Participant. Shall have the meaning set forth in the ISO Tariff.

1.7 ISO New England Information Policy. Shall have the meaning set forth in the ISO Tariff.

1.8 ISO Tariff. The ISO's Transmission, Markets and Services Tariff, as it may be amended from time to time.

1.9 Killingly Energy Center. Shall mean the proposed combined cycle generator that acquired a 631.955 MW CSO with a seven year rate lock in the thirteenth Forward Capacity Auction, which is associated with the 2022-2023 Capacity Commitment Period.

1.10 Notes of Confidential Market Information. Shall mean memoranda, handwritten notes, or any other form of information (including electronic form) which copies or discloses materials described in the definition of Confidential Market Information set forth above. Notes of Confidential Market Information are subject to the same restrictions provided in this Agreement for Confidential Market Information except as specifically provided in this Agreement.

1.11 Third Party Request. Any request or demand by any entity upon the Authorized Intervenor Representative for release or disclosure of Confidential Market Information. A Third Party Request shall include, but shall not be limited to, any subpoena, discovery request, or other request for Confidential Market Information made by any: (i) federal, state, or local governmental subdivision, department, official, agency or court; or (ii) arbitration panel, business, company, entity or individual.

2. Protection of Confidentiality.

2.1 Duty to Not Disclose. The Authorized Intervenor Representative represents and warrants that: (i) s/he represents and is duly authorized by an entity that has been designated by the FERC as an intervenor in Docket No. ER22-____-000; (ii) s/he is familiar with, and will comply with, such entity's applicable data protection procedures; and (iii) s/he is not a Competitive Duty Personnel. The Authorized Intervenor Representative hereby covenants and agrees not to disclose the Confidential Market Information, to deny any Third Party Request, and to defend against any legal process that seeks the release of Confidential Market Information in contravention of the terms of this Agreement. The Authorized Intervenor Representative further agrees at all times to store securely, and to restrict others' access to, all Confidential Market Information in the same manner as his/her employer stores and protects its trade secrets and other proprietary business information.

2.2 Defense Against Third Party Requests. The Authorized Intervenor Representative shall defend against any disclosure of Confidential Market Information pursuant to any Third Party Request through all available legal process, including, but not limited to, obtaining any necessary protective orders. In the event a protective order or other remedy is denied, the Authorized Intervenor Representative agrees to furnish only that portion of the Confidential Market Information which his/her or his/her employer's legal counsel advises the ISO (and of which the ISO shall, in turn, advise any Affected Governance Participants) in writing is legally required to be furnished, and to exercise its best efforts to obtain assurance that confidential treatment will be accorded to such Confidential Market Information.

2.3 Use and Care of Confidential Market Information.

2.3.1 Use. The Authorized Intervenor Representative shall use the Confidential Market Information only for purposes of developing and presenting his/her or his/her employer's arguments and positions in FERC Docket No. ER22-____-000 based on the Confidential Market Information. Any pleading, affidavit, testimony, or other document that comprises or contains any reproduction of Confidential Market Information, in whole or in part, or any statements or other materials that disclose any Confidential Market Information, in whole or in part, shall be filed with FERC only in a non-public filing that follows the requirements of Section 388.112 of the FERC's regulations.

2.3.2 Control of Confidential Market Information. The Authorized Intervenor Representative shall be the custodian of any and all Confidential Market Information received pursuant to the terms of this Agreement from the ISO.

2.3.3 Competitive Duty Personnel. If the Authorized Intervenor Representative subsequently becomes Competitive Duty Personnel, s/he shall thereafter no longer have access to the Confidential Market Information and shall continue to comply with the requirements set forth in this Agreement with respect to Confidential Market Information to which s/he previously had access. He/she shall promptly notify the ISO of his/her employer's new Authorized Intervenor Representative, who shall execute this Agreement, and thereafter will take custody of all Confidential Market Information in the possession of the original Authorized Intervenor Representative. If no new Authorized Intervenor Representative of the same employer has executed this Agreement within 10 days after the original Authorized Intervenor Representative became Competitive Duty Personnel, the original Authorized Intervenor Representative, within 10 days after the end of the previously identified 10-day period, (a) shall return all Competitive Market Information to the ISO, or (b) shall destroy all Competitive Market Information, and (c) shall deliver to the ISO an affidavit certifying that, to the best of his/her knowledge and belief, all Confidential Market Information has been returned or destroyed.

2.3.4 Notice of Disclosures. The Authorized Intervenor Representative shall promptly notify the ISO, and the ISO shall promptly notify any Affected Governance Participant, of any inadvertent or intentional release or possible release of the Confidential Market Information provided pursuant to this Agreement. The Authorized Intervenor Representative shall take all steps to minimize any further release of Confidential Market Information, and shall take reasonable steps to attempt to retrieve any Confidential Market Information that may have been released.

2.3.5 Ownership and Privilege. Nothing in this Agreement, or incident to the provision of Confidential Market Information to the Authorized Intervenor Representative, is intended, nor shall it be deemed, to be a waiver or abandonment of any legal privilege that may be asserted against subsequent disclosure or discovery in any formal proceeding or investigation. Moreover, no transfer or creation of ownership rights in any intellectual property comprising Confidential Market Information is intended or shall be inferred by the disclosure of Confidential Market Information by the ISO, and any and all intellectual property comprising Confidential Market Information disclosed and any derivations thereof shall continue to be the exclusive intellectual property of the ISO and/or the Affected Governance Participant.

2.3.6 Duration of Obligations. At any time after the later of 1) the date an order terminating Docket No. ER22-____-000 no longer is subject to judicial review, or 2) the date any other Commission proceeding relating to the Confidential Market Information is concluded and no longer subject to judicial review, the ISO may request (in writing) that the Authorized Intervenor Representative return or destroy all Confidential Market Information. The Authorized Intervenor Representative shall comply with this request within 15 days after the date the request is made. If requested, the Authorized Intervenor Representative shall also submit to the ISO an affidavit stating that, to the best of his/her knowledge and belief, the request to return or destroy the Confidential Market Information has been fully satisfied. Notwithstanding the foregoing terms of this paragraph, however, the Authorized Intervenor Representative may retain copies of filings, of official transcripts, and of exhibits in the Commission's Docket No. ER22-____-000 or any related court proceeding which contain Confidential Market Information or Notes of Confidential Market Information, provided that any such copies are at all times secured in accordance with Section 2.1 of this Agreement. Regardless of any order terminating Docket No. ER22-____-000 or any related court proceeding, this Agreement shall remain in effect to the extent that, and for so long as, the Authorized Intervenor Representative retains any Confidential Market Information or Notes of Confidential Market Information.

3. Remedies.

3.1 Material Breach. The Authorized Intervenor Representative agrees that any release of Confidential Market Information to persons not authorized to receive it or any publication of any material related to or that relies upon the Confidential Market Information, including notes of Confidential Market Information, which is not redacted or summarized in such a manner that the Confidential Market

Information may not be identified shall constitute a breach of this Agreement and may cause irreparable harm to the ISO and/or the Affected Governance Participant. In the event of a breach of this Agreement by the Authorized Intervenor Representative, the ISO may terminate this Agreement upon written notice to the Authorized Intervenor Representative, and all rights of the Authorized Intervenor Representative hereunder shall thereupon terminate. The Authorized Intervenor Representative hereby shall indemnify, save, hold harmless, discharge, and release the ISO and each Affected Governance Participant from and against any and all payments, liabilities, damages, losses or costs and expenses paid or directly incurred by the ISO and/or each Affected Governance Participant arising from, based upon, related to, or associated with the breach of, or failure to perform or satisfy, any obligation of the Authorized Intervenor Representative set forth in this Agreement.

3.2 Judicial Recourse. In the event of any breach of this Agreement, the ISO or the Affected Governance Participant shall have the right to seek and obtain at least the following types of relief: (a) temporary, preliminary, and/or permanent injunctive relief with respect to any breach; and (b) the immediate return of all Confidential Market Information to the ISO. The Authorized Intervenor Representative expressly agrees that in the event of a breach of this Agreement, any relief sought properly includes, but shall not be limited to, the immediate return of all Confidential Market Information (including any copies or notes thereof) to the ISO.

4. Jurisdiction. The Parties agree that jurisdiction over all other actions and requested relief with respect to the Agreement shall lie in any court of competent jurisdiction.

5. Severability and Survival. In the event any provision of this Agreement is determined to be unenforceable as a matter of law, the Parties intend that all other provisions of this Agreement remain in full force and effect in accordance with their terms.

6. Representations. The undersigned represent and warrant that they are vested with all necessary corporate, statutory and/or regulatory authority to execute and deliver this Agreement, and to perform all of the obligations and duties contained herein.

7. Third Party Beneficiaries. The Parties specifically agree and acknowledge that each Affected Governance Participant is an intended third party beneficiary of this Agreement entitled to enforce its provisions.

8. Counterparts. This Agreement may be executed in counterparts and all such counterparts together shall be deemed to constitute a single executed original.

9. Amendment. This Agreement may not be amended except by written agreement executed by authorized representatives of the Parties.

ISO NEW ENGLAND INC.

AUTHORIZED INTERVENOR REPRESENTATIVE

By: _____

Name:
Title:

Name:
Title:
Representing:
Address:

Attachment B

**August 2021 and September 2021 Critical Path Schedule Reports
for Killingly Energy Center**

Resource Information

Name Killingly Energy Center

Load Zone .Z.CONNNECTICUT

Resource ID 38663

Lead Participant (ID) NTEConnecticut, LLC (127402)

FCM Participation Type FCM Participating Resource

Basic Info | Audit Details | Existing Qualification | New Qualification | Self-Supply | MW Proration | RA/Bilateral Qualification | Position

Monitored CPS

CPS Selection

- ▶ 03/01/2020 (CP 2020-21)
- ▶ 04/14/2024 (CP 2022-23)

CPS Status Monitoring Update Update Comment View History

Proposed COD 04/14/2024

Queue Position 724

Reporting Frequency Monthly Update

Actual COD Update

FCM Transmission Upgrade Required No Update

All Milestones Completed Date Update

Monitored Summer Capacity MW 631.955

Non Commercial Summer Capacity MW 631.955

Terminated Summer Capacity MW 0.000

Commercial Summer Capacity MW 0.000

FCA Cleared Summer Capacity MW 631.955

SA Cleared Summer Supply Offer MW 0.000

Monitored Winter Capacity MW 631.955

Non Commercial Winter Capacity MW 631.955

Terminated Winter Capacity MW 0.000

Commercial Winter Capacity MW 0.000 Update

FCA Cleared Winter Capacity MW 631.955

SA Cleared Winter Supply Offer MW 0.000

Current Approved Information Submittal Details

Last Approved Quarter/Month August 2021

Major Permits

Permit Name	Agency	State/Locality	Application Date	Approval Date
Siting Permit	Connecticut Siting Council	CT	07/27/2016	06/06/2019
Air Permit	Department of Energy and Environmental Protection	CT	04/15/2016	03/16/2018
Air Permit Minor Modification	Department of Energy and Environmental Protection	CT	07/02/2018	12/10/2018

Financing

Source Name	Amount	Date Financing Secured
CLA Bank (Debt)	\$ 0.00	10/31/2021
CLA Bank (Debt)	\$ 0.00	10/31/2021
Equity	\$ 0.00	10/31/2021

Major Equipment

Manufacturer	Model #/Identifier	Order Date	Delivery Date	Test Completion
MHPSA	M501JAC CTG	10/15/2021	02/01/2023	04/13/2024
MHPSA / Toshiba	TCSF STG	10/15/2021	03/01/2023	04/13/2024
Siemens / GE / ABB / Hyundai	485 (Max) MVA CTG GSU Transformer	10/15/2021	10/02/2022	04/13/2024
Siemens / GE / ABB / Hyundai	335 (Max) MVA STG GSU Transformer	10/15/2021	10/02/2022	04/13/2024
TBD	Heat Recovery Steam Generator	10/15/2021	10/02/2022	04/13/2024
TBD	Air Cooled Condenser	10/15/2021	10/02/2022	04/13/2024

Commissioning Completion Date 04/13/2024

Substantial Site Construction Date 01/14/2022

Additional Information

Resource Information

Search Search Results

Name: Killingly Energy Center Resource ID: 38663 FCM Participation Type: FCM Participating Resource
 Load Zone: Z.CONNECTICUT Resource Type: Generator Lead Participant (ID): NTE Connecticut, LLC (127402)

Basic Info | Audit Details | Existing Qualification | New Qualification | Self-Supply | MW Proration | RA/Bilateral Qualification | Position | **Monitored CPS**

CPS Selection

- 03/01/2020 (CP 2020-21)
- 04/14/2024 (CP 2022-23)

CPS Status Monitoring

Proposed COD 04/14/2024

Queue Position 724

Reporting Frequency Monthly

Actual COD

FCM Transmission Upgrade Required No

All Milestones Completed Date

Monitored Summer Capacity MW 631.955

Non Commercial Summer Capacity MW 631.955

Terminated Summer Capacity MW 0.000

Commercial Summer Capacity MW 0.000

FCA Cleared Summer Capacity MW 631.955

SA Cleared Summer Supply Offer MW 0.000

Monitored Winter Capacity MW 631.955

Non Commercial Winter Capacity MW 631.955

Terminated Winter Capacity MW 0.000

Commercial Winter Capacity MW 0.000

FCA Cleared Winter Capacity MW 631.955

SA Cleared Winter Supply Offer MW 0.000

Current Approved Information | **Submittal Details**

Reporting Quarter/Month September 2021 **Submittal Status** Denied

CPS Modifications

Description	Change Type	Reason
Equity/0	Date when funding is scheduled to be secured. modified from 10/31/2021 to 01/14/2022	Milestone updated to reflect current project schedule
CLA Bank (Debt)/0	Date when funding is scheduled to be secured. modified from 10/31/2021 to 03/01/2022	Milestone updated to reflect current project schedule
MHPSA/M501JAC CTG	Date when equipment is scheduled to be delivered modified from 02/01/2023 to 05/03/2023	Milestone updated to reflect current project schedule
MHPSA / Toshiba/TCSF STG	Date when equipment is scheduled to be delivered modified from 03/01/2023 to 06/06/2023	Milestone updated to reflect current project schedule
TBD/Heat Recovery Steam Generator	Date when equipment is scheduled to be delivered modified from 10/02/2022 to 04/13/2023	Milestone updated to reflect current project schedule
Siemens / GE / ABB / Hyundai/485 (Max) MVA CTG GSU Transformer	Date when equipment is scheduled to be delivered modified from 10/02/2022 to 06/02/2023	Milestone updated to reflect current project schedule
Siemens / GE / ABB / Hyundai/335 (Max) MVA STG GSU Transformer	Date when equipment is scheduled to be delivered modified from 10/02/2022 to 06/02/2023	Milestone updated to reflect current project schedule
TBD/Air Cooled Condenser	Date when equipment is scheduled to be delivered modified from 10/02/2022 to 12/02/2022	Milestone updated to reflect current project schedule
Siemens / GE / ABB / Hyundai/485 (Max) MVA CTG GSU Transformer	Date when equipment is scheduled to be ordered modified from 10/15/2021 to 11/15/2021	Milestone updated to reflect current project schedule
TBD/Heat Recovery Steam Generator	Date when equipment is scheduled to be ordered modified from 10/15/2021 to 11/15/2021	Milestone updated to reflect current project schedule
Siemens / GE / ABB / Hyundai/335 (Max) MVA STG GSU Transformer	Date when equipment is scheduled to be ordered modified from 10/15/2021 to 11/15/2021	Milestone updated to reflect current project schedule
TBD/Air Cooled Condenser	Date when equipment is scheduled to be ordered modified from 10/15/2021 to 11/15/2021	Milestone updated to reflect current project schedule
MHPSA / Toshiba/TCSF STG	Date when equipment is scheduled to be ordered modified from 10/15/2021 to 11/15/2021	Milestone updated to reflect current project schedule
MHPSA/M501JAC CTG	Date when equipment is scheduled to be ordered modified from 10/15/2021 to 11/15/2021	Milestone updated to reflect current project schedule
TBD/Air Cooled Condenser	Date when equipment is scheduled to be tested modified from 04/13/2024 to 05/30/2024	Milestone updated to reflect current project schedule
Siemens / GE / ABB / Hyundai/485 (Max) MVA CTG GSU Transformer	Date when equipment is scheduled to be tested modified from 04/13/2024 to 05/30/2024	Milestone updated to reflect current project schedule
MHPSA/M501JAC CTG	Date when equipment is scheduled to be tested modified from 04/13/2024 to 05/30/2024	Milestone updated to reflect current project schedule
MHPSA / Toshiba/TCSF STG	Date when equipment is scheduled to be tested modified from 04/13/2024 to 05/30/2024	Milestone updated to reflect current project schedule
Siemens / GE / ABB / Hyundai/335 (Max) MVA STG GSU Transformer	Date when equipment is scheduled to be tested modified from 04/13/2024 to 05/30/2024	Milestone updated to reflect current project schedule
TBD/Heat Recovery Steam Generator	Date when equipment is scheduled to be tested modified from 04/13/2024 to 05/30/2024	Milestone updated to reflect current project schedule
Other Milestone	Date Commissioning is scheduled to be completed modified from 04/13/2024 to 05/30/2024	Milestone updated to reflect current project schedule
Other Milestone	Date when project is scheduled to be commercial. modified from 04/14/2024 to 05/31/2024	Milestone updated to reflect current project schedule

Completed Milestone Documentation
 No Milestones were completed since last submittal period August 2021.

Other Supporting Documentation
 No Additional Supporting Document(s) have been submitted since last submittal period August 2021.

Additional Information

**Attachment C: NTE Answers to ISO New England's Follow-Up
Questions to August 2021 Critical Path Schedule Report**



September 29, 2021

Resource Qualification
ISO New England
1 Sullivan Road
Holyoke, MA 01040

Re: Killingly Energy Center – Resource ID 38863

Dear ISO-NE:

NTE Connecticut, LLC (“NTE”) is pleased to provide this submittal in response to ISO-NE’s inquiry regarding its review of the recent Killingly Energy Center (“KEC”) (Resource ID 38863) critical path schedule report (August 2021 CPS report).

NTE is a power generation developer that, acting through its project company affiliates, develops and builds new electric generation facilities in the United States. NTE owns and is developing the KEC. KEC is a natural gas-fired combined cycle electric generating facility project, estimated to have a summer operating capacity of 632 megawatts. The project is sited in Killingly, Connecticut, within the ISO New England, Inc. (“ISO-NE”) footprint. NTE first submitted an interconnection application for KEC to ISO-NE in March 2016 and executed its LGIA on June 16, 2020. KEC has also received the permits needed to begin construction. The permits obtained for KEC include a Certificate of Environmental Compatibility and Public Need from the Connecticut Siting Council, and a permit to construct (or “air permit”) from the Connecticut Department of Energy & Environmental Protection. KEC has also executed a long-term water supply agreement with the Connecticut Water Company. Other notices, consultations, and state or local permits required for the commencement of construction have been obtained. NTE has engaged in a comprehensive community and governmental outreach program with significant outreach to local officials and community members in the Killingly area. The project’s supporters include town officials, unions and the local technical high school, and many local citizens. In addition, this outreach enabled KEC to enter into a Community Environmental Benefit Agreement and Tax Stabilization Agreement with the Town of Killingly, and an Agreement for Stabilization of Municipal Tax Payments with the Williamsville Fire Engine District. Following its submission of the requisite

qualification packages, KEC qualified for and participated in the Thirteenth Forward Capacity Auction (“FCA 13”) held by ISO-NE. In February 2019 KEC received a Capacity Supply Obligation for 631.955 MW and elected the seven-year CSO option commencing with the 2022-2023 Capacity Commitment Period, from June 2022 to May 2023.

