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ISO New England Issues Statement Regarding FERC Office of Enforcement Investigation

Holyoke, MA—June 23, 2022—As the independent administrator of New England’s wholesale electricity markets, ISO New England runs an annual forward capacity auction to ensure sufficient resources will be available to meet the region’s expected future reliability needs. The Federal Energy Regulatory Commission’s Office of Enforcement (FERC OE) is currently investigating whether there were violations of ISO New England’s tariff and a fraudulent scheme related to said violations by a project developer that participated in a previous auction.

While FERC OE has alleged that the project developer engaged in a fraudulent scheme to deceive the ISO and the market, and failed to provide the ISO with complete and relevant information, this investigation also includes the ISO’s role in administering the capacity market. ISO New England has cooperated fully with the investigation.

ISO New England has been limited in disclosing details of this investigation by confidentiality requirements. However, recently the project owner disclosed the matter in a bankruptcy filing, providing the ISO the opportunity to make this statement.

Specifically, the FERC OE is investigating allegations that Salem Harbor Power Development (formerly known as Footprint Power), a natural gas-fired power plant outside of Boston, failed to provide accurate and complete information to ISO New England ahead of the plant’s commercial operation date.

In 2017, Salem Harbor missed its proposed commercial operation date, but nonetheless collected capacity market payments under market rules that existed at the time.

Based on information provided in Salem Harbor’s public bankruptcy filing, FERC OE’s preliminary findings allege that Salem Harbor Power Development violated ISO New England and FERC rules by not including in its critical path schedule updates all of the information relevant to the ISO’s evaluation of the feasibility of the project and its ability to meet the May 31, 2017 commercial operation date.

FERC OE also alleges that the project engaged in a fraudulent scheme to deceive the ISO and the market into believing that the project would meet the commercial operation date to ensure that the facility would receive the capacity payments. FERC OE further alleges that this “scheme” violated FERC’s Anti-Manipulation Rule.

Although FERC OE alleges that Salem Harbor engaged in a fraudulent scheme to deceive the ISO and the market and failed to provide sufficient information to allow the ISO to do its job, the office is also investigating the ISO for this same set of events. Specifically, FERC OE alleges that the ISO should have discerned that Salem Harbor Power Development would be late, that it gave the developer advice that assisted the project in avoiding the consequences of failing to meet its commercial operation date, and that it should have forced Salem Harbor Power Development to sell its capacity supply obligation.

ISO New England denies these allegations.

Moreover, following Salem Harbor Power Development’s delay, ISO New England took action to prevent a similar situation from occurring in the future. Specifically, the ISO changed capacity market rules to include an automatic financial penalty for resources that are late. The penalty serves as an enhanced incentive for project sponsors to meet

their commercial operation date and eliminates the need for ISO New England to assess the veracity of the information submitted to it by project sponsors.

ISO New England continues to cooperate in the investigation and has asked FERC to dismiss the matter as it pertains to the ISO's actions. Due to the on-going nature of the investigation, the ISO cannot elaborate beyond this statement.

ABOUT ISO NEW ENGLAND

Created in 1997, ISO New England is the independent, not-for-profit corporation responsible for the reliable operation of New England's electric power generation and transmission system, overseeing and ensuring the fair administration of the region's wholesale electricity markets, and managing comprehensive regional electric power planning.



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