KEC has postponed initial milestones due to uncertainty regarding FERC final decisions and due to business interruptions and delays in the development process caused by governmental orders, health and safety concerns resulting from the novel COVID19 global pandemic.

NTE has persevered despite these significant barriers and executed an interconnection agreement with ISO-NE and has executed contracts with multiple suppliers, contractors, and vendors in anticipation of beginning construction this year. Several of these contractors and vendors are already engaged in work on the project.

Q1. The financing milestone has been postponed multiple times, and is now years later than initially projected. Provide a detailed explanation of why the financing has been delayed so many times and why the latest date indicated as the date to reach the financing milestone (10/31/2021) will not be similarly delayed.

A1. NTE was poised to begin construction upon the acceptance of ISO-NE’s FCA 13 results in its routine filing of the FCA 13 results with FERC on February 28, 2019, a filing that requested that the results be accepted by June 28, 2019. Acceptance of such routine filing would have enabled KEC’s construction to move forward. However, following ISO-NE’s submittal of the FCA 13 results to FERC for approval, several capacity suppliers protested that filing at FERC, speculating that the ISO-NE Independent Market Monitor (“IMM”) had authorized an improper offer floor for KEC and had made a determination inconsistent with the ISO-NE Tariff. The IMM answered, explaining that, in consultation with the ISO-NE External Market Monitor, it had properly applied the Tariff procedures and standards for determining offer floor prices for new resources, including KEC. Final acceptance of ISO-NE’s FCA 13 results did not occur until September 25, 2019. Following these delays introduced by capacity suppliers protest, KEC began the process of adjusting the construction schedule and related financing activities. KEC was able to select many of the financial

institutions for the construction loan facility and had also made other selections regarding additional sources of funding related to the construction and operations of the project.

In January 2020, KEC was on track to reach construction financial close in the second half 2020. KEC was able to release Eversource and Yankee Gas to begin work under their relevant agreements. However, within a few weeks, all of the ongoing activities halted due to a number of business restrictions being implemented by the State of Connecticut, as well as illnesses of key personnel. Recognizing the severe health and safety risks associated with COVID-19 and the restrictions imposed by the State of Connecticut, KEC attempted to contact relevant parties to ensure KEC remained on track to meet its obligations to the extent possible and allowed pursuant to regulations. Had it not been for delays due to COVID-19, NTE is confident that it would have been able to meet that financing target.

There were several significant barriers related to COVID that delayed the ability to meet the financing milestone. First, financial activities taking place were either on pause or halted for a significant portion of 2020. Second, emergency orders and associated business restrictions in Connecticut triggered by COVID, severely delayed NTE's access to the site necessary to meet an important prerequisite to commencement of construction and the related financing. In compliance with Connecticut's Stay Safe, Stay Home Orders, NTE's team had to be pulled from the planned activities in March and could not engage in in-person meetings with its lenders, investors, regulatory representative, and many other project counterparties. Federal and local restrictions, as well as additional Connecticut restrictions, were also put in place beginning at the end of March 2020. During this critical time in the process, NTE Connecticut had to rely on remote contacts to attempt to meet all stakeholder requirements. (Please refer to the "Governor Lamont Eos to date" document attached to this letter and following link for a compilation of the Executive Orders issued by Governor Lamont during the COVID pandemic <https://portal.ct.gov/Office-of-the-Governor/Governors-Actions/Executive-Orders/Governor-Lamonts-Executive-Orders>). Many stakeholder parties that need to access the project's site require a rigorous governmental review and approval process before commencement of travel for their representatives. Third, shortly after some of the COVID-related restrictions were lifted and NTE's team was able to return to work in July 2020, several key members of KEC's transaction and

construction teams became severely ill. NTE continues to work diligently to make up for lost time and has adapted its processes to facilitate such activities amidst constraints caused by the pandemic and social distancing requirements enacted or adopted in response.

Therefore, during the majority of 2020, KEC was not able to finalize financial and construction approvals on the initial schedule anticipated. We are pleased to see some recent COVID related restrictions relief and advancements in the health and well-being of people that will be affected by the construction of this facility.

In addition, KEC's Site Certification has been challenged and appealed numerous times. After COVID related courtroom shutdowns and continued delays in court system processes, the final appeal was heard at the Connecticut Supreme Court on September 10, 2020. After more than a year, NTE received a final decision in favor of KEC earlier this week on September 28, 2021. This decision has been an impediment to many stakeholders involved in the project including construction financing activities.

NTE has vigorously and continuously worked to amend its schedule to incorporate these challenges and is poised to begin construction in the coming months and meet a May 31, 2024 commercial operation date. NTE is finalizing its schedules and related contracts, including financing and procurement activities, to support additional construction activities on or before October 31, 2021. Refer to Exhibit 1 for the proposed project schedule.

Q1a. If one of the impediments to completing the Financing Milestone is lenders' concern regarding the potential for a later termination of the Capacity Supply Obligation – wouldn't this impediment be further compounded by any additional delay in financing?

A1a. As stated above, NTE is moving expeditiously towards additional construction funding approval in the coming months. We are highly confident in the selected contractors to deliver the project on time.

Q2. Identify any permits that are not yet in place (including minor permits such as for the gas pipeline lateral or to build the interconnection substation). Identify any permits that are under appeal and the projected timing for the appeals to be finalized. Identify any permits that have expired. Identify any instance where the absence of a fully approved permit will prevent the project's ability to proceed and to achieve the current commercial operation date of April 14, 2024.

A2. NTE Permits: Although there were significant delays due to COVID-related government closures and restrictions, all permits to begin construction are final; no permits outstanding.¹ We have included a table listing status of all project permits and approvals. Please refer to Exhibit 2.

KEC's Certificate of Environmental Compatibility and Public Need was issued on June 6, 2019; was appealed at the Superior Court in August 2019, which appeal was denied on February 24, 2020; was further appealed to the Connecticut Appellate Court on March 13, 2020, was moved to the Connecticut Supreme Court with a hearing on the arguments on September 10, 2020. On Tuesday, September 29, 2021, the Connecticut Supreme Court issued its decision in this case, ruling in KEC's favor and affirming the lower court's decision.

Eversource (electric interconnection substation): Eversource will file with the CT Siting Council for a Petition for Declaratory Ruling following issuance of Notice to Proceed. Eversource construction will be covered under KEC's Water Quality Certificate and US Army Corps of Engineers (USACE) permit.

Eversource (Yankee Gas): Yankee filed for a Water Quality Certification for the upgrade of their pipeline. Yankee's application has been reviewed by DEEP, the Tentative Determination was issued for public comment on December 22, 2020. The public comments period closed in January 2021.

Q3. Provide examples where similar projects have been completed within approximately 30 months of financing and describe how those examples can be translated to the New England marketplace.

A3. KEC will utilize Connecticut based engineering, procurement and construction expertise of Gemma Power Systems ("GPS"), headquartered in Glastonbury, CT. GPS has constructed or is currently constructing over 15 GW of power generation facilities across the United States, spanning a range of fuel types, including gas, biomass, solar, wind, and biofuel, as

¹ The US Army Corps of Engineers (USACE) General Permit (GP) for the State of Connecticut has expired and the new GP is being finalized; KEC's USACE Section 404 Permit will be transitioned to the new GP once issued. The CT Department of Energy and Environmental Protection (DEEP) GP covering construction stormwater was recently revised; KEC's Construction Stormwater Permit is in the process of being transitioned over to the new GP.

well as other environmental facilities. GPS is an experienced EPC contractor with experience on over 68 gas turbines projects, both combined cycle and simple cycle. GPS also provides operations and maintenance services for its completed facilities. GPS's relevant combined cycle experience includes the 475 MW King's Mountain Energy Center in North Carolina and 475 MW Middletown Energy Center in Ohio, as well as the 805 MW Towantic Energy Center in Connecticut.

Below are several examples of combined cycle projects completed by GPS, the applicable construction schedule and project location. The Towantic Energy Center is an 805 MW 2x1 combined cycle plant located in Oxford, CT, which achieved commercial operation in May 2018 following a 30-month construction period. In addition to the Towantic Energy Center, GPS recently completed two 475 MW combined cycle plants for NTE Energy - the Kings Mountain Energy Center and the Middletown Energy Center. Additional information regarding Towantic, Kings Mountain and Middletown is included in Exhibit 3 Project Summaries.

Project	Location	COD	Construction Duration
Towantic Energy Center	Oxford, CT	May 2018	30 months
Kings Mountain Energy Center	Kings Mountain, NC	August 2018	30 months
Middletown Energy Center	Middletown, OH	April 2018	31 months

- Q4. Provide evidence from the Engineering, Procurement & Construction contractor confirming the expectation to complete the project in time for the current Commercial Operation Date of April 14, 2024
- A4. NTE and GPS are finalizing the Engineering Procurement and Construction Contract to reflect a target date for the export of power from KEC during the first quarter of 2024 and a guaranteed commercial operation date on or before May 31, 2024. The revised proposed project schedule can be found in Exhibit 1.
- Q5. Provide evidence from the major equipment (gas, turbine, steam turbine, HRSG & step-up transformers) manufacturers confirming the expectation to deliver the equipment in the time

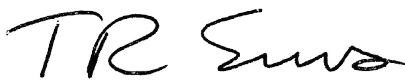
needed to meet the project schedule and to achieve the current commercial operation date of April 14, 2024

- A5. The revised proposed project schedule is found in Exhibit 1 and shows guaranteed delivery dates of the major equipment to the site to support the project schedule.
- Q6. Provide current photos and a description of the construction site, including a description of the work that has been completed to support immediate initiation of site preparation and construction.
- A6. As per the revised proposed project schedule included in Exhibit 1, on-site construction work will commence upon GPS completion of approximately three months of design, planning and preparation prior to mobilizing the site. Commencement of on-site activities is schedule to begin on January 1, 2022.

Photos of the site are shown in Exhibit 4.

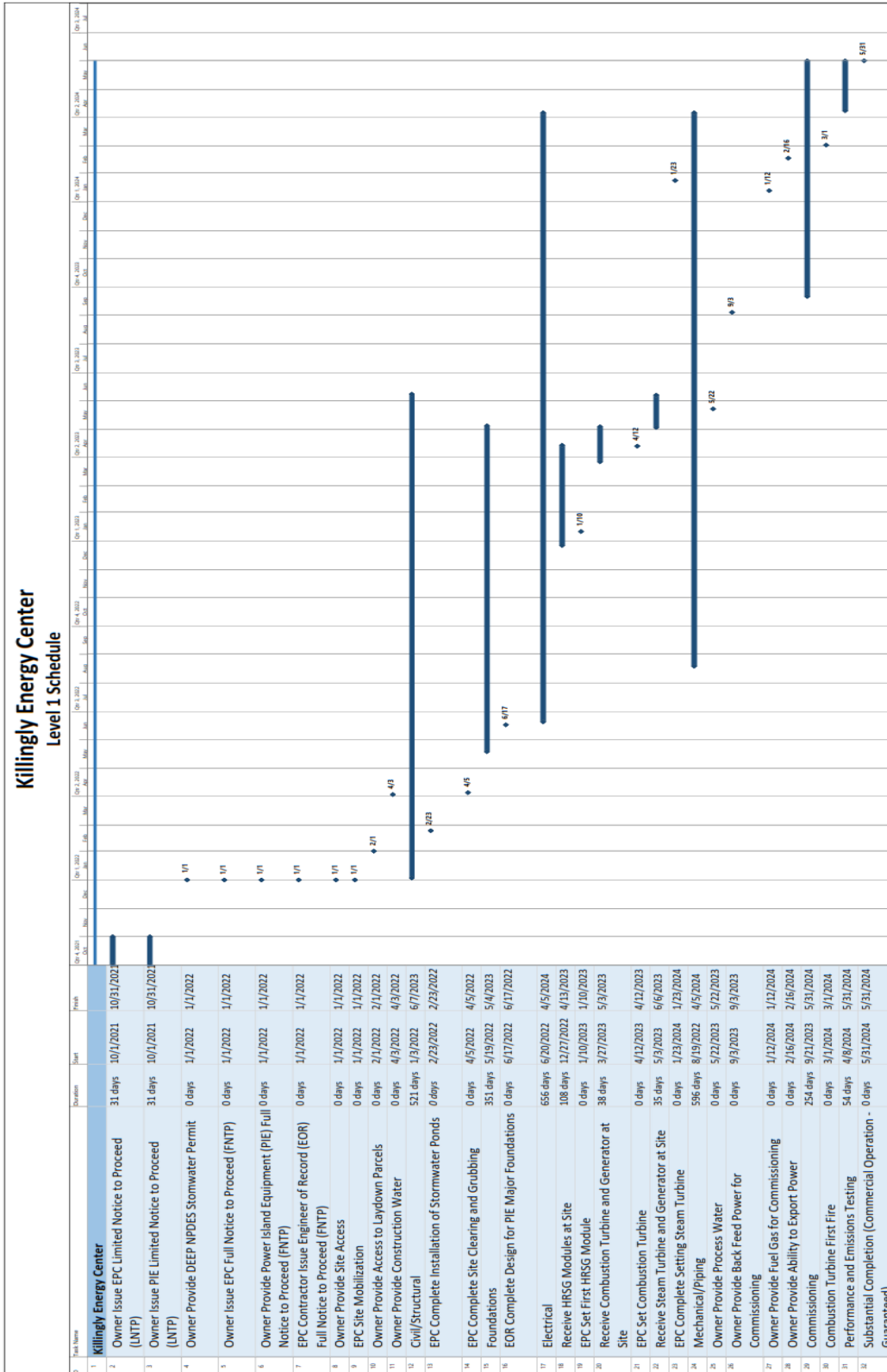
Thank you for these questions and engaging with us on the KEC schedule. We trust that the information provided illustrates and confirms KEC's ability to achieve commercial operation prior to June 1, 2024. This is the case even though KEC faced unique and unforeseeable circumstance in the form of the global pandemic that caused significant restrictions to business travel and closures of government offices. We are available at your convenience to discuss any response in further detail or address any other questions you may have.

Sincerely,



Timothy Eves
Managing Partner

Exhibit 1 – Project Schedule



September 2021

Page 1

NTE Connecticut, LLC
Killingly Energy Center
Project Construction Schedule

Exhibit 2 - Summary Status of Permits and Approvals

Permit or Approval	Responsible Agency	Status	Comments
Federal			
Aeronautical Obstruction Clearance, Determination of No Hazard to Air Navigation ("DNH")	Federal Aviation Administration	Revised DNH (Determination of No Hazard) for stack (150 feet) issued 3/25/19 for change in location;. Prior DNH for stack (150 feet) issued 7/18/16 and extensions granted 1/12/18, 3/25/2019 and 9/2/2020.	Required to demonstrate no hazards to aviation if stack, buildings, or construction cranes exceed certain height thresholds or due to proximity to airports and/or military bases.
Threatened and Endangered ("T&E") Species Determination	U.S. Fish and Wildlife Service ("USFWS")	USFWS concurrence letter dated 4/13/17 that KEC is not likely to adversely affect the Northern long-eared bat; the Company committed to seasonal tree clearing restrictions.	Required to assess impacts of Facility and linear facilities on local T&E species and other species of concern. Followed 4(d) Rule. Committed to no tree clearing in June or July.
Clean Water Act ("CWA") Section 404 Permit	U.S. Army Corps of Engineers	Verification letter and permit granted on 6/30/2020. Current General Permit for State of Connecticut expired August 2021 and KEC is coordinating with the USACE to ensure transition once new CT GP is finalized.	Section 404 permit authorizes discharge of dredge or fill material into wetlands and waters of the U.S.
State			
Certificate of Environmental Compatibility and Public Need ("Certificate"), Docket No. 470 and 470B	Connecticut Siting Council ("Council")	Decision and Order issued 6/6/19 granting Certificate for 650-MW facility and associated switchyard; complete construction within 5 years of final, non-appealable Certificate. KEC's Certificate was challenged at the CSC under a request for rehearing in June 2019, which request was denied; was appealed at the Superior Court on 8/29/19, which appeal was denied on 2/24/20; was further appealed to the Connecticut Appellate Court on 3/20/20, was moved to the Connecticut Supreme Court with a hearing on September 10, 2020, with the final decision pending	Required before construction can commence. Docket No. 470B approved construction, operation, and maintenance of 650 MW dual-fuel facility. Requires approved Development and Management Plan prior to start of construction.

Exhibit 2 - Summary Status of Permits and Approvals

Permit or Approval	Responsible Agency	Status	Comments
State			
Air Permits 089-0107 and 089-0108/ Prevention of Significant Deterioration ("PSD") and Non-attainment New Source Review ("NNSR") permits	DEEP	Permit 089-0107 issued on 12/10/18 for 647 MW facility; NTE successfully submitted re-analysis of BACT on 6/5/2020 in accordance with 18-month commencement of construction provision, which was approved on November 24, 2020 to extend construction commencement requirement 18 months from issuance (to May 2022).	Allows construction and initial operation of an air emission source; sets forth air emission limits, monitoring, and reporting requirements.
Clean Air Act ("CAA") Title V Operating Permit	DEEP	Application to be submitted within 12 months following the start of operations.	Required as site potential-to-emit is 100 tons per year ("TPY") or greater of a regulated pollutant. Permit will include all federally enforceable air quality requirements that apply to operations at the Facility.
CAA Title IV Acid Rain Permit	DEEP	Application to be submitted 24 months prior to start of operations.	Required for compliance with SO ₂ allowance requirements of the Acid Rain program. Will be incorporated into Title V permit.
National Pollutant Discharge Elimination System ("NPDES") General Permit for Discharge of Stormwater and Dewatering Wastewaters from Construction Activities	DEEP	The Department of Energy and Environmental Protection, Water Permitting and Enforcement Division of the Bureau of Materials Management and Compliance Assurance, has completed the review of the Killingly Energy Center registration for the General Permit for the Discharge of Stormwater and Dewatering Wastewaters from Construction Activities, confirmation received on 1/7/2020. The State of Connecticut General Permit under which KEC was authorized, expired Dec. 30 th 2020. KEC is in process of re-registration under the revised General Permit.	Required for stormwater management during construction. Requires the preparation of a Stormwater Pollution Control Plan ("SWPCP"). Submit at least 60 days prior to construction if 20 acres or fewer will be disturbed, 90 days if in excess of 20 acres.
Wastewater Discharge Permit (Pretreatment Approval)	DEEP	Final approval issued on 1/4/2021. Once Facility completes construction final inspection will be conducted and permit issued.	Required by the Connecticut General Statutes. For discharge to the Town's publicly-operated treatment works.

Exhibit 2 - Summary Status of Permits and Approvals

Permit or Approval	Responsible Agency	Status	Comments
CWA Section 401 Water Quality Certification	DEEP, Inland Water Resources Division	Final permit received 5/14/2020	Section 401 of the CWA requires applicants for a federal license or permit that may result in discharge to waters of the U.S. obtain to verify the discharge will comply with applicable CWA and state water quality requirements.
National Historic Preservation Act Section 106 Consultation	State Historic Preservation Office ("SHPO")	Concurrence letter issued 9/6/16 that no historic properties will be affected, and no additional archeological investigations are warranted.	Required to identify and protect significant cultural and historical resources.
State Listed Species/Natural Diversity Database ("NDDB") Review	DEEP	Letter dated 3/11/19 concurring with proposed bat and turtle avoidance measures and with the lepidoptera habitat plan. Extended on 3/11/2021 for additional 2 years.	To assess if state-listed species or their habitat would be adversely impacted by a project. Avoidance measures include tree clearing restrictions (not in June or July) and proposed turtle protection plan.

Local

Zoning/Site Plan Approval	Town	No Town approval is required,	Council Certificate review replaces local process.
Inland Wetlands & Watercourses Commission ("IWWC") Approval	Town IWWC	Review conducted under the Council Certificate process.	As required by the Inland Wetlands and Watercourses Act and Town regulations; regulated separately from CWA Section 404.
Community Environmental Benefit Agreement	Town	Approved by Town Council on 1/9/18 and executed on 1/30/18; includes \$5,000,000 for Community Environmental Benefit Fund and other community benefits.	Developed as mitigation for impacts from project; negotiated under Environmental Justice Act and in conjunction with the Agreement for Stabilization of Municipal Tax Payments.

Additional 3rd Party Permits

CWA Section 401 Water Quality Certification	DEEP, Inland Water Resources Division	Yankee received Tentative Determination to Approve WQC Application by DEEP on 12/22/20	Section 401 of the CWA requires applicants for a federal license or permit that may result in discharge to waters of the U.S. obtain to verify the discharge will comply with applicable CWA and state water quality requirements.
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Exhibit 2 - Summary Status of Permits and Approvals

Permit or Approval	Responsible Agency	Status	Comments
State Airline Trail – Easement Modification	Commissioner of DEEP – Agent of the State	Yankee holds easements for the Right of Way of the existing path for their NG Pipeline; the pipeline upgrade requires the modification of an easement that crosses the State's Airline Trail to allow a 16" pipe upgrade to replace the existing 6" pipe.	In process between Yankee Gas, DEEP Commissioner Dykes and NTE.
Special Contract	Connecticut Public Utilities Regulatory Authority (PURA)	Yankee Gas Services Agreement to provide gas distribution service and facilities upgrades	Approved by PURA effective January 13, 2021

Exhibit 3 – Project Summaries



Owner:
Competitive Power Ventures

Location:
Oxford, CT

EPC Contractor:
Gemma Power Systems, LLC

Design Engineer:
POWER Engineers, Inc.

The Towantic Energy Center is a new 805 megawatt combined-cycle electric generating facility in Woodruff Hill Industrial Park in Oxford, Connecticut.

The CPV Towantic facility is a 2x1 combined-cycle project composed of two General Electric 7HA.01 combustion turbine generators, two heat recovery steam generators and one steam turbine generator.

Schedule

Limited Notice to Proceed:	December 2015
Full Notice to Proceed:	March 2016
Substantial Completion:	May 2018
Build Period:	30 months



"This is a great project and we are proud to be a part of it,"

**Dave Roche, President
Connecticut State Building Trades Council**



KINGS MOUNTAIN ENERGY CENTER



Owner:

NTE Energy

Location:

Cleveland County, NC

EPC Contractor:

Gemma Power Systems, LLC

Design Engineer:

Sargent & Lundy

The Kings Mountain Energy Center is a 475 MW state-of-the-art natural gas-fired power plant facility in Cleveland County, North Carolina. The project features an advanced Mitsubishi Hitachi Power Systems Americas M501GAC combustion turbine generator, a Vogt Power International supplementary-fired heat recovery steam generator and a Toshiba America Energy Systems steam turbine generator.

The Kings Mountain Energy Center will be capable of powering approximately 400,000 homes and represent an investment of over \$440 million, providing numerous benefits to the surrounding communities and their economies.

SCHEDULE

Final Notice to Proceed:	March 2016
Substantial Completion:	August 2018
BuildPeriod:	30 months



"We want to hire people from the community, whether Cleveland County or Cleveland and Gaston County. We're hoping to fill a majority of these jobs with local people, both construction and operation."

**Mike Green, Vice President of Development
NTE Energy**



MIDDLETOWN ENERGY CENTER



Owner:
NTE Energy

Location:
Butler County, OH

EPC Contractor:
Gemma Power Systems, LLC

Design Engineer:
Sargent & Lundy

The Middletown Energy Center is a 475 MW state-of-the-art natural gas-fired power plant facility in Middletown, Ohio. The project features an advanced Mitsubishi Hitachi Power Systems Americas (MHPSA) M501GAC combustion turbine generator (CTG), a Vogt Power International supplementary-fired heat recovery steam generator (HRSG) and a Toshiba America Energy Systems steam turbine generator (STG).

The Middletown Energy Center project employed 300 craft workers at the peak of construction. Approximately 25-30 full time employees will be required to operate the facility when it is completed.

SCHEDULE

Full Notice to Proceed:	October 2015
Substantial Completion:	April 2018
Build Period:	31 months



"This facility will fill a need caused by the retirement in the next several years of several coal-fired generating stations in Ohio that will reduce the regional electricity capacity."

NTE Energy

EXHIBIT 4 – Site Photos



Governor Lamont CT Executive Orders to Date

9/30/21

9/28/2021 [Executive Order No. 14](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Extends the duration of nine previously issued executive orders to February 15, 2022; Extends the duration of agency or municipal orders that were issued pursuant to any unexpired COVID-19 order; and Repeals, renews, and revises Executive Order No. 11D Sections 2 and 3 concerning the emergency procurement of essential goods and services.

9/10/2021 [Executive Order No. 13G](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Replaces and clarifies Executive Order No. 13D on COVID-19 vaccination requirements for state employees, school employees, and childcare facility staff.

9/3/2021 [Executive Order No. 13F](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Modification of deadline for long-term care facility staff to receive vaccinations.

9/3/2021 [Executive Order No. 13E](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Establishment of temporary nurse aide program.

8/19/2021 [Executive Order No. 13D](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: COVID-19 vaccination requirements for state employees, school employees, and childcare facility staff.

8/19/2021 [Executive Order No. 13C](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Access to COVID-19 immunization information.

8/6/2021 [Executive Order No. 13B](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Requirement for employees of long-term care facilities to receive COVID-19 vaccinations.

8/5/2021 [Executive Order No. 13A](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Authorization for municipal leaders to implement universal mask requirements; Modification of effective date on legislation that requires testing of nursing home staff.

7/19/2021 [Executive Order No. 13](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Extension and modification of several previously issued executive orders; Expiration of 27 previously issued executive orders.

7/1/2021 [Executive Order No. 21-2](#)

Extends disclosure requirements in compliance with restrictions on gifts to public officials from those with contracts valued at \$50,000 or more, in contrast to the \$500,000 threshold in state law.

6/30/2021 [Executive Order No. 12D](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Implementation of certain requirements regarding evictions.

6/30/2021 [Executive Order No. 21-1](#)

Takes several actions regarding the use of solitary confinement.

5/25/2021 [Executive Order No. 12C](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Modification of thirty-six month age limit for Birth-to-Three services.

5/20/2021 [Executive Order No. 12A](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Revised order for masks and face coverings.

5/20/2021 [Executive Order No. 12B](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Extension and expiration of COVID-19 orders.

5/18/2021 [Executive Order No. 12](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Revised order for masks and face coverings.

4/30/2021 [Executive Order No. 11F](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Extension of authority for DMV to issue duplicate driver's licenses and identification credentials remotely; and Permits service of alcohol outdoors without requiring that drinks be served with food.

4/20/2021 [Executive Order No. 11E](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Extends to May 20 executive orders that have been identified as critical to pandemic response and recovery.

4/19/2021 [Executive Order No. 11D](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Consolidation and renewal of contracting flexibility to procure essential goods, services, and real estate to respond to the pandemic.

4/19/2021 [Executive Order No. 11C](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Consolidation and renewal of authority for relevant agency heads to restrict visitation at congregate facilities in order to limit the risk of transmission of COVID-19.

4/19/2021 [Executive Order No. 11](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Extension to May 20 of various executive orders that have been identified as critical to pandemic response and recovery, except for those covered by Executive Order Nos. 11A through 11D.

4/19/2021 [Executive Order No. 11A](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Consolidation and renewal of sector rules and related enforcement authority so that the Department of Economic and Community Development can continue to issue changes to these rules as the circumstances evolve and vaccination rates increase.

4/19/2021 [Executive Order No. 11B](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Consolidation of the temporary flexibilities and changes to liquor sales and service.

4/6/2021 [Executive Order No. 10E](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Absentee voting eligibility during COVID-19 pandemic.

3/18/2021 [Executive Order No. 10D](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Relaxation of capacity limits for religious, spiritual, or worship gatherings; and Repeal of mandatory travel advisory and self-quarantine requirements.

3/14/2021 [Executive Order No. 10C](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Extension of legislative action to expand access to telehealth services.

3/4/2021 [Executive Order No. 10B](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Early opening of 2021 fishing season.

2/8/2021 [Executive Order No. 10A](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Extension of COVID-19 executive orders; Extension of agency and municipal emergency orders; Extension of eviction moratorium; Effective dates for protection from civil liability for actions of omissions in support of the state's COVID-19 response; and Extension until March 1, 2021 of certain provisions related to court operations and associated requirements.

2/4/2021 [Executive Order No. 10](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Exclusion of individual stimulus payments from benefit eligibility calculations; Suspension of reapplication filing requirement for the additional veterans tax relief program; Suspension of reapplication filing requirement for the Homeowners' – Elderly/Disabled Circuit Breaker and Freeze Tax Relief Programs; Use of commuter parking facilities as needed for COVID-19 testing and vaccination; Renewals of liquor permits extended; Paid leave requirements for staff of local and regional boards of education; Relaxation of limits on religious gatherings; and Absentee voting eligibility during COVID-19 pandemic.

12/23/2020 [Executive Order No. 9T](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Extension of eviction moratorium.

12/18/2020 [Executive Order No. 9S](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Amendments to mandatory self-quarantine for travelers from states with high COVID-19 levels; and Authorization for continued temporary suspension of the requirements for licensure, certification, or registration of out-of-state providers.

12/16/2020 [Executive Order No. 9R](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Suspension and modification of tax deadlines and collection efforts for tax bills that become due and payable on January 1, 2021; Suspension of municipal assessor certification program requirement; and Alcoholic liquor sales by caterers.

12/7/2020 [Executive Order No. 9Q](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Administration of COVID-19 vaccine by licensed pharmacists; Reporting of influenza vaccine administration to patients younger than 18; and Out-of-network COVID-19 immunization.

12/4/2020 [Executive Order No. 9P](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Increase in weekly benefit amount and qualification for Lost Wages Assistance; and Remote licensing examination for subsurface sewage disposal system cleaner and installer.

12/1/2020 [Executive Order No. 9O](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Flexibility in hiring short-term substitute teachers; Sale of alcoholic liquor at virtual events by charitable organizations permitted; and Resumption of certain Judicial Branch requirements and deadlines.

11/24/2020 [Executive Order No. 9N](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Additional enforcement authority regarding violations of size and capacity restrictions; and Commissioner of Public Health measures to ensure enforcement.

11/20/2020 [Executive Order No. 9M](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: DECD authority to enact rules for all sports activities; Renewals of certain permits extended; Extending authorization for online continuing education for plumbers and electricians; and Extended deadlines for continuing education for plumbers and electricians.

11/9/2020 [Executive Order No. 9L](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Extension of COVID-19 executive orders to February 9, 2021; and Extension of agency and municipality orders of concurrent duration with public health and civil preparedness emergencies.

11/5/2020 [Executive Order No. 9K](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Repeal of municipal authority and return to statewide protective measures; Return to Phase 2 limits on certain gatherings; Reduced capacity at indoor graduation ceremonies; DECD authority to enact sector rules for youth sports; DECD authority to enact sector rules governing mandatory closing times for certain businesses and other establishments; Extension of expanded outdoor dining; Extension of prohibition on sale of alcohol by certain permittees without the sale of food; and Flexibility for school nutrition programs.

10/29/2020 [Executive Order No. 9J](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Municipal authority to revert to more restrictive pre-October 8, 2020 size and capacity limitations and rules for certain businesses and gatherings; and Modifications to deadlines to allow early preparations for absentee ballot counting.

10/27/2020 [Executive Order No. 9I](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Amendments to mandatory self-quarantine for travelers from states with high COVID-19 levels.

10/20/2020 [Executive Order No. 9H](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Remote participation in agency and municipal meetings; and Technical revisions to extension of eviction moratorium.

10/13/2020 [Executive Order No. 9G](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Municipal authority to revert to the more

restrictive pre-October 8, 2020 size and capacity limitations and rules for certain businesses and gatherings.

10/8/2020 [Executive Order No. 9F](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Amendments to Size Restrictions on Certain Gatherings; and Extension of Drive-In Worship Services and Graduations.

9/30/2020 [Executive Order No. 9E](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Extension of eviction moratorium; Certain liquor permits extended; and Date of new insurance data security requirements extended. The CDC Declaration can be downloaded in 13 languages at this link: <https://nlihc.org/national-eviction-moratorium>

9/25/2020 [Executive Order No. 9D](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Extension of prohibition on sale of alcohol by certain permittees without the sale of food; and Extension of contracting flexibility regulated to student privacy data.

9/16/2020 [Executive Order No. 9C](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Amendments to mandatory self-quarantine for travelers from states with high COVID-19 levels; and Resumption of non-judicial tax sales pursuant to Executive Order No. 7S and 7CC.

9/15/2020 [Executive Order No. 9B](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Amendments to mandatory self-quarantine for travelers from states with high COVID-19 levels; Authorization for the issuance of fines; and Repeal of executive orders extending liquor permittee credit period.

9/8/2020 [Executive Order No. 9A](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Reissuance and extension of COVID-19 executive orders to November 9, 2020; and Extension of agency and municipality orders of concurrent duration with public health and civil preparedness emergencies.

9/4/2020 [Executive Order No. 9](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Commissioners of Early Childhood and Education may issue operational rules; Extension of prohibition on sale of alcohol by certain permittees without the sale of food.

8/21/2020 [Executive Order No. 7000](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Extension of expanded outdoor dining; Modification of the extension of 30-day period of credit for liquor permittees; Extension of eviction moratorium; and Resumption of certain requirements and deadlines regarding civil and family matters.

8/14/2020 [Executive Order No. 7NNN](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Modifications to face covering requirements; and Permission for DECD commissioner to establish size limits for private gatherings.

8/10/2020 [Executive Order No. 7MMM](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Management of absentee ballots for the August 11, 2020 primary.

7/28/2020 [Executive Order No. 7LLL](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Resumption of requirements and deadlines in child protection matters.

7/24/2020 [Executive Order No. 7JJJ](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Rebuttable presumption of eligibility for workers compensation; and Discharge, discrimination, discipline, and deliberate misinformation or dissuasion prohibited.

7/21/2020 [Executive Order No. 7III](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Repeal of advisory self-quarantine; Mandatory self-quarantine for travelers from states with high COVID-19 infection levels; and Extension of statutory or regulatory deadlines by DMV.

7/14/2020 [Executive Order No. 7HHH](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Authorization for continued temporary

suspension of the requirements for licensure, certification, or registration of out-of-state providers.

7/13/2020 [Executive Order No. 7GGG](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Authorization for temporary rental housing program; Temporary mortgage relief program; and Online continuing education for plumbers and electricians.

7/6/2020 [Executive Order No. 7FFF](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Modifying minimum service hours for private non-medical institutions for adults.

6/30/2020 [Executive Order No. 7EEE](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Authorization for DSS to provide funding from the Coronavirus Relief Fund to additional providers; and Online continuing education for plumbers and electricians.

6/29/2020 [Executive Order No. 7DDD](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Extended protections for residential renters affected by COVID-19; and Authority to extend statutory and regulatory administrative deadlines by an additional 90 days.

6/25/2020 [Executive Order No. 7CCC](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Clarification of time periods in Executive Order No. 7I; Extension of time for fire service personnel examinations; and Issuance of duplicate licenses and identity cards.

6/24/2020 [Executive Order No. 7BBB](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Safety advisory regarding travel from states with high infection rates; Amended deadline for candidates to withdraw from presidential primary; Accelerated date to finalize order of names on presidential primary ballot; Temporary commercial pesticide junior operator certification; and Authority to modify enhanced health procedures in child care and day camps.

6/17/2020 [Executive Order No. 7AAA](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Technical correction to Executive Order

No. 7ZZ, Section 8; Authority to modify limitation on group sizes in child care; Waiver of requirement to hold annual agricultural fair and reporting requirement to maintain agricultural society property tax exemption; and Mandatory COVID-19 testing for staff of private and municipal nursing home facilities, managed residential communities, and assisted living services agencies.

6/16/2020 [Executive Order No. 7ZZ](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Modifications to adapt to Phase 2 reopening efforts; Restrictions on large gatherings and events; Further clarification of limits on alcohol sales by restaurants, bars, and private clubs; Restrictions of off-track betting extended; Extension of essential business rules; Clarification of Executive Order No. 7MM; and Extension of remote notarization.

6/14/2020 [Executive Order No. 8](#)

Directs several actions regarding police use of force and accountability.

6/9/2020 [Executive Order No. 7YY](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Resumption of court filing deadlines; Modifications to DMV functions; and Modifications to Executive Order No. 7E.

6/5/2020 [Executive Order No. 7XX](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Modification of safety rules for drive-in religious gatherings; Safety rules for drive-in graduations; and Suspension of the involuntary discharge of nursing facility residents and residential care home residents who may be discharged to homeless shelters, except during emergency situations or with respect to COVID-19 recovered discharges.

6/4/2020 [Executive Order No. 7WW](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Technical clarifications regarding the ballot petitioning process for the August 2020 primary and November 2020 general election; and Further clarification of limits on alcohol service and sales related to catering.

6/2/2020 [Executive Order No. 7VV](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Amended limitation on program sizes in child care.

6/1/2020 [Executive Order No. 7UU](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Mandatory COVID-19 testing for staff of private and municipal nursing homes, residential communities and assisted living agencies; and Determination of suitable work.

5/29/2020 [Executive Order No. 7TT](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Reopening of barbershops and hair salons on June 1; and Amended prohibitions on large gatherings.

5/27/2020 [Executive Order No. 7SS](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Permits the creation of a temporary nurse aide position.

5/21/2020 [Executive Order No. 7RR](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Authority for DEEP to issue rental refunds; Modification of age limit for early intervention coverage; and Waiver of requirement for guest books at private clubs.

5/20/2020 [Executive Order No. 7QQ](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Modifications to permit the use of absentee ballots to reduce the risk of COVID-19 transmission during August 11, 2020 primary; and Clarification that orders by commissioners issued pursuant to the governor's executive orders are not regulations.

5/18/2020 [Executive Order No. 7PP](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Reopening Phase 1; Enforcement of sector rules governing the reopening of businesses; Extension of prohibition on large gatherings to June 20, 2020; Extension of restrictions on off-track betting, indoor fitness, and movie theaters to June 20; Further clarification of limits on restaurants, bars, and private clubs – mixed drinks permitted for takeout delivery; Limitation on the operation of day camps; Enhanced health procedures for all day camps; Cancellation of resident camp operations; Limitation on the operation of summer and educational programs operated by local or regional boards of education; and Suspension or modification of regulatory requirements to protect public health and safety.

5/14/2020 [Executive Order No. 7OO](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Procedures for local appointments and elections requiring in-person vote.

5/13/2020 [Executive Order No. 7NN](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Waiver of statutory vote on supplemental federal block grant; Remote participation in member meetings; Waiver of certain regulatory limitations on the amount of support that can be provided to caregiver relatives; Technical modification of grace period for April and May rent; Authorization for OPM to direct DSS to provide Coronavirus Relief Fund distributions to nursing home facilities; Authorization for OPM to direct DSS to provide Coronavirus Relief Fund distributions to COVID recovery facilities and alternate COVID recovery facilities; Authorization for additional COVID-19 related hardship relief funding under the Coronavirus Relief Fund to nursing home facilities; Coronavirus Relief Fund distribution determinations not subject to rehearing or appeal; and Extension and sunset of suspension of tax on single-use plastic checkout bags.

5/12/2020 [Executive Order No. 7MM](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Allows municipalities to expedite changes to their zoning rules or other ordinances to expand outdoor dining; Creates an expedited approval process for restaurants and other establishments that serve food to get fast-tracked permission to create or expand outdoor dining areas; Allows other businesses such as retail stores to get fast-tracked permission to sell goods on the sidewalk or in other outdoor areas, including shared spaces or spaces provided by municipalities; Allows restaurants and other businesses who already have liquor permits to serve alcohol only with food without applying for a separate patio or extension of use permit; and Allows private clubs to sell alcohol only to their members for delivery or pickup.

5/11/2020 [Executive Order No. 7LL](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Modifications to the petitioning process for the August primary.

5/7/2020 [Executive Order No 7KK](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Pharmacists are permitted to order and administer Food and Drug Administration approved tests for COVID-19.

5/6/2020 [Executive Order No. 7JJ](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Applicability of Executive Order No. 7S, Section 8 – Suspension of reapplication filing requirement for the Homeowners’

Elderly/Disabled, Circuit Breaker Tax Relief Program and for the Homeowners' Elderly/Disabled Freeze Tax Relief Program; Distance learning and remote testing certification for DEEP programs; Tolling of land use and building permits; and Allowance of suspension of in-person voting requirements by members of the public for critical and time-sensitive municipal decisions.

5/5/2020 [Executive Order No. 7II](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Extension of school class cancellations for remainder of school year; Authorization for the Department of Social Services commissioner to temporarily waive, modify, or suspend home health regulatory requirements; Extension of the start date for imposition of a late fee for obtaining dog licenses from July 1, 2020 to August 1, 2020; and Authority to waive certain requirements for the issuance of vouchers under the Farmers' Market Nutrition Program for Women, Infants, and Children.

5/1/2020 [Executive Order No. 7HH](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Mandatory suspension of annual town meeting or referendum to adopt budget; and Authorization for common-interest communities to hold meetings remotely.

4/30/2020 [Executive Order No. 7GG](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Extension of payment time for sealed ticket revenue due to the state; Waiver of notarization requirement for embalmer's affidavit accompanying death certificates; Temporary suspension of controlled substance registration; Modification of state contracting statutes to facilitate the emergency procurement of essential services; Modification of state contracting authorities to facilitate the emergency procurement of essential services; Modification of state construction requirements to facilitate the emergency provision of construction and construction-related services; and Extension of existing contracts to prevent gaps in necessary services.

4/24/2020 [Executive Order No. 7FF](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Additional flexibility for Medicaid-enrolled providers to perform telehealth through audio-only methods for new patients.

4/23/2020 [Executive Order No. 7EE](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Mandatory reporting by managed residential communities; Mandatory reporting by nursing homes; Civil Penalties for failure to comply with mandatory reporting; Waiving certain Medicaid prior authorization requirements; Waiving Medicaid bed reservation requirements for residents on leave from intermediate care

facilities for individuals with intellectual disabilities; and Waiving requirements for signed delivery receipt for medical equipment, devices, and supplies.

4/22/2020 [Executive Order No. 7DD](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Additions to the definition of telehealth provider; Flexibility for Medicaid-enrolled providers and in-network providers for commercial fully insured health insurance to perform telehealth through additional methods; Additions to permissible out-of-state healthcare providers; Participation in intern, resident physician, or United States Medical Officer candidate training programs prior to permit issuance; Participation in resident physician assistant program prior to permit issuance; Temporary suspension of physician assistant supervision restrictions; Temporary suspension of in-person supervision requirement for advanced practice registered nurses; Provision of services by respiratory care therapist and respiratory care technician students; Suspension of continuing education requirement for health care providers; and Modification of 36-month age limit for Birth-to-Three services.

4/21/2020 [Executive Order No. 7CC](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Applicability of Executive Order No. 7S, Section 7 to additional critical and time-sensitive municipal fiscal actions; Clarification of time periods regarding suspension and modification of non-judicial tax sales pursuant to Executive Order No. 7S, Section 11; Exclusion of federal stimulus payments in evaluating eligibility for state or local programs financed in whole or in part using state funds; Alternative to physical presence in court for finding of irretrievable breakdown of marriage; Alternative to in-person waiver of right to file motion or petition for educational support; Alternative to physical appearance of petitioner regarding decree of dissolution after entry of decree of legal separation; Alternative to in-court canvas prior to entrance of final agreement; Alternative to physical presence when findings on the record required; and Revised financial protections for people covered by insurance who receive out-of-network health care services during the public health emergency.

4/17/2020 [Executive Order No. 7BB](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Cloth face coverings or higher level of protection required in public wherever close contact is unavoidable; and Further postponement of presidential preference primary to August 11.

4/15/2020 [Executive Order No. 7AA](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Approval of temporary additional nursing home beds for COVID-19 recovery.

4/14/2020 [Executive Order No. 7Z](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Modification of state contracting statutes to facilitate the emergency procurement of essential goods; In-person attendance requirement suspended for assessment appeals; and Suspension of requirements for security officer license.

4/11/2020 [Executive Order No. 7Y](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Implementation of a nursing home surge plan.

4/10/2020 [Executive Order No. 7X](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Protections for residential renters impacted by COVID-19; Continued cancellation of school classes through May 20, 2020; Extension of closures, distancing, and safety measures through May 20, 2020; Modification or deferral of educator certification testing; and Permission to operate food trucks at rest areas.

4/9/2020 [Executive Order No. 7W](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Suspension and modification of tax deadlines and collection efforts pursuant to Executive Order No. 7S, Section 6; No increased experience rating based on COVID-19 unemployment claims; Coil cleaning requirements modified; Delivery signature requirement suspended; Return of permit not necessary for temporary closures pursuant to Executive Order No. 7D; Ninety-day provisional permits; Renewal date for on-premise liquor permits to be extended; and Permit need not be recorded with town clerk.

4/7/2020 [Executive Order No. 7V](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Safe workplaces in essential businesses; Temporary permits for certain health care providers extended and fees waived; Practice before licensure for certain health care profession applicants and graduates; Practice before licensure for marital and family therapy associates; Practice before licensure for professional counselor associates; and Protection from civil liability for actions or omissions in support of the state's COVID-19 response.

4/5/2020 [Executive Order No. 7U](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Protection from civil liability for actions or omissions in support of the state's COVID-19 response; and Financial protections for the

uninsured and people covered by insurance who receive out-of-network health care services during the public health emergency.

4/2/2020 [Executive Order No. 7T](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Prohibition on non-essential lodging; Further clarification of limits on restaurants, bars, and private clubs; Suspension of notarization requirement related to Connecticut Recovery Bridge Loan Program; Flexibility to maintain adequate child care infrastructure; Suspension of rehearing rights for temporary rate increases for certain health care providers; and Alternative to affidavits in relation to orders of protection and relief.

4/1/2020 [Executive Order No. 7S](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Safe stores mandatory statewide rules 60-day grace period for premium payments, policy cancellations, and non-renewals of insurance policies; Extension of 30-day period of credit for liquor permittees; Daily payment of certain taxes changed to weekly; Flexibility to amend Medicaid waivers and state plan; Relief from certain municipal tax deadlines and collection efforts; Allow suspension of in-person voting requirements for critical and time sensitive municipal fiscal deadlines; Suspension of reapplication filing requirement for the homeowners' elderly/disabled circuit breaker tax relief program and for the homeowners' elderly/disabled freeze tax relief program; Substitution of full inspection requirements pertaining to October 1, 2020 grand list revaluations; Extension of deadline to file income and expense statement to August 15; Suspension of non-judicial tax sales.

3/31/2020 [Executive Order No. 7R](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Continuation of funding for boards of education; Continuation of payment of public school staff; Preservation of student transportation services and special education providers; Restrictions on entrance to state parks, forests, and other lands; and Curbside pickup of alcoholic beverages permitted.

3/30/2020 [Executive Order No. 7Q](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Requirement of limited group sizes in childcare; Enhancement of health procedures for all operating childcare programs; and Authorization of remote notarization.

3/28/2020 [Executive Order No. 7P](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Authorization to provide for non-congregant housing for persons at risk.

3/27/2020 [Executive Order No. 7O](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Suspension of license renewals and inspections by DPH; Modification of health care provider identification badge requirements; Waiver of registration requirement for alcohol-based hand sanitizers and medical devices; and Waiver of Birth-to-Three family cost participation fees.

3/26/2020 [Executive Order No. 7N](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Further reduction of social and recreational gatherings to 5 people; Restrictions on restaurant payment and pickup operations; Further restrictions on retail operations; Requirement of firearms transactions by appointment only Suspension of tax on single-use checkout bags; Prohibition of employers from requiring employees to place items in customers' reusable bags; Suspension of 21-month limit on Temporary Family Assistance; and Suspension of school testing assessments for 2019-20 school year.

3/25/2020 [Executive Order No. 7M](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Tolling of time periods for DOT final determinations on permits; Suspension of mandatory statutory filing requirements for FOIA appeals and decisions; and Authorization of state agencies to extend statutory regulatory administrative deadlines by 90 days.

3/24/2020 [Executive Order No. 7L](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Extension of class cancellations at all public schools to April 20; Early opening of fishing season; Suspension of restrictions on reemployment of municipal retirees; Flexibility to maintain adequate medical marijuana access for patients; Extension of time period for nursing home transfers; Modification of the duties of registrars of vital records; Modification of in-person purchase of and access to copies of vital records; and Modification of marriage license requirements.

3/23/2020 [Executive Order No. 7K](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Suspension of non-critical probate court operations; Suspension of non-critical Workers' Compensation Commission operations; Authorization of remote notarization; Modification of DPH regulatory requirements; and Suspension of national criminal history records checks for long-term care providers.

3/22/2020 [Executive Order No. 7J](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Clarification of "Stay Safe, Stay Home" Executive Order No. 7H regarding nonessential business operations; Extension of time period for fire service personnel examinations; Delivery of methadone to homebound patients by methadone maintenance clinics; Suspension of rehiring procedures and restrictions on temporary worker retirees; Modification of real property statutes to facilitate leasing, repairs, alterations and use of real property; and Modification of state contracting statutes to facilitate leasing, repairs, alterations, and use of real property.

3/21/2020 [Executive Order No. 7I](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Modifications to DSS benefits; Flexibility related to the Student Data Privacy Act; Modifications related to DCF; Modifications to DCP regulations regarding pharmacies; Suspension of in-person shareholder meeting requirements; and Procedural relief for municipalities.

3/20/2020 [Executive Order No. 7H](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: "Stay Safe, Stay Home" restrictions on all workplaces for non-essential business; and Requirement of a coordinated effort between the State of Connecticut and its municipalities.

3/19/2020 [Executive Order No. 7G](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Postponement of presidential primary to June 2; Suspension of non-critical court operations and associated requirements; Permits certain restaurants and other eating establishments to sell alcohol with take-out food orders under certain conditions; Flexibility for Medicaid-enrolled providers and in-network providers for commercial fully insured health insurance to perform telehealth through additional methods; Temporary suspension of in-person investigative visits regarding reports of elder abuse; and Extension of time for disclosure of investigation results.

3/18/2020 [Executive Order No. 7F](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Closure of large, indoor shopping malls; Closure of places of public amusement; Expansion of Medicaid telehealth coverage to audio-only telephone; Waiver of in-person service, gearing, and screening requirements for facilities that have issued orders limiting visitor access; and Continuation of classes and programming at certain schools operated within DOC, DCF, and DMHAS.

3/17/2020 [Executive Order No. 7E](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Further modification of 180-day school

year requirement; Suspension of required fingerprinting availability at police departments; Extension of time period for DESPP permits; Suspension of the immediate recoupment of DSS public assistance benefit overpayments; and Suspension of in-person hearing attendance at DSS fair hearings.

3/16/2020 [Executive Order No. 7D](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Further reduction of social and recreational gatherings to 50 people; Limits restaurant, bar, and private club operations to off-premise consumption of food and non-alcoholic beverages; Closure of off-track betting facility operations; and Closure of gym, sports, fitness, recreation facilities, and movie theaters.

3/15/2020 [Executive Order No. 7C](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Cancellation of classes at all public schools; Flexibility of graduation requirements and prescribed courses of study; Flexibility for educator prep programs; Flexibility for educator certification timelines, educator evaluations, and school in-services; Extension of municipal budget adoption deadlines; Extension of regional board of education budget adoption deadlines; Remote conduct of DMV operations; Limits on visitors to facilities that treat persons with psychiatric disabilities; Limits on visitors to the Southbury Training School; and COVID-19 information sharing between facilities that treat persons with psychiatric disabilities, DPH, and local health directors.

3/14/2020 [Executive Order No. 7B](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Suspension of in-person open meeting requirements; Waiver of manufacturer registration requirement for hand sanitizer; Suspension of garbing Requirements for non-hazardous compounding of sterile pharmaceuticals; Refunds certain liquor license application fees permissible; Waiver of face-to-face interview requirements for Temporary Family Assistance; Flexibility to maintain adequate childcare resources; and Flexibility to provide for adequate healthcare resources and facilities.

3/13/2020 [Executive Order No. 7A](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: Grants the commissioner of the Department of Public Health the authority to restrict visitation at nursing homes and similar facilities.

3/12/2020 [Executive Order No. 7](#)

Takes several emergency actions in response to the COVID-19 outbreak and the governor's civil preparedness and public health declarations, including: limiting the size of gatherings to 250 people, waiving the 180-day school year requirement, clarifying nursing home visitation

restrictions, authorizing DMV to extend renewal deadlines, and relaxing attendance rules for police academy trainees.

1/22/2020 [Executive Order No. 6](#)

Directs the Department of Social Services to improve public transparency of Medicaid costs and quality.

1/22/2020 [Executive Order No. 5](#)

Directs the Office of Health Strategy to establish statewide healthcare cost growth and quality benchmarks and a primary care spending target.

10/29/2019 [Executive Order No. 4](#)

Forms the Governor's Workforce Council and tasks it with coordinating the state's workforce training initiatives to meet the needs of 21st century jobs.

9/3/2019 [Executive Order No. 3](#)

Expands the responsibilities of the Governor's Council on Climate Change, increases its membership, and directs the Department of Energy and Environmental Protection to evaluate pathways to transition to a 100 percent clean energy grid by 2040.

7/31/2019 [Executive Order No. 2](#)

Directs the execution of a human resources centralization plan in order to provide state government with the highest quality human resources services at the lowest possible cost, and further the uniform administration of processes, systems, and functions among state agencies.

4/24/2019 [Executive Order No. 1](#)

Directs executive branch state office buildings and vehicle fleets to become greener and more energy efficient through an expanded "Lead By Example" sustainability initiative aimed at reducing the state's carbon footprint and reducing the cost of government operations.

**Attachment D: NTE Interim Limited Notices to Proceed Contingent
Upon Financing**

October 22, 2021

Gemma Power Systems, LLC
769 Hebron Ave.
Glastonbury, CT 06033
Attn: Charles Collins

Subject: Killingly Energy Center Project
October 1, 2021 Interim Limited Notice to Proceed

Dear Mr. Collins:

This letter provides the terms under which NTE Connecticut, LLC (“Owner”) issues to Gemma Power Systems, LLC (“Contractor”) an Interim Limited Notice to Proceed (the “ILNTP”), effective October 1, 2021 for the construction of the Killingly Energy Center, a combined cycle electric power generation facility (the “Project”).

Whereas, Owner and Contractor are finalizing amendments to the Engineering Procurement and Construction (“EPC”) agreement to accommodate COVID delays and relevant schedule updates.


Whereas, Owner and Contractor are finalizing such amendments to the EPC agreement to incorporate (i) this ILNTP and (ii) finalize the current financing for the Project that includes replacement of the current Letter of Credit at ISO-NE relieving Contractor from all liability under existing Letter of Credit facilities for the Project, on or before November 1, 2021.

Whereas, Owner anticipates issuing Full Notice to Proceed (“FNTP”) on or before January 4, 2022, and issuing the necessary credit support required in order for Contractor to proceed with the Work.

Contractor is hereby directed to commence the work in accordance with the ILNTP and the attached Project Schedule (collectively the “Work”).

During the month of October, Owner will work to complete the current financing. Upon replacement of the Letter of Credit at ISO-NE, Contractor will be relieved from all liability under such Letter of Credit. In the event Owner is unable to provide the items described above, Contractor will have the right to suspend work.

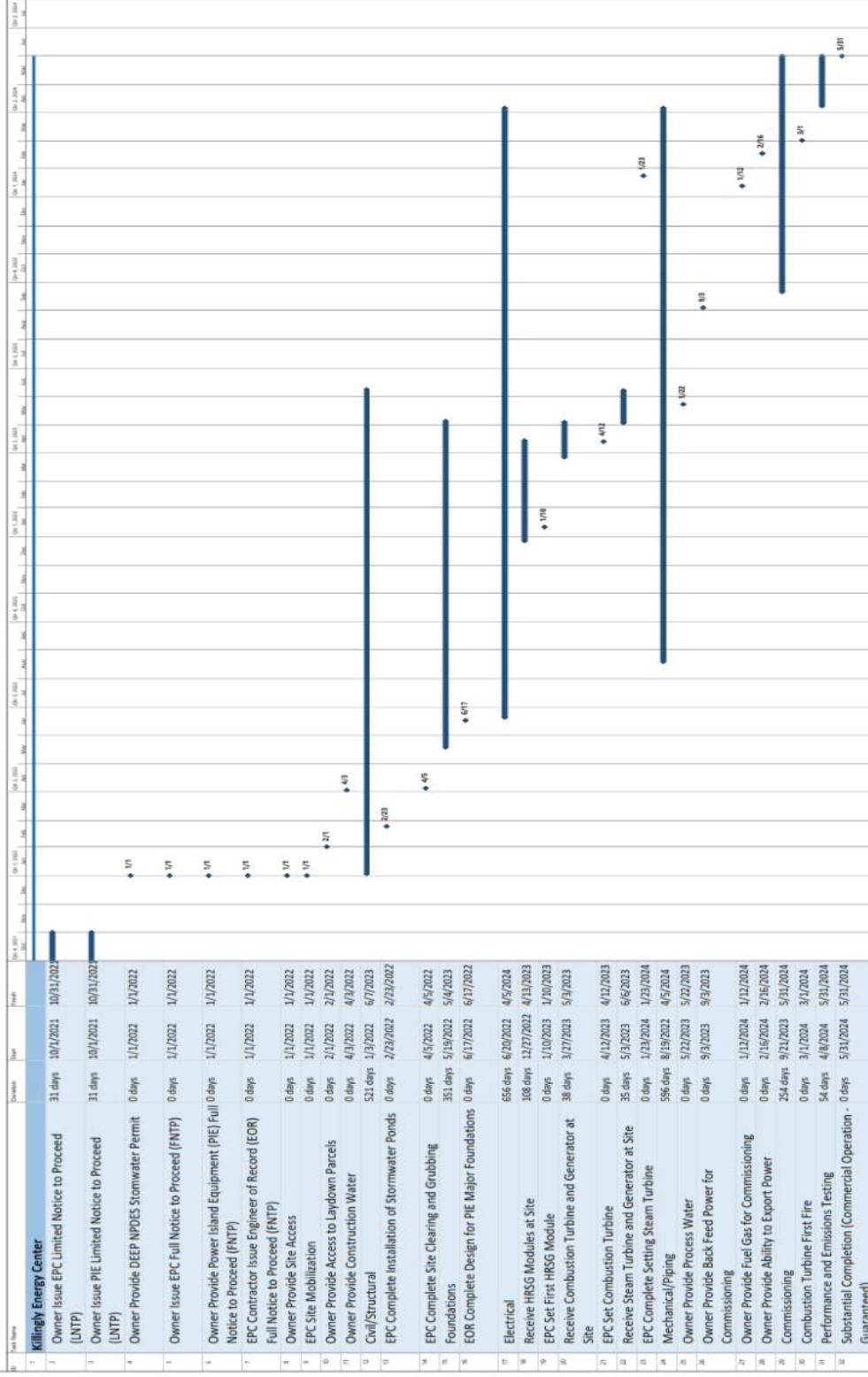
NTE Connecticut, LLC

By: Tim Eves 

Title: Managing Partner

PROJECT SCHEDULE

Killingly Energy Center Level 1 Schedule



October 22, 2021

Mitsubishi Power Americas, Inc.
400 Colonial Center Parkway
Lake Mary, FL 32746
Attn: William Hoffman

Subject: Killingly Energy Center Project
October 1, 2021 Interim Limited Notice to Proceed

Dear Mr. Hoffman:

This letter provides the terms under which NTE Connecticut, LLC ("Owner") issues to Mitsubishi Power Americas, Inc. ("Supplier") an Interim Limited Notice to Proceed (the "ILNTP") effective October 1, 2021, for the supply of the major equipment (CTG, STG and HRS) for the Killingly Energy Center, a combined cycle electric power generation facility (the "Project").

Whereas, Owner and Supplier are finalizing amendments to the Equipment Purchase and Sale Agreement ("EPSA") to accommodate COVID delays and relevant schedule updates.

Whereas, Owner and Supplier are finalizing such amendments to the EPSA to incorporate (i) this ILNTP and (ii) finalize the current financing for the Project that includes replacement of the current Letter of Credit at ISO-NE relieving Supplier from all liability under existing Letter of Credit facilities for the Project, on or before November 1, 2021.

Whereas, Owner anticipates issuing Full Notice to Proceed ("FNTP") on or before January 4, 2022, and issuing the necessary credit support required in order for Supplier to proceed with the Work.

Supplier is hereby directed to commence the work in accordance with the attached Project Schedule (the "Work").

During the month of October, Owner will work to complete the current financing. Upon replacement of the Letter of Credit at ISO-NE, Supplier will be relieved from all liability under such Letter of Credit. In the event Owners is unable to provide the items described above, Supplier will have the right to suspend work.

NTE Connecticut, LLC

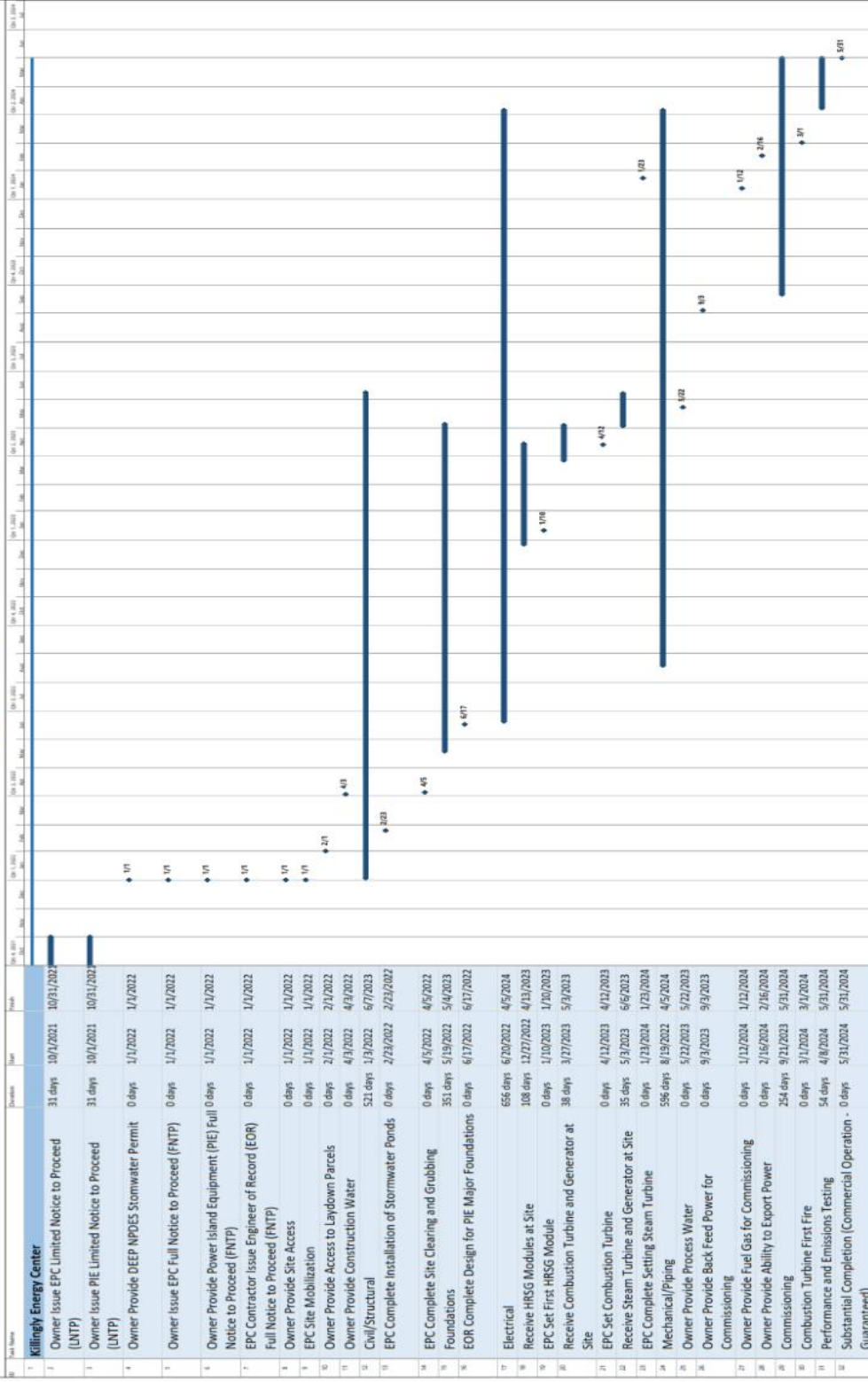
By: Tim Eves



Title: Managing Partner

PROJECT SCHEDULE

Killingly Energy Center Level 1 Schedule



**Attachment E: NTE Large Generator Interconnection Agreement –
Updated Milestone Dates**



NTE Connecticut, LLC

24 Cathedral Place, Suite 600
St. Augustine, FL 32084
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October 28, 2021

Ref File: NTECT-CLP-007

Suprabha Prabhakaran
Senior Engineer, Transmission
Interconnections & Services
Eversource Energy
Fifty-Six Prospect Street
Hartford, Connecticut 06103

Jody Truswell
Senior Project Coordinator
Transmission Strategy & Services
ISO New England Inc.
One Sullivan Road
Holyoke, MA 01040-2841

RE: **KILLINGLY ENERGY CENTER** – Large Generator Interconnection Agreement - Updated Milestone Dates

Dear Ms. Prabhakaran and Ms. Truswell:

Reference that certain Large Generator Interconnection Agreement effective as of June 16th, 2020 (“LGIA” or “Agreement”) by and between NTE Connecticut, LLC (“NTE” or “Interconnection Customer”), ISO New England Inc. (“ISONE” or “System Operator”), and The Connecticut Light and Power Company (“CL&P” or “Interconnecting Transmission Owner”). Capitalized terms used but not defined herein shall have the meaning ascribed to them in the Agreement.

Both NTE and CL&P have been communicating regularly regarding current ongoing permitting and other activities related to the Killingly Energy Center (“KEC”) that will be required for NTE to begin construction on KEC. The current global situation stemming from COVID-19, as well as other factors related to the construction have affected KEC’s overall project schedule. Because it is important that the Milestone Dates in Appendix B of the LGIA align with the overall project schedule, NTE would like to update certain Milestone Dates within the LGIA as shown below.

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<u>Item No. / Milestone</u>	<u>Date in LGIA</u>	<u>Updated Dates</u>
	<u>6/16/20</u>	<u>10/28/21</u>
7A – Governmental Authority Approval	May 1, 2021	June 1, 2022
7C - Provide to Interconnecting Transmission Owner written authorization to proceed with design, equipment procurement and construction	October 1, 2020	November 30, 2021
15A – Commencement of construction of Interconnection Facilities	June 30, 2021	August 29, 2022
17 – In Service Date	May 15, 2022	July 1, 2023
20 – Commercial Operation Date	June 1, 2023	May 31, 2024

*All other milestones dates remain unchanged unless noted above

NTE appreciates CL&P’s willingness to work with us on these changes. We look forward to continuing to make progress on the design of the Cotton Bridge Switching Station and associated interconnection tie-in, as well as preparation of Petition for Declaratory Ruling to the Connecticut Siting Council.

This letter does not waive, and Owner hereby reserves, all of its rights under the Agreement.

Sincerely,



Timothy Eves
 Managing Partner
 NTE Connecticut, LLC

**Attachment F: Lummus Consulting International Report –
Review of Critical Path Schedule Project 12280**

FINAL Report

**Review of
Critical Path Schedule
Project 12280**

Submitted to



October 29, 2021

LUMMUS CONSULTANTS
I N T E R N A T I O N A L

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1 Introduction

1.1 Scope and Objectives

Lummus Consultants International LLC ("Lummus Consultants") was retained by ISO-New England Inc. ("ISO-NE") to assist in reviewing the critical path schedules ("CPS") of generators requesting participation in Forward Capacity Auctions.

The objective of this report is to review and opine on the Sponsor supplied schedule updates to the CPS for Project 12280. The Sponsor submitted updated CPS data for September 2021. The September 2021 updates also included responses to ISO-NEs questions and other data. Project 12280 was originally accepted for Forward Capacity Auction 13 ("FCA-13") with a capacity commitment date of June 1, 2022. The start of Project 12280 has been delayed and ISO-NE has extended the date for Project 12280 to deliver capacity by June 1, 2024.

2 Project 12280

2.1 Project Overview

Project 12280 represents about 631.6 MW of new generation (summer capacity) in Windham County, CT. The project is a single 1x1x1 configuration combined cycle plant with one Mitsubishi M501JAC Combustion Turbine Generator (“CTG”), one Heat Recovery Steam Generator (“HRSG”) and one Mitsubishi/Toshiba TCSF Steam Turbine Generator (“STG”), with cooling provided by an Air Cooled Condenser (“ACC”). At this time, vendors for the Generator Step-up (“GSU”) transformers, HRSG and ACC do not appear to have been selected.

2.2 CPS Project Milestones Included

The Sponsor has provided data for all the required project milestone date categories. CPS project milestones included are:

- Major Permits dates;
- Project Financing Closing dates;
- Major Equipment Order dates;
- Substantial Site Construction date;
- Major Equipment Delivery dates;
- Major Equipment Testing dates;
- Commissioning Completion date; and
- Commercial Operations date.

2.3 CPS Project Milestones Requirements

The scheduled Substantial Site Construction date as defined in Section III.13.1.1.2.2.2(d) of Market Rule 1 when the amount of money expended on construction activities occurring on the project site is expected to exceed 20 percent of construction financing costs will likely be achieved circa May 2022 based upon the sequences provided in the September 2021 CPS milestone schedule update, which indicates that full notice to proceed (“full NTP”) for engineer, procurement, and construction (“EPC”) contractor will occur on January 1, 2022. The Substantial Site Construction date provided in the Project 12280 September 2021 CPS milestone schedule update occurs on January 14, 2022. All other CPS milestones provided in the September 2021 update appear to meet required definitional requirements.

2.4 CPS Project Milestones Proposed Sequences

Figure 1 on page 7 shows Project 12280 CPS project milestone dates in a Gantt bar graph format. The dates in Figure 1 are those provided in the Project 12280 Sponsor’s September 2021 CPS update, and include the September 29, 2021 response from the Sponsor, which provided a Level 1 Schedule designated as Exhibit 1. The Level 1 Schedule provides additional scheduling detail not included in the tabular CPS activities normally provided to ISO-NE. Figure 1 includes that additional detail, which we have considered in our analysis. We have used a schedule progress update date (“Data Date”) of September 30, 2021 in Figure 1 and Figure 2, and any activity start or finish dates that precede the September 30, 2021 date are assumed to have started or finished on the dates provided by the Sponsor in the September 2021 CPS update.

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Dates in Figure 1 with an “A” following the “Start Date” or “Finish Date” denote the actual “Start Date” or “Finish Date” reported. The Gantt charts in Figure 1 and Figure 2 use a five-day workweek as a timescale. Certain dates provided by the Project 12280 Sponsor are weekend days. Where this occurs, dates seen in Figure 1 and Figure 2 are the next business day.

The Equity Financing Secured date shown in the Figure 1 schedule is about two weeks after full NTP for the major equipment. Significant sums of money, in the order of about 10% of the purchase price, are generally required at the time of issuing full NTP for major equipment purchases; therefore, the Equity Financing Secured date would likely have to be earlier to provide the necessary funds from Sponsor equity. If sufficient funds were not available when it is time to authorize major equipment suppliers to proceed, full NTP could not be issued and deliveries of that equipment would likely be delayed.

The Debt Financing Secured Date is about two months after full NTP is scheduled to be issued to the EPC contractor. It is unlikely that an EPC contractor would enter into a multi-million dollar EPC contract without assurances that money has been secured to fund the project. Under project financing procedures seen on most projects, full NTP is issued to the EPC contractor after financing has closed with the lending institutions that are providing the funds, often on the same day and part of the closing proceedings.

All major permitting required for Project 12280 appears to be in place.

Local permitting such as building permits cannot be applied for until after engineering and design for the work being permitted is substantially complete and has been sealed by a Connecticut certified professional engineer, who will be the engineer of record. The preliminary engineering and design work necessary to secure any initial permits that may be required for site grading is often completed during a limited NTP to the EPC contractor. This allows the EPC contractor to complete enough engineering and design to apply for the necessary local building permits shortly after receiving full NTP. Local building permits can be issued within 30 days of application if no amendments or clarifications are required. We note that Connecticut has a peer review process in place, which must be completed prior to filing a permit application with the local building department. The peer review process can take 15 to 30 days or more depending upon the complexity of the item being permitted. The September 2021 update to Project 12280 indicates that a limited NTP period of one month is to be awarded to the EPC contractor on October 1, 2021, which would provide some time to start the design work necessary for the grading permit application. The September 2021 update also indicates that full NTP for the engineer of record is planned to occur on January 1, 2021, allowing several months to apply for a grading permit assuming that the local building official allows clearing and grubbing of the site to proceed as an activity not requiring a permit.

Excluding the aforementioned issues with equity and debt funds availability, the sequences of procurement, construction and commissioning are generally what would be expected for this project. Lummus Consultants requested confirmation from the Sponsor that limited NTP was issued to the EPC contractor on October 1, 2021 as noted in the September 2021 CPS update. The Project 12280 Sponsor has provided an Interim Limited Notice to Proceed (“ILNTP”) documents issued to the Gemma Power Systems, LLC, the EPC contractor and Mitsubishi Power Americas, Inc., a major power island equipment supplier. Both documents are dated October 22, 2021, and indicate an effective date of October 1, 2021. The ILNTP documents provided does not change our analysis as they do not provide a definitive scope of work, include

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reference to a purchase order or provide terms of compensation. The ILNTP to Mitsubishi Power Americas, Inc. does suggest that they will be the provider of the HRSG, which was not evident in any previous data that we have reviewed. We believe that to be a correct statement and have included that information in our analysis in Section 2.5 below.

2.5 CPS Project Milestone Durations

Based upon data provided in the September 2021 CPS update provided to ISO-NE, Project 12280 is scheduled to begin commercial operation on May 31, 2024 or within about 29 months of the full NTP being issued to the power island suppliers and the EPC contractor on January 1, 2022. This is an aggressive, but achievable schedule for a project of this scope.

It is more likely that the issuance of full NTP to the power island suppliers would be delayed about two weeks until January 14, 2022 when equity financing is secured, and issuance of full NTP to the EPC contractor would be delayed until March 1, 2022 when debt financing is secured. While a two week delay in initiating the manufacturing of the main power island equipment would likely result in a consequential delay to the Project, a two month delay in issuing full NTP to the EPC contractor would result in a 27 month schedule, achieving commercial operation on May 31, 2024, which is unlikely, although not impossible. In order to reduce the project duration, it would require significant coordination on the part of the EPC contractor and subcontractors, the major power island supplier as well as all of the materials and equipment suppliers, service providers and other contractors supporting the project. The project cost would substantially increase due to additional work shifts, additional jobsite supervision associated with the additional work shifts, expedited engineering and design, and expediting costs to assure timely delivery of all materials and equipment. Diligent project management will also be required. Reducing the schedule duration would also require that engineering and peer review is completed in time to support the timely issuance of required building permits, and is of sufficiently high quality as to not delay the process by having to take additional time to respond to questions or to correct errors discovered by the building officials.

Procurement durations provided in the September 2021 CPS update for the CTG, STG, GSU, HRSG and ACC appear to be adequate. The CTG, STG and HRSG are manufactured overseas, and will require ocean shipment, followed by customs clearance at the port of entry, and over-the-road transport from the port to the site, which is attainable in the times noted in the September 2021 CPS update. This will require diligent expediting of the vendors and diligent management of the shipping and transportation processes. These large and heavy shipments will require special road use permitting, and bridge and road limitation studies, which may result in road or bridge upgrades if a viable existing route from the port of entry to the jobsite is not found. Vendors for the GSU transformers and ACC have not been disclosed, but some or all of these items could be manufactured overseas as well. It is likely that placing a firm purchase order or full NTP for the CTG, STG, HRSG, ACC, and GSU transformers would be delayed about two weeks from January 1, 2022 due to the availability of equity financing, which is now expected to be available on January 14, 2022. A two-week delay in delivery of these items should not delay completion of Project 12280.

Initial delivery of HRSG components is planned for about 12 months after full NTP has been issued. HRSG deliveries continue over approximately three months until all of the components have been received. This

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is a normal sequence of events, and within the delivery times expected, considering that the a limited NTP is expected to be issued to the power island equipment suppliers on October 1, 2021, presumably in order to start engineering of the equipment. Many of the HRSG parts exceed the dimensional and weight limits of a normal over-the-road truck. These large and heavy shipments will also require special road use permitting, and bridge and road limitation studies, which may result in road or bridge upgrades if a viable existing route from the port of entry (or railroad point of discharge if the HRSG is sourced domestically) to the jobsite is not found. Smaller components such as piping, valves, silencers, etc. can be shipped without special permitting since they fall within the dimensional and weight limits of a normal over-the-road truck.

Delivery of the ACC is to be completed in about 11 ½ months after full NTP has been issued. An ACC of this size will likely take 12 to 14 months to fabricate and deliver, and could be fabricated either in a domestic or foreign facility. The ACC vendor has not been selected, so we cannot determine its manufacturing location. While an ACC is large when completed, it can generally be shipped to the jobsite in small enough pieces that heavy hauling and special road permitting is not required. While we believe that delivery of the ACC would likely be delayed by one to two months, this delay would not likely extend the construction duration of Project 12280.

While the major equipment fabrication and delivery times provided in the September 2021 CPS update may be marginal in some cases, minor delays in equipment delivery within the durations discussed above should not be a cause for delay of completion of Project 12280. However, significant delays in placing the orders for the equipment could result in delay of completion of Project 12280. We have assumed that the ongoing COVID 19 pandemic issues affecting the supply chains for equipment and materials required for Project 12280 have been rectified; however if they are still ongoing, supply chain delays could be expected. Some supply chain delays could be mitigated by working additional hours or shifts on the construction site. The terms of the EPC contract that is eventually put in place will determine who would bear the costs of additional work hours or shifts.

2.6 Project Conclusions

It is our opinion based strictly on the data provided in the September 2021 CPS update, and an assumption that the necessary full NTPs to the power island equipment vendors and the EPC contractor can be executed without financing in place, commercial operation of Project 12280 could occur on or about the stated proposed commercial operation date of May 31, 2024 and prior to the amended FCA 13 capacity commitment date of June 1, 2024 as seen in Figure 1 below; however, this assumes that all activities will occur on the dates shown in the September 2021 CPS update, and the necessary full NTPs to the power island equipment vendors and the EPC contractor can be executed without financing in place, which we believe is unlikely.

Figure 2 below provides a realistic scenario that incorporates financing availability as a requirement to execute full NTPs for the power island equipment vendors and the EPC contractor. We have assumed there will be sufficient equity financing available on January 14, 2022 to issue full NTP to the power island equipment vendors; however, sufficient financing will not be available to issue full NTP to the EPC Contractor until debt financing has been obtained on March 1, 2022. In Figure 2, full NTP for the power island equipment vendors coordinates with equity financing available on January 14, 2022, and full NTP

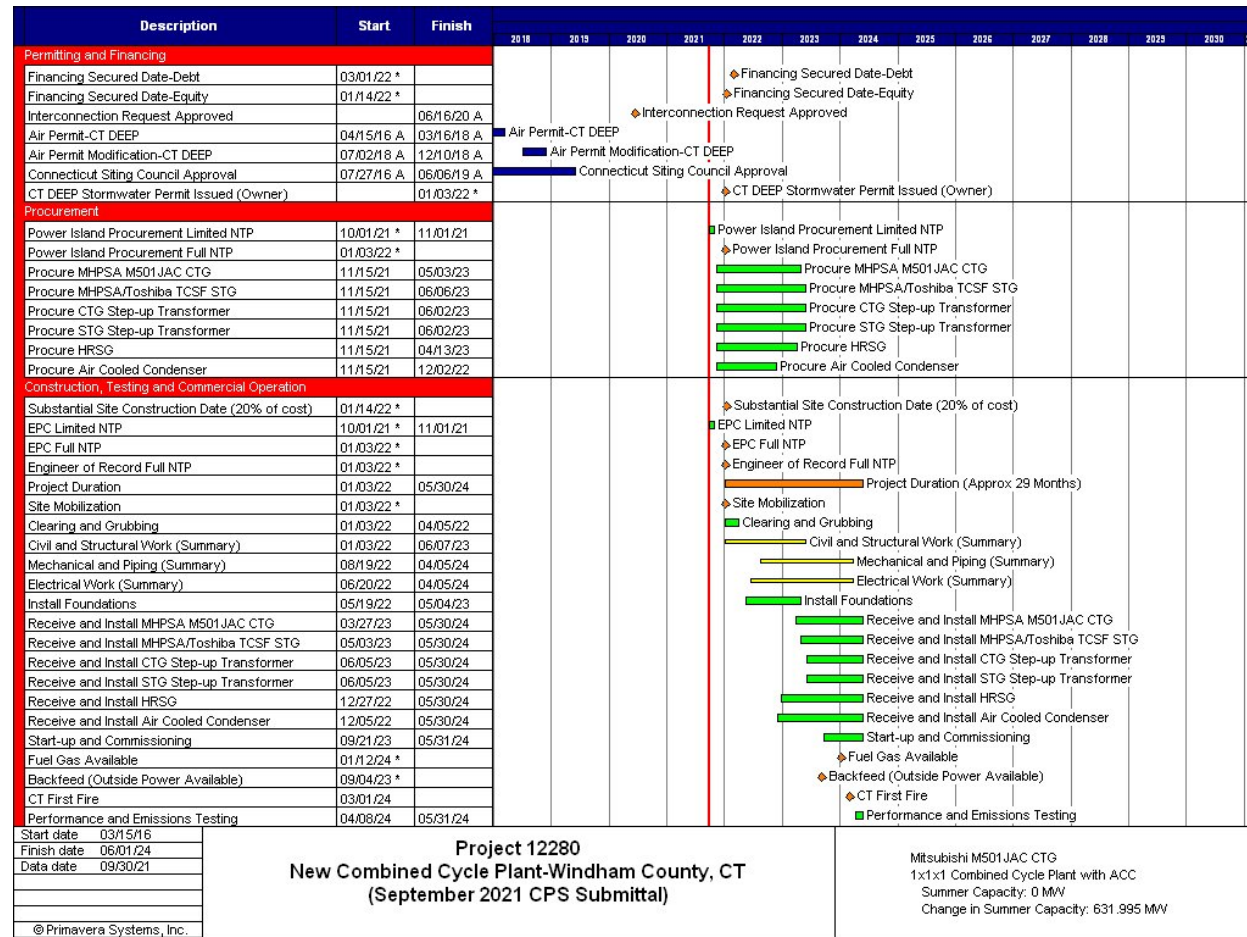
for the EPC Contractor coordinates with debt financing available on March 1, 2022. Assuming the same 29-month EPC schedule, this results in a likely commercial operation date around July 31, 2024, or about two months past the amended FCA 13 capacity commitment date of June 1, 2024.

We are not aware of the actual status of the engineering and the status of the pre-commitment negotiations with the major equipment vendors. Based upon the data provided in the Project 12280 September 2021 CPS update we have assumed that sufficient engineering has been completed to adequately specify the major equipment and that negotiations have been ongoing with those vendors to allow full NTP shortly after funds are available.

Figure 2 below shows a likely commercial operation date of July 31, 2024 based upon a 29-month EPC contract duration considering full NTPs after financing is available. Figure 2 considers that equity financing will be available on January 13, 2022 and debt financing will be available on March 1, 2022, allowing full NTP for the power island equipment to occur on January 13, 2022 and full NTP for the EPC contractor to occur on March 1, 2022. With the exception of the six “Receive and Install” activities, durations shown in Figure 2 are the same as in Figure 1, with the full NTP delayed by about two weeks for power island equipment orders and about two months for the EPC contractor.

3 Figures

Figure 1: Project 12280 Schedule (September 2021 CPS Submittal)



Proprietary & Confidential

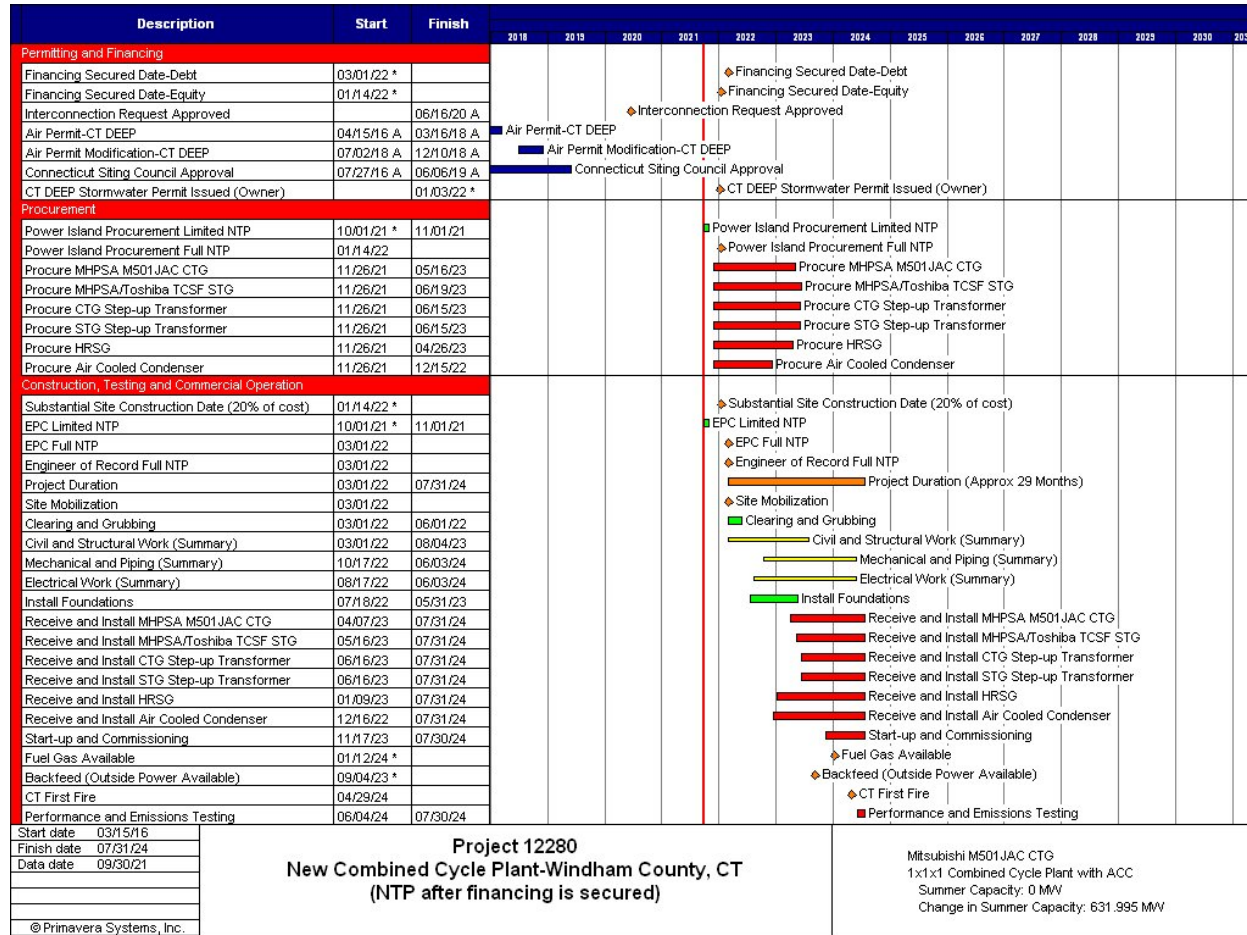
Description	Start	Finish	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031
			MHPSA M501JAC CTG-Test Complete		05/30/24							◆				
MHPSA/Toshiba TCSF STG-Test Complete		05/30/24							◆							
CTG Step-up Transformer-Test Complete		05/30/24							◆							
STG Step-up Transformer-Test Complete		05/30/24							◆							
HRSG-Test Complete		05/30/24							◆							
Air Cooled Condenser-Test Complete		05/30/24							◆							
Commissioning Completion Date		05/30/24 *							◆							
Proposed Commercial Operation Date		05/31/24 *							◆							
Start of Revised FCA13 Capacity Commitment		06/01/24 *							◆							

Start date 03/15/16 Finish date 06/01/24 Data date 09/30/21	Project 12280 New Combined Cycle Plant-Windham County, CT (September 2021 CPS Submittal)	Mitsubishi M501JAC CTG 1x1x1 Combined Cycle Plant with ACC Summer Capacity: 0 MW Change in Summer Capacity: 631.995 MW
© Primavera Systems, Inc.		

* Indicates a date that has been fixed as a required Start or Finish date in the schedule above.
 An "A" following any date in the schedule above indicates that the activity has been started or completed.

Proprietary & Confidential

Figure 2: Project 12280 Schedule (Full NTP after financing has been secured)



Proprietary & Confidential

Description	Start	Finish																		
			2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031				
MHPSA M501JAC CTG-Test Complete		07/31/24																		◆MHPSA M501JAC CTG-Test Complete
MHPSA/Toshiba TCSF STG-Test Complete		07/31/24																		◆MHPSA/Toshiba TCSF STG-Test Complete
CTG Step-up Transformer-Test Complete		07/31/24																		◆CTG Step-up Transformer-Test Complete
STG Step-up Transformer-Test Complete		07/31/24																		◆STG Step-up Transformer-Test Complete
HRSG-Test Complete		07/31/24																		◆HRSG-Test Complete
Air Cooled Condenser-Test Complete		07/31/24																		◆Air Cooled Condenser-Test Complete
Commissioning Completion Date		07/31/24 *																		◆Commissioning Completion Date
Commercial Operation Date		07/31/24 *																		◆Commercial Operation Date
Start of Revised FCA13 Capacity Commitment		06/01/24 *																		◆Start of Revised FCA13 Capacity Commitment Period
Start date 03/15/16	Project 12280 New Combined Cycle Plant-Windham County, CT (NTP after financing is secured)												Mitsubishi M501JAC CTG 1x1x1 Combined Cycle Plant with ACC Summer Capacity: 0 MW Change in Summer Capacity: 631.995 MW							
Finish date 07/31/24																				
Data date 09/30/21																				
© Primavera Systems, Inc.																				

* Indicates a date that has been fixed as a required Start or Finish date in the schedule above.
 An "A" following any date in the schedule above indicates that the activity has been started or completed.

Attachment G: Korea Western Power Co. Letter to ISO-NE

Date : 4th November 2021

To : ISO-NE (7 Sullivan Rd Holyoke, MA 01040)

Cc : Tim Eves (NTE)

Subject : Killingly Energy Center

Dear ISO-NE:

Korean Western Power Company (KOWEPO) is looking forward to building and operating the Killingly Energy Center (KEC) project.

KOWEPO was established on April 2, 2001 as a public corporation specializing in power generation, with over 11,366 MW of Korean-based generation facilities. In addition, we participate in overseas power generation market with activities in Indonesia, Laos, Australia, Finland, Sweden, Spain and the United States.

KOWEPO is 100% owned by the KEPCO which is a state-owned company. As such, there is a rigorous governmental review process to gain the governmental approval for overseas investments. We have successfully passed the most critical evaluation process from the governmental organization named Korea Development Institute (KDI), and also completed internal Risk Management Committee. We are nearing completion of the process, with final Ministry approvals scheduled this month. Following Ministry approvals, the investment decision will go before our Board of Directors (BOD) for final approval. The BOD approval is the final step in our investment approval process and, following this approval, we will issue Full Notice to Proceed (FNTP) to the EPC contractor and major equipment manufacturer. We are clearly aware of ISO-NE CSO schedule and trying to expedite finalizing our development process in time.

We look forward to a long relationship with ISO-NE and to providing reliable power to the grid.

Sincerely yours,



Kaihan Hwang

Director, Overseas Thermal Power Development Team, KOWEPO



**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

ISO New England Inc.) Docket No. ER22-355-000

**MOTION FOR LEAVE TO FILE ANSWER
AND ANSWER OF ISO NEW ENGLAND INC.**

Pursuant to Rules 101(e), 212, and 213 of the Rules of Practice and Procedure¹ of the Federal Energy Regulatory Commission (“Commission” or “FERC”),² ISO New England Inc. (the “ISO”) hereby submits its *Motion for Leave to File Answer and Answer* (“Answer”)³ to the Protest that NTE Connecticut, LLC (“NTE”) submitted in the above-captioned docket, in which the ISO is seeking termination of the Capacity Supply Obligation (“CSO”) that Killingly Energy Center (“Killingly”) acquired in the Forward Capacity Market.⁴

As fully explained below, given that Killingly does not have financing in place and construction activities at the project’s site have not started, the answer to the only question in this proceeding, *i.e.* whether Killingly will be able to achieve commercial operation prior to June 1,

¹ See 18 C.F.R. §§ 385.101 (e), 385.212, and 385.213 (2021).

² Capitalized terms used but not defined in this Answer have the meaning ascribed to them in the ISO New England Transmission, Markets, and Services Tariff (the “Tariff”).

³ Consistent with its resource termination filing and NTE’s Protest, the ISO has redacted competitively sensitive information in the public version of this Answer and its attachment. Pursuant to 18 C.F.R. § 385.112, as part of the public version of this filing, the ISO is submitting a form of a Non-Disclosure Agreement, which any participant or intervernor can then submit to the ISO in order to request a copy of the complete, non-public version of this Answer. This is the same Non-Disclosure Agreement that was included with the ISO’s resource termination filing.

⁴ As described in the ISO’s resource termination filing, if the Commission accepts the CSO termination, then Killingly’s CSO will be terminated for the 2022-2023, 2023-2024, and 2025-2026 Capacity Commitment Periods. Killingly’s qualified capacity will also be removed such that Killingly will not be able to participate in the sixteenth FCA, which will commence on February 7, 2022. In addition, NTE will forfeit any financial assurance provided with respect to the CSO.

2024, is “no.” As a result, a trigger for CSO termination under Section III.13.3.4A of the Tariff has been met.⁵ Therefore, the Commission should accept the termination of Killingly’s CSO as requested in the ISO’s resource termination filing.

I. MOTION FOR LEAVE TO FILE ANSWER

In this Answer, the ISO replies to the Protest that NTE filed in response to the ISO’s termination filing for Killingly’s CSO, which the ISO submitted to the Commission on November 4, 2021. While the Commission’s Rules of Practice and Procedure allow parties to respond to comments,⁶ as a general matter, the Commission’s rules prohibit responses to protests.⁷ The Commission has the authority to waive that prohibition for good cause.⁸ The Commission has found good cause to permit replies where they are otherwise prohibited in various circumstances, including where the answer would assure a complete record in the proceeding,⁹ provide information helpful to the disposition of an issue,¹⁰ permit the issues to be narrowed or clarified,¹¹ or aid the Commission in understanding and resolving issues.¹² The ISO believes that this Answer

⁵ As explained in the ISO’s resource termination filing, if, as a result of milestone date revisions, the date by which a resource will have achieved all its critical path schedule (“CPS”) milestones is more than two years after the beginning of the Capacity Commitment Period for which the resource first received a CSO, then, pursuant to Section III.13.3.4A of the Tariff, after consultation with the Project Sponsor, the ISO has the right, through a filing with the Commission, to terminate the resource’s CSO for any future Capacity Commitment Periods. In Killingly’s case, the beginning of the Capacity Commitment Period for which it first received a CSO is June 1, 2022, and so the trigger for CSO termination is met if Killingly cannot achieve commercial operation prior to June 1, 2024.

⁶ See 18 C.F.R. § 385.213(a) (3) (2021).

⁷ *Id.* at § 385.213(a) (2).

⁸ *Id.* at § 385.101(e).

⁹ See, e.g., *Pacific Interstate Transmission Co.*, 85 FERC ¶ 61,378 at 62,444 (1998), *reh’g denied*, 89 FERC ¶ 61,246 (1999).

¹⁰ See, e.g., *CNG Transmission Corp.*, 89 FERC ¶ 61,100 at 61,287 n.11 (1999).

¹¹ See, e.g., *PJM Interconnection, L.L.C.*, 84 FERC ¶ 61,224 at 62,078 (1998); *New Energy Ventures, Inc. v. Southern California Edison Co.*, 82 FERC ¶ 61,335 at 62,323 n.1 (1998).

¹² See, e.g., *Tennessee Gas Pipeline Co.*, 92 FERC ¶ 61,009 at 61,016 (2000).

will clarify the issues, assure a more complete record in this proceeding, and otherwise assist the Commission in understanding and resolving the issues raised in the CSO termination proceeding. For these reasons, the ISO respectfully requests that the Commission grant the ISO's motion to provide the following Answer.

II. ANSWER

A. **The Only Question Before the Commission is Whether Killingly will be Able to Achieve Commercial Operation Prior to June 1, 2024 and, Because a Trigger for Termination has been Met, the Termination of Killingly's CSO is not Premature**

In its Protest, NTE claims that this case is about “whether ISO-NE has deprived NTE of its reasonable expectations under the Tariff by prematurely seeking to terminate the [CSO] for Killingly.”¹³ Contrary to NTE's claim, in seeking to terminate Killingly's CSO, the ISO has followed the applicable Tariff provisions and its processes, as it does for all resources. As explained in Section II.C below, in September 2021, NTE already knew that lenders were concerned about Killingly's eligibility for termination. Thus, Killingly's expectations that the ISO would not seek to terminate Killingly's CSO are unreasonable. Accordingly, the only question before the Commission is whether Killingly will be able to achieve commercial operation prior to June 1, 2024, and arguments in NTE's Protest unrelated to that inquiry are outside the scope of this proceeding.

Moreover, the termination of Killingly's CSO is *not* premature. To the contrary, the ISO did not seek termination of the CSO until the termination trigger in the Tariff had been met. In a limited protest to the ISO's informational filing for the fifteenth FCA,¹⁴ the New England Power

¹³ Protest at 8.

¹⁴ The ISO submitted the informational filing for the fifteenth FCA to the Commission on November 10, 2020 in Docket No. ER21-372-000.

Generators Association, Inc. (“NEPGA”) asked the Commission to issue a deficiency order requiring the ISO to provide certain information about Killingly, to determine whether the ISO was properly exercising its discretion regarding the termination of the CSOs that Killingly acquired in the thirteenth and fourteenth FCAs. In its answer to NEPGA, the ISO explained that NEPGA provided no evidence to show that the informational filing was in any way deficient such that the Commission could not accept it as submitted. In addition, the ISO explained that, at that time, Killingly was not eligible for termination under the Tariff, as the triggers for termination had not been met. In its order accepting the informational filing for the fifteenth FCA, the Commission denied NEPGA’s request that it issue a deficiency order.¹⁵ The Commission found that the ISO qualified Killingly in accordance with its Tariff and the related reporting requirements, and rejected NEPGA’s protest.¹⁶ Furthermore, the Commission denied NEPGA’s request to gather information about the ISO’s CPS monitoring process to ensure that, if triggered, the ISO was properly exercising its discretion to terminate Killingly. The Commission found that NEPGA’s request was premature because none of the triggering events for termination had occurred.¹⁷

Now, a full year has passed and NTE has made virtually no progress on the project, while revising milestones to later dates.¹⁸ After NTE provided a picture of the project’s site showing

¹⁵ See *ISO New England Inc.*, 174 FERC ¶ 61,046 (2021) at P 39.

¹⁶ *Id.*

¹⁷ *Id.* at 40.

¹⁸ NTE moved the financing milestone 31 months into the future, but the commercial operation date was only moved by 27 months, thereby establishing a very aggressive schedule that gave rise to the ISO’s need to ask follow-up questions in the consultation process.

that no construction activities had commenced on September 29, 2021, and moved the financing milestones to January 14, 2022 and March 3, 2022 on October 7, 2021, the ISO lost confidence that the project could be built in time to meet the June 1, 2024 deadline. Thus, the trigger in the Tariff for termination has been met and, accordingly, the ISO filed with the Commission to seek termination of Killingly's CSO.

B. The ISO's Treatment of Killingly is the Same as the ISO's Treatment of Other Resources

As explained in the ISO's CSO termination filing, the ISO has been monitoring Killingly's CPS since Killingly obtained a CSO in the thirteenth FCA, which was held in February 2019. As with all resources, at the outset, NTE was required to submit quarterly critical path schedule reports for Killingly. After Killingly missed the financing milestone date, on November 25, 2019, the ISO increased Killingly's reporting to monthly CPS reports.¹⁹ By stating that it "cooperated closely with ISO-NE throughout the process, including by agreeing to update ISO-NE monthly rather than quarterly,"²⁰ and that "NTE has been providing ISO-NE with accurate reports on a monthly basis (with corresponding updates) – as opposed to the standard four reports per year,"²¹ NTE intimates that it provided monthly reports because it was going above and beyond the Tariff requirements of its own volition. That is not the case. Monthly reports are a requirement that the ISO imposed for Killingly pursuant to the Tariff, as it does for all resources that miss CPS milestone dates.²² Notably, a resource's failure to provide

¹⁹ The first monthly CPS report for Killingly was due in December 2019.

²⁰ Protest at 7.

²¹ *Id.* at 11.

²² See Section III.13.3.3 of the Tariff.

monthly reports in a timely manner would also trigger the ISO's right to seek termination of a CSO pursuant to Section III.13.3.4A of the Tariff.

NTE also argues that the ISO "is quite up front about why it chose not to wait [on the termination]: termination by January would 'enable the ISO to reflect the termination ... in the auction input file for the sixteenth FCA.'"²³ First, as explained in Section II.A of this Answer, the ISO did not seek termination of Killingly's CSO until the trigger for termination had been met. Second, the ISO is seeking to terminate Killingly's CSO because the latest delay in the financing milestone was such that the ISO no longer has any confidence that the project can achieve commercial operation prior to June 1, 2024 and, by referencing the preparation for the sixteenth FCA, the ISO is appropriately taking into account the timing of upcoming activities on the Forward Capacity Market calendar, as it always does.²⁴ For example, in the filing of the CSO termination for Clear River Unit 1 (submitted on September 20, 2018), the ISO included the following statement, which is the same statement that it included in the termination filing for Killingly:

The ISO respectfully requests that the Commission issue an Order within 60 days of the date of this resource termination filing. Commission action on this resource termination filing is important because the ISO and Market Participants need certainty on the status of this resource prior to the thirteenth FCA, which is scheduled to be held in February of 2019.²⁵

²³ Protest at 12.

²⁴ Because of the host of activities that are scheduled for the Forward Capacity Market across multiple Capacity Commitment Periods, the ISO always takes the Forward Capacity Market calendar into consideration when taking actions.

²⁵ See *ISO New England Inc.*, Resource Termination Filing, Docket No. ER18-2457-000 at 3.

Therefore, the ISO's interest in including the correct resources in the auction input file is consistent across the board and does not single out Killingly.

C. The ISO's Consultation with NTE Was Lengthy and Sufficient Under the Tariff

NTE mischaracterizes the ISO's consultation process as cursory and rushed. In reality, the ISO's consultation lasted for nearly two months and was sufficient under the Tariff. Based on the consultation, the ISO is quite surprised that NTE is perplexed²⁶ by the ISO's CSO termination filing.

After receiving the August 2021 CPS report on September 7, 2021, the ISO and NTE had a videoconference on September 16, 2021. NTE began the videoconference by describing that COVID had impacted the project. Termination of Killingly's CSO was discussed extensively on the videoconference. In fact, NTE was the first to raise the issue by expressing that lenders were concerned about the potential likelihood of the termination of Killingly's CSO. NTE asked the ISO to provide it with assurances that the CSO would not be terminated, including if NTE covered the CSO for a second year or if the project continued to be delayed. The ISO explained that it cannot provide such assurances, and stated that NTE could make its own filing to request leniency from the Commission. During this videoconference, which included ISO and NTE counsel, the ISO made clear to NTE that the project was already being considered for termination given its lack of progress. While NTE requested the videoconference, the ISO stated that the videoconference was part of the consultation for termination. The ISO also stated that it had many questions on NTE's aggressive schedule, as it already seemed infeasible. The ISO also stated that, due to its many concerns with the project's ability to achieve commercial

²⁶ Protest at 2.

operation by the required deadline, it was getting to the point where a ruling from the Commission would be necessary. The ISO further explained that it would seek to make a decision on whether to seek a ruling from the Commission regarding Killingly by the end of October, and that NTE would receive written questions the next day or the day after as part of the consultation. The ISO emphasized that, while there is no extensive history on terminations, Killingly does not have financing and construction has not started. The ISO reiterated that it needed additional data for it and its consultant to review to ensure there was sufficient evidence to determine whether or not the resource could be included in the informational filing for the sixteenth FCA.²⁷

On September 17, 2021, as the ISO stated during the September 16, 2021 videoconference, the ISO sent NTE consultation questions, which were a component of the ISO's consideration of termination of Killingly's CSO. NTE answered the ISO's questions on September 29, 2021, and supplemented those answers with updates to two items on October 12, 2021. In the email related to those updated items, NTE stated: "[w]e are available at your convenience to discuss any questions you may have with regard to our September 29 submission or the above 2 update[s]."²⁸ NTE followed-up by leaving a voicemail asking if the ISO had any questions on its submissions. While neither NTE's email nor voicemail requested a videoconference or teleconference with the ISO, NTE alleges that the ISO ignored its October

²⁷ As explained in the informational filing for the sixteenth FCA, which the ISO submitted to the Commission on November 9, 2021, while Killingly is included in the list of Existing Generating Capacity Resources, it is subject to termination. Accordingly, if the Commission accepts the CSO termination, then the ISO will remove Killingly from the auction input file for the sixteenth FCA. *See Informational Filing for Qualification in the Forward Capacity Market*, Docket No. ER22-391-000 (filed November 9, 2021) at 11, note 25.

²⁸ *See Confidential Attachment B to this Answer – September/October 2021 Communications Between the ISO and NTE.*

12, 2021 “request for consultation.”²⁹ This allegation has no merit because, on October 21, 2021, the ISO did in fact send a follow-up question to the September 29, 2021 submission. The question was as follows:

Within your response to the ISO on September 29, you had indicated that [Limited Notices to Proceed] will be issued to both the EPC contractor and the Power Island Equipment supplier on October 1, 2021. Please provide us a status on that, including copies of the [Limited Notices to Proceed] if they have been issued, by noon tomorrow.³⁰

NTE responded: “[o]ur filing actually says “Oct 1 – 31” but we’ll draft a response.”³¹

NTE submitted Interim Limited Notices to Proceed on October 22, 2021. The Interim Limited Notices to Proceed were dated on that same day (October 22, 2021) and included an October 1, 2021 date in the subject line.³² The ISO had no further questions on NTE’s September 29, 2021 submission or the October 12, 2021 update.

Before seeking to terminate Killingly’s CSO, on November 4, 2021, the ISO informed NTE that it would be submitting the filing on that day. While consultation is not defined in the Tariff, it is clear that a CSO termination filing does not require agreement from the Project Sponsor.³³ Such a requirement would make the termination provisions un-implementable. The consultation that took place for nearly two months was sufficient, and the ISO’s videoconference on November 4, 2021 was the means to end the consultation process. Importantly, Killingly’s

²⁹ Protest at 8.

³⁰ See Confidential Attachment B to this Answer – September/October 2021 Communications Between the ISO and NTE.

³¹ See *id.*

³² See Attachment D to the ISO’s Resource Termination Filing - NTE Interim Limited Notices to Proceed Contingent Upon Financing.

³³ See, e.g., *ISO New England Inc. and Clear River Energy LLC*, 165 FERC ¶ 61,137 (2018).

CSO termination comports to the market design: once the ISO sees that a trigger for termination has been met, it may seek termination of the CSO at the Commission after consultation with the Project Sponsor. This gives the Project Sponsor the ability to protest the termination, which NTE has done, and it is ultimately up to the Commission to decide whether to accept or deny the termination.

D. The ISO Fully Considered all the Arguments that NTE Makes in its Protest Before Submitting its CSO Termination Filing to the Commission

The Protest describes what NTE refers to as “three significant delays” for the Killingly project (the challenges to the FCA 13 results, the challenges to the Connecticut Siting Council’s approval, and COVID).³⁴ All those arguments were also included in the answers that NTE provided to the ISO on September 29, 2021. While the ISO has discretion on whether to exercise its right to seek termination of a CSO, the ISO did not find any of these arguments compelling because many other projects have successfully achieved financing and other milestones in the same timeframes and under similar circumstances.

In addition, NTE states that, according to ISO-NE, the CSO termination stems from NTE’s August 2021 CPS report.³⁵ That statement is inaccurate. The termination stems from the consultation during the call on September 16, 2021, the September 29, 2021 answers to the consultation questions that the ISO sent to NTE, the lack of meaning of the Interim Limited Notices to Proceed (which were issued to NTE’s contractors and sent to the ISO on the same day - October 22, 2021), and the September 2021 CPS report (where NTE moved the financing milestones yet again to January 14, 2022 and March 3, 2022).

³⁴ Protest at 4-6.

³⁵ *Id.* at 7.

Finally, almost immediately after the November 4, 2021 videoconference that ended the consultation process, NTE sent the letter from Korean Western Power Co. (“KOWEPO”) to the ISO. The ISO considered that letter and concluded that it did not provide sufficient assurance of financing to change the ISO’s conclusion. The ISO included the KOWEPO letter as Attachment G to its filing, and explained that the letter describes an intention to provide funding, but does not indicate a clear date or commitment for funding the project.

E. The Documentation that NTE has Provided as Evidence of Financing and the Start of Construction Work Gives the ISO no Confidence that Killingly Can Achieve Commercial Operation Prior to June 1, 2024

As already mentioned, on September 17, 2021, the ISO sent consultation questions to NTE. While NTE states that it “fully answered” the questions,³⁶ NTE’s answers fell short of providing sufficient evidence for the ISO to have confidence that the project can achieve commercial operation before June 1, 2024.

In its September 17, 2021 questions, the ISO specifically asked NTE to explain why the then-latest financing milestone deadline of October 31, 2021 would not be yet again delayed.³⁷ NTE did not directly answer the question in its September 29, 2021 submission,³⁸ and, in fact, six business days after that submission (*i.e.*, on October 7, 2021), NTE actually moved the financing milestone, for the fourteenth time, to January 14, 2022 and March 3, 2022.

Given NTE’s statements about termination during the September 16, 2021 call, in its September 17, 2021 questions, the ISO also asked: “[i]f one of the impediments to completing

³⁶ Protest at 7.

³⁷ *See*, Attachment C to the ISO’s Resource Termination Filing - NTE Answers to ISO New England’s Follow-Up Questions to August 2021 Critical Path Schedule Report at 2.

³⁸ *See id.* at 2-4.

the Financing Milestone is lenders' concern regarding the potential for a later termination of the [CSO] – wouldn't this impediment be further compounded by any additional delay in financing?"³⁹ NTE simply answered that it was moving towards "additional construction funding approval in the coming months."⁴⁰ This provided no assurances that another delay in financing (which is what actually happened on October 7, 2021) would not compound to the lenders' concern with termination. Nonetheless, NTE now blames its inability to secure financing on the CSO termination filing, calling this a "self-fulfilling prophecy."⁴¹

As explained above, although the letter from KOWEPO describes an intention to provide funding, it does not indicate a clear date or commitment for funding the project, and the Protest merely explains the process that KOWEPO would have to go through to provide financing. This is in contrast to the financing agreements and similar documentation submitted by other Project Sponsors when demonstrating that financing has closed.

In support of its claim that construction work for Killingly has commenced, NTE points to the Interim Limited Notices to Proceed that it issued to the Engineering, Procurement & Construction Contractor, Gemma Power Systems, LLC ("Gemma,"), and the equipment contractor, Mitsubishi Power Americas, Inc. ("Mitsubishi"). Without financing in place, however, those Interim Limited Notices to Proceed have little to no value.

As explained in Section II.C of this Answer, NTE produced the Interim Limited Notices to Proceed after the ISO reviewed NTE's September 29, 2021 answers and saw in the project schedule that limited notices to proceed were to be issued in October 2021. NTE issued the

³⁹ *See id.* at 4.

⁴⁰ *See id.*

⁴¹ Protest at 12.

Interim Limited Notices to Proceed on October 22, 2021 (which is the same day when they were provided to the ISO after the ISO asked for them the day before, October 21, 2021) and they were backdated to October 1, 2021 in the subject line. Importantly, the Interim Limited Notices to Proceed state that:

During the month of October [2021], Owner will work to complete the current financing. Upon replacement of the Letter of Credit at ISO-NE, Contractor will be relieved from all liability under such Letter of Credit. In the event Owner is unable to provide the items described above, Contractor will have the right to suspend work.⁴²

This means that, if financing was not in place by the end of October, Gemma and Mitsubishi could suspend work. As already explained, on October 7, 2021, in the September 2021 CPS Report, NTE moved the financing to January 14, 2022 and March 3, 2022, which made it clear that financing would not be complete by the end of October 2021 (and NTE provided no evidence of financing closing by the end of October). Furthermore, as Lummus stated in its report, the Interim Limited Notices to Proceed do not change its analysis (which results in a likely commercial operation date for Killingly of July 31, 2024), because they do not provide a definitive scope of work, include reference to a purchase order, or provide terms of compensation.⁴³ In contrast, for other projects that are 30-31 months from achieving commercial operation, Project Sponsors have provided copies of notices to proceed that precisely define the scope of work and show that payments for substantial amounts of money have been made.

In addition to the Interim Limited Notices to Proceed, to support the claim that construction for Killingly has started, NTE submitted an affidavit from Gemma with its Protest.

⁴² Attachment D to the ISO's Resource Termination Filing - NTE Interim Limited Notices to Proceed Contingent Upon Financing.

⁴³ Attachment F to the ISO's Resource Termination Filing - Lummus Consultants International Report – Review of Critical Path Schedule Project 12280 (“Lummus Report”) at 3-4.

Gemma’s affidavit, however, is also of little value because the statement that “it would have been feasible to complete the Project by May 31, 2024”⁴⁴ is based on an assumption that equipment manufacturers would meet delivery dates, and no affidavits from equipment manufacturers were submitted to support Gemma’s assumption.⁴⁵ In addition, Gemma’s affidavit does not state that it has received any payments from NTE, and it provides no details on any construction activities at the site.⁴⁶ Moreover, Gemma’s affidavit states that Gemma “expected” to receive full notice to proceed on January 4, 2022.⁴⁷ Clearly, Gemma only had an expectation, but no certainty, that the project would move forward.

It is also important to note that, in its September 17, 2021 consultation questions, the ISO asked NTE to provide evidence from the Engineering, Procurement & Construction Contractor and the major equipment manufacturers to support the then-current commercial operation date of April 14, 2021. NTE’s September 29, 2021 answers did not provide the requested evidence. NTE produced the affidavit from Gemma only after the ISO submitted its filing seeking to terminate Killingly’s CSO.

⁴⁴ Attachment C to Protest – Declaration of Charles E. Collins, IV.

⁴⁵ NTE’s request for extension of time filed in this docket on November 26, 2021 indicated that NTE needed more time to respond to the ISO’s CSO termination filing in order to obtain evidence from its two primary partners, KOPEWO and Mitsubishi, who are located in Asia. However, no such evidence was included with NTE’s Protest.

⁴⁶ The Declaration of Tim Eves, NTE’s Managing Partner, does not provide any details on payments made to Gemma or Mitsubishi and does not describe any construction activities at the site.

⁴⁷ Even if a full notice to proceed were issued on January 4, 2022, the project would not meet the June 1, 2024 deadline because 30 months from January 4, 2022 is July 4, 2024, and 31 months from January 4, 2022 is August 4, 2024.

Finally, in response to the ISO's September 17, 2021 request for a picture depicting the project's progress, NTE provided the picture of a house and an untouched field.⁴⁸ This confirms that no site construction activities have begun (*i.e.*, no work whatsoever has taken place at the site). By comparison, for projects that are 30-31 months from achieving commercial operation, Project Sponsors have provided pictures that showed tree clearing, stumping and removal, installation and maintenance of erosion and sedimentation control barriers, contractor mobilization to the site, and commencement of major earthwork. Thus, the evidence presented in this case gives the ISO no confidence that Killingly will be able to achieve commercial operation prior to June 1, 2024.

F. NTE Misquotes the Lummus Report

NTE quotes the Lummus report to allege that Lummus concluded that "commercial operation of [the] Project . . . could occur on or about the stated proposed commercial operation date of May 31, 2024 and prior to the amended FCA 13 capacity commitment date of June 1, 2024." The use of the ellipsis in the quote changes the entire meaning of Lummus' conclusion.

The full quote is as follows:

It is our opinion based strictly on the data provided in the September 2021 CPS update, **and an assumption that the necessary full [notices to proceed] to the power island equipment vendors and the EPC contractor can be executed without financing in place**, commercial operation of Project 12280 could occur on or about the stated proposed commercial operation date of May 31, 2024 and prior to the amended FCA 13 capacity commitment date of June 1, 2024 as seen in Figure 1 below; **however, this assumes that all activities will occur on the dates shown in the September 2021 CPS update, and the necessary full NTPs to the power island equipment vendors and the EPC contractor can be executed without financing in place, which we believe is unlikely.**⁴⁹

⁴⁸ See, Attachment C to the ISO's Resource Termination Filing - NTE Answers to ISO New England's Follow-Up Questions to August 2021 Critical Path Schedule Report at 16.

⁴⁹ Lummus Report at 5.

As explained above, there is no financing in place and all NTE has provided is a letter from KOPEWO that describes an intention to provide funding, along with a description of the process that KOPEWO would have to complete, but does not indicate a clear date or commitment for funding the project. As stated in the ISO's CSO termination filing, Lummus has provided a more realistic scenario that incorporates financing availability as a requirement to execute full notices to proceed for the power island equipment vendors and the EPC contractor. Under that scenario, which assumes no further delays, the likely commercial operation date for Killingly is around July 31, 2024,⁵⁰ which is about two months past the commencement of the 2024-2025 Capacity Commitment Period. Clearly, then, the answer to the only question in this proceeding (*i.e.*, whether Killingly will be able to achieve commercial operation prior to June 1, 2024) is "no." As such, a trigger for termination has been met and the Commission should accept the ISO's CSO termination filing.

⁵⁰ *Id.* at 6.

III. CONCLUSION

As explained in this answer, given that Killingly does not have financing in place and construction activities at the project's site have not started, the ISO has no confidence that Killingly will be able to achieve commercial operation prior to June 1, 2024. Accordingly, a trigger for CSO termination under Section III.13.3.4A of the Tariff has been met. Therefore, the Commission should accept termination of Killingly's CSO as requested in the ISO's resource termination filing.

Respectfully submitted,

By: /s/ Margoth R. Caley
Margoth R. Caley, Esq.
Senior Regulatory Counsel
ISO New England Inc.
One Sullivan Road
Holyoke, MA 01040-2841
(413) 535-4045

Counsel for ISO New England Inc.

Dated: December 20, 2021

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Holyoke, Massachusetts this 20th day of December 2021.

/s/ Julie Horgan

Julie Horgan
eTariff Coordinator
ISO New England Inc.
One Sullivan Road
Holyoke, MA 01040
(413) 540-4683

Attachment A
Form of Non-Disclosure Agreement

NON-DISCLOSURE AGREEMENT

FOR DOCKET NO. ER22-____-000

THIS NON-DISCLOSURE AGREEMENT (the “Agreement”) is made as of this ____ day of _____, 2021, by and between the undersigned individual (the “Authorized Intervenor Representative”) and ISO New England Inc., a Delaware corporation, with offices at One Sullivan Road, Holyoke, Massachusetts, 01040-2841 (the “ISO”). The Authorized Intervenor Representative and the ISO shall be referred to herein individually as a “Party,” or collectively as the “Parties.”

RECITALS

Whereas, the ISO serves as the Regional Transmission Organization for the New England Control Area, and operates and oversees wholesale markets for electricity pursuant to the requirements of the ISO Tariff, as defined below; and

Whereas, the ISO New England Information Policy requires that the ISO maintain the confidentiality of Confidential Market Information; and

Whereas, the ISO has submitted a non-public version of a resource termination filing for Killingly Energy Center that includes Confidential Market Information; and

Whereas, Confidential Market Information is not available to Competitive Duty Personnel; and

Whereas, this Agreement is a statement of the conditions and requirements under which the ISO may provide the Confidential Market Information to Authorized Intervenor Representatives.

NOW, THEREFORE, intending to be legally bound, the Parties hereby agree as follows:

1. Definitions. Capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the ISO Tariff.

1.1 Affected Governance Participant. A Governance Participant, which as a result of its participation in the markets administered by the ISO, provided Confidential Market Information to the ISO, which

Confidential Market Information is requested by an Authorized Intervenor Representative under this Agreement. Affected Governance Participant shall include Killingly Energy Center, its agents and representatives, including without limitation its developer NTE Energy.

1.2 Authorized Intervenor Representative. A natural person who: (i) is employed by an entity that the FERC has designated as an intervenor in Docket No. ER22-____-000; (ii) is not a Competitive Duty Personnel; and (iii) has signed this Agreement.

1.3 Confidential Market Information. Shall mean the portions of ISO-NE's resource termination filing for Killingly Energy Center that the ISO filed confidentially with FERC in Docket No. ER22-____-000 on November 5, 2021.

1.4 Competitive Duty Personnel. Shall mean a person whose duties include (i) the marketing or sale of electric power at wholesale; (ii) the purchase or resale of electric power at wholesale; (iii) the direct supervision of any employee with duties specified in subparagraph (i) or (ii) of this paragraph; or (iv) the provision of electricity marketing consulting services to entities engaged in the sale or purchase of electric power at wholesale. Competitive Duty Personnel shall not have access to the Confidential Market Information provided under this Agreement.

1.5 FERC. The Federal Energy Regulatory Commission.

1.6 Governance Participant. Shall have the meaning set forth in the ISO Tariff.

1.7 ISO New England Information Policy. Shall have the meaning set forth in the ISO Tariff.

1.8 ISO Tariff. The ISO's Transmission, Markets and Services Tariff, as it may be amended from time to time.

1.9 Killingly Energy Center. Shall mean the proposed combined cycle generator that acquired a 631.955 MW CSO with a seven year rate lock in the thirteenth Forward Capacity Auction, which is associated with the 2022-2023 Capacity Commitment Period.

1.10 Notes of Confidential Market Information. Shall mean memoranda, handwritten notes, or any other form of information (including electronic form) which copies or discloses materials described in the definition of Confidential Market Information set forth above. Notes of Confidential Market Information are subject to the same restrictions provided in this Agreement for Confidential Market Information except as specifically provided in this Agreement.

1.11 Third Party Request. Any request or demand by any entity upon the Authorized Intervenor Representative for release or disclosure of Confidential Market Information. A Third Party Request shall include, but shall not be limited to, any subpoena, discovery request, or other request for Confidential Market Information made by any: (i) federal, state, or local governmental subdivision, department, official, agency or court; or (ii) arbitration panel, business, company, entity or individual.

2. Protection of Confidentiality.

2.1 Duty to Not Disclose. The Authorized Intervenor Representative represents and warrants that: (i) s/he represents and is duly authorized by an entity that has been designated by the FERC as an intervenor in Docket No. ER22-____-000; (ii) s/he is familiar with, and will comply with, such entity's applicable data protection procedures; and (iii) s/he is not a Competitive Duty Personnel. The Authorized Intervenor Representative hereby covenants and agrees not to disclose the Confidential Market Information, to deny any Third Party Request, and to defend against any legal process that seeks the release of Confidential Market Information in contravention of the terms of this Agreement. The Authorized Intervenor Representative further agrees at all times to store securely, and to restrict others' access to, all Confidential Market Information in the same manner as his/her employer stores and protects its trade secrets and other proprietary business information.

2.2 Defense Against Third Party Requests. The Authorized Intervenor Representative shall defend against any disclosure of Confidential Market Information pursuant to any Third Party Request through all available legal process, including, but not limited to, obtaining any necessary protective orders. In the event a protective order or other remedy is denied, the Authorized Intervenor Representative agrees to furnish only that portion of the Confidential Market Information which his/her or his/her employer's legal counsel advises the ISO (and of which the ISO shall, in turn, advise any Affected Governance Participants) in writing is legally required to be furnished, and to exercise its best efforts to obtain assurance that confidential treatment will be accorded to such Confidential Market Information.

2.3 Use and Care of Confidential Market Information.

2.3.1 Use. The Authorized Intervenor Representative shall use the Confidential Market Information only for purposes of developing and presenting his/her or his/her employer's arguments and positions in FERC Docket No. ER22-____-000 based on the Confidential Market Information. Any pleading, affidavit, testimony, or other document that comprises or contains any reproduction of Confidential Market Information, in whole or in part, or any statements or other materials that disclose any Confidential Market Information, in whole or in part, shall be filed with FERC only in a non-public filing that follows the requirements of Section 388.112 of the FERC's regulations.

2.3.2 Control of Confidential Market Information. The Authorized Intervenor Representative shall be the custodian of any and all Confidential Market Information received pursuant to the terms of this Agreement from the ISO.

2.3.3 Competitive Duty Personnel. If the Authorized Intervenor Representative subsequently becomes Competitive Duty Personnel, s/he shall thereafter no longer have access to the Confidential Market Information and shall continue to comply with the requirements set forth in this Agreement with respect to Confidential Market Information to which s/he previously had access. He/she shall promptly notify the ISO of his/her employer's new Authorized Intervenor Representative, who shall execute this Agreement, and thereafter will take custody of all Confidential Market Information in the possession of the original Authorized Intervenor Representative. If no new Authorized Intervenor Representative of the same employer has executed this Agreement within 10 days after the original Authorized Intervenor Representative became Competitive Duty Personnel, the original Authorized Intervenor Representative, within 10 days after the end of the previously identified 10-day period, (a) shall return all Competitive Market Information to the ISO, or (b) shall destroy all Competitive Market Information, and (c) shall deliver to the ISO an affidavit certifying that, to the best of his/her knowledge and belief, all Confidential Market Information has been returned or destroyed.

2.3.4 Notice of Disclosures. The Authorized Intervenor Representative shall promptly notify the ISO, and the ISO shall promptly notify any Affected Governance Participant, of any inadvertent or intentional release or possible release of the Confidential Market Information provided pursuant to this Agreement. The Authorized Intervenor Representative shall take all steps to minimize any further release of Confidential Market Information, and shall take reasonable steps to attempt to retrieve any Confidential Market Information that may have been released.

2.3.5 Ownership and Privilege. Nothing in this Agreement, or incident to the provision of Confidential Market Information to the Authorized Intervenor Representative, is intended, nor shall it be deemed, to be a waiver or abandonment of any legal privilege that may be asserted against, subsequent disclosure or discovery in any formal proceeding or investigation. Moreover, no transfer or creation of ownership rights in any intellectual property comprising Confidential Market Information is intended or shall be inferred by the disclosure of Confidential Market Information by the ISO, and any and all intellectual property comprising Confidential Market Information disclosed and any derivations thereof shall continue to be the exclusive intellectual property of the ISO and/or the Affected Governance Participant.

2.3.6 Duration of Obligations. At any time after the later of 1) the date an order terminating Docket No. ER22-____-000 no longer is subject to judicial review, or 2) the date any other Commission proceeding relating to the Confidential Market Information is concluded and no longer subject to judicial review, the ISO may request (in writing) that the Authorized Intervenor Representative return or destroy all Confidential Market Information. The Authorized Intervenor Representative shall comply with this request within 15 days after the date the request is made. If requested, the Authorized Intervenor Representative shall also submit to the ISO an affidavit stating that, to the best of his/her knowledge and belief, the request to return or destroy the Confidential Market Information has been fully satisfied. Notwithstanding the foregoing terms of this paragraph, however, the Authorized Intervenor Representative may retain copies of filings, of official transcripts, and of exhibits in the Commission's Docket No. ER22-____-000 or any related court proceeding which contain Confidential Market Information or Notes of Confidential Market Information, provided that any such copies are at all times secured in accordance with Section 2.1 of this Agreement. Regardless of any order terminating Docket No. ER22-____-000 or any related court proceeding, this Agreement shall remain in effect to the extent that, and for so long as, the Authorized Intervenor Representative retains any Confidential Market Information or Notes of Confidential Market Information.

3. Remedies.

3.1 Material Breach. The Authorized Intervenor Representative agrees that any release of Confidential Market Information to persons not authorized to receive it or any publication of any material related to or that relies upon the Confidential Market Information, including notes of Confidential Market Information, which is not redacted or summarized in such a manner that the Confidential Market

Information may not be identified shall constitute a breach of this Agreement and may cause irreparable harm to the ISO and/or the Affected Governance Participant. In the event of a breach of this Agreement by the Authorized Intervenor Representative, the ISO may terminate this Agreement upon written notice to the Authorized Intervenor Representative, and all rights of the Authorized Intervenor Representative hereunder shall thereupon terminate. The Authorized Intervenor Representative hereby shall indemnify, save, hold harmless, discharge, and release the ISO and each Affected Governance Participant from and against any and all payments, liabilities, damages, losses or costs and expenses paid or directly incurred by the ISO and/or each Affected Governance Participant arising from, based upon, related to, or associated with the breach of, or failure to perform or satisfy, any obligation of the Authorized Intervenor Representative set forth in this Agreement.

3.2 Judicial Recourse. In the event of any breach of this Agreement, the ISO or the Affected Governance Participant shall have the right to seek and obtain at least the following types of relief: (a) temporary, preliminary, and/or permanent injunctive relief with respect to any breach; and (b) the immediate return of all Confidential Market Information to the ISO. The Authorized Intervenor Representative expressly agrees that in the event of a breach of this Agreement, any relief sought properly includes, but shall not be limited to, the immediate return of all Confidential Market Information (including any copies or notes thereof) to the ISO.

4. Jurisdiction. The Parties agree that jurisdiction over all other actions and requested relief with respect to the Agreement shall lie in any court of competent jurisdiction.

5. Severability and Survival. In the event any provision of this Agreement is determined to be unenforceable as a matter of law, the Parties intend that all other provisions of this Agreement remain in full force and effect in accordance with their terms.

6. Representations. The undersigned represent and warrant that they are vested with all necessary corporate, statutory and/or regulatory authority to execute and deliver this Agreement, and to perform all of the obligations and duties contained herein.

7. Third Party Beneficiaries. The Parties specifically agree and acknowledge that each Affected Governance Participant is an intended third party beneficiary of this Agreement entitled to enforce its provisions.

8. Counterparts. This Agreement may be executed in counterparts and all such counterparts together shall be deemed to constitute a single executed original.

9. Amendment. This Agreement may not be amended except by written agreement executed by authorized representatives of the Parties.

ISO NEW ENGLAND INC.

AUTHORIZED INTERVENOR REPRESENTATIVE

By: _____

Name:
Title:

Name:
Title:
Representing:
Address:

Attachment B

September/October 2021 Communications Between the ISO and NTE

Rost, Alexander

From: Tim Eves <Teves@nteenergy.com>
Sent: Thursday, October 21, 2021 9:44 AM
To: Chris Rega; Stephanie Clarkson
Cc: Maribel Zambrana; Rost, Alexander; Brian Romero; Patrick Baiocco
Subject: RE: [EXT] RE: Killingly Energy Center (Resource ID 38663) – Additional Information to support Critical Path Schedule monitoring review [ref:_00D6A1VxUA._5003ugvgl3:ref]

Categories: FCM

*** EXTERNAL email. Please be cautious and evaluate before you click on links, open attachments, or provide credentials. ***

Our filing actually says “Oct 1 – 31” but we’ll draft a response.

From: Participant Support & Solutions at ISO-NE <askiso@iso-ne.com>
Sent: Thursday, October 21, 2021 9:42 AM
To: Tim Eves <Teves@nteenergy.com>
Cc: Chris Rega <crega@nteenergy.com>; Maribel Zambrana <mzambrana@nteenergy.com>; arost@iso-ne.com; Brian Romero <bromero@nteenergy.com>; Patrick Baiocco <pbaiocco@nteenergy.com>; Stephanie Clarkson <sclarkson@nteenergy.com>
Subject: RE: [EXT] RE: Killingly Energy Center (Resource ID 38663) – Additional Information to support Critical Path Schedule monitoring review [ref:_00D6A1VxUA._5003ugvgl3:ref]

Good Morning,

Within your response to the ISO on September 29, you had indicated that LNTPs will be issued to both the EPC contractor and the Power Island Equipment supplier on October 1, 2021. Please provide us a status on that, including copies of the LNTPs if they have been issued, by noon tomorrow.

Thank you,

Resource Qualification

----- Original Message -----

From: Tim Eves [teves@nteenergy.com]
Sent: 10/12/2021 3:49 PM
To: askiso@iso-ne.com
Cc: schaudhury@iso-ne.com; crega@nteenergy.com; mzambrana@nteenergy.com; arost@iso-ne.com; bromero@nteenergy.com; pbaiocco@nteenergy.com; sclarkson@nteenergy.com
Subject: [EXT] RE: Killingly Energy Center (Resource ID 38663) – Additional Information to support Critical Path Schedule monitoring review [ref:_00D6A1VxUA._5003ugvgl3:ref]

*** EXTERNAL email. Please be cautious and evaluate before you click on links, open attachments, or provide credentials. ***

Dear ISO-NE: The attached updated Exhibit 2 to our submittal on September 29, 2021 is provided to update 2 items:

1. The Connecticut Supreme Court issued their opinion on September 29, 2021 affirming the lower court's decision, ruling in favor of KEC. KEC's CECPN is now final and unappealable.
2. The Connecticut DEEP approved KEC's Construction Stormwater permit re-registration under the new State of Connecticut General Permit on September 30, 2021.

We are available at your convenience to discuss any questions you may have with regard to our September 29 submission or the above 2 update.

Sincerely
Tim

From: Tim Eves
Sent: Wednesday, September 29, 2021 3:51 PM
To: 'Participant Support & Solutions at ISO-NE' <askiso@iso-ne.com>
Cc: arost@iso-ne.com; schaudhury@iso-ne.com; Brian Romero <bromero@nteenergy.com>; Patrick Baiocco <pbaiocco@nteenergy.com>; Stephanie Clarkson <sclarkson@nteenergy.com>; Chris Rega <crega@nteenergy.com>; Maribel Zambrana <mzambrana@nteenergy.com>
Subject: RE: Killingly Energy Center (Resource ID 38663) – Additional Information to support Critical Path Schedule monitoring review [ref:_00D6A1VxUA._5003ugvgl3:ref]

Dear ISO-NE: Please find attached NTE Connecticut's response to your request for additional information. We are available at your convenience to discuss any of our responses as necessary.

Thank you
Tim Eves

From: Participant Support & Solutions at ISO-NE <askiso@iso-ne.com><<mailto:askiso@iso-ne.com>>>
Sent: Friday, September 17, 2021 3:15 PM
To: Tim Eves <Teves@nteenergy.com><<mailto:Teves@nteenergy.com>>>; Brian Romero <bromero@nteenergy.com><<mailto:bromero@nteenergy.com>>>; Chris Pollak <cpollak@nteenergy.com><<mailto:cpollak@nteenergy.com>>>; Patrick Baiocco <pbaiocco@nteenergy.com><<mailto:pbaiocco@nteenergy.com>>>; Stephanie Clarkson <sclarkson@nteenergy.com><<mailto:sclarkson@nteenergy.com>>>
Cc: arost@iso-ne.com<<mailto:arost@iso-ne.com>>; schaudhury@iso-ne.com<<mailto:schaudhury@iso-ne.com>>>
Subject: Killingly Energy Center (Resource ID 38663) – Additional Information to support Critical Path Schedule monitoring review [ref:_00D6A1VxUA._5003ugvgl3:ref]

Dear Market Participant,

The ISO has completed its review of the recent critical path schedule report (August 2021 CPS report) provided by you for Killingly Energy Center (Resource ID 38863); and has follow-up questions:

1. The financing milestone has been postponed multiple times, and is now years later than initially projected. Provide a detailed explanation of why the financing has been delayed so many times and why the latest date indicated as the date to reach the financing milestone (10/31/2021) will not be similarly delayed.
* If one of the impediments to completing the Financing Milestone is lenders' concern regarding the potential for a later termination of the Capacity Supply Obligation – wouldn't this impediment be further compounded by any additional delay in financing?
2. Identify any permits that are not yet in place (including minor permits such as for the gas pipeline lateral or to build

the interconnection substation). Identify any permits that are under appeal and the projected timing for the appeals to be finalized. Identify any permits that have expired. Identify any instance where the absence of a fully approved permit will prevent the project's ability to proceed and to achieve the current commercial operation date of April 14, 2024

3. Provide examples where similar projects have been completed within approximately 30 months of financing and describe how those examples can be translated to the New England marketplace.
 4. Provide evidence from the Engineering, Procurement & Construction contractor confirming the expectation to complete the project in time for the current Commercial Operation Date of April 14, 2024
 5. Provide evidence from the major equipment (gas, turbine, steam turbine, HRSG & step-up transformers) manufacturers confirming the expectation to deliver the equipment in the time needed to meet the project schedule and to achieve the current commercial operation date of April 14, 2024
 6. Provide current photos and a description of the construction site, including a description of the work that has been completed to support immediate initiation of site preparation and construction.
- Please provide the responses by COB on September 29, 2021 by responding to this AskISO.

Thank you,

Resource Qualification
ISO New England

ref:_00D6A1VxUA._5003ugvgl3:ref 