

180 FERC ¶ 61,036
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

July 18, 2022

In Reply Refer To:
ISO New England Inc.
Docket No. ER22-1417-000

ISO New England Inc.
One Sullivan Road
Holyoke, MA 01040-2841

Attention: Margoth Caley, Esq.

Dear Ms. Caley:

1. On March 21, 2022, ISO New England Inc. (ISO-NE) filed the results of the sixteenth Forward Capacity Auction (FCA), in accordance with section III.13.8.2 of the ISO-NE Transmission, Markets and Services Tariff (Tariff), which requires ISO-NE to file the results of each FCA with the Commission as soon as practicable after the FCA is complete. The sixteenth FCA (FCA 16) was held on February 7, 2022, for the June 1, 2025 through May 31, 2026 Capacity Commitment Period.¹ ISO-NE states that, in addition to the results, it has included in its filing the Ethier Testimony, the McBride Testimony, and the Ausubel Testimony to comply with its Tariff requirement to provide documentation regarding the competitiveness of the FCA.²

2. ISO-NE's submission contains the results of FCA 16, including: (1) the capacity zones in the auction; (2) the capacity clearing price in each of those capacity zones; (3) a list of which resources received capacity supply obligations (CSO) in each capacity zone; and (4) the amount of those CSOs. ISO-NE explains that the capacity zones for FCA 16

¹ ISO-NE Transmittal at 1.

² *Id.* at 5-6.

were the Southeast New England³ Capacity Zone, the Northern New England⁴ Capacity Zone, the Maine⁵ Capacity Zone, and the Rest-of-Pool⁶ Capacity Zone. ISO-NE states that the descending clock auction starting price in each capacity zone was \$12.40/kW-month.⁷ ISO-NE further states that the auction resulted in the capacity clearing price of \$2.639/kW-month for the Southeast New England Capacity Zone, \$2.531/kW-month for the Northern New England and Maine Capacity Zones, and \$2.591/kW-month for the Rest-of-Pool Capacity Zone.⁸ Additionally, ISO-NE provides an attachment detailing the resources that received a CSO in each capacity zone.

3. ISO-NE explains that, per the Tariff, it is required to provide the clearing prices and total amount of payments associated with any demand bids cleared at the substitution auction clearing price above their demand bid prices. However, ISO-NE explains that, while a substitution auction was administered, no substitution auction supply offers were able to clear against any substitution auction demand bids, thus this filing does not include substitution auction clearing prices or the total amount of payments associated with any demand bids cleared at a substitution auction clearing price above their demand

³ ISO-NE states that the Southeast New England Capacity Zone included the Southeastern Massachusetts, Rhode Island and Northeastern Massachusetts/Boston energy Load Zones and was modeled as an import-constrained capacity zone. *Id.* at 2.

⁴ ISO-NE states that the Northern New England Capacity Zone included the New Hampshire, Vermont, and Maine Load Zones and was modeled as an export-constrained capacity zone. *Id.*

⁵ ISO-NE states that the Maine Load Zones was modeled as a separate nested export-constrained capacity zone within the Northern New England Capacity Zone. *Id.*

⁶ ISO-NE states that the Rest of Pool Capacity Zone included the Connecticut and Western/Central Massachusetts Load Zones. *Id.*

⁷ The FCA starting price is the higher of CONE (i.e., a facility's cost of new entry) or 1.6 x Net CONE. Net CONE for FCA 16 equaled \$7.468/kW-month so the starting price was set equal to CONE, or \$12.40/kW-month. *See id.*, attach. B (Test. of Robert G. Ethier), at 9.

⁸ *Id.* at 4; *see also id.*, attach. A.

bid prices.⁹ ISO-NE requests that the Commission find that it conducted FCA 16 in accordance with its Tariff, effective July 19, 2022.¹⁰

4. Notice of ISO-NE's filing was published in the *Federal Register*, 87 Fed. Reg. 18,011 (Mar. 29, 2022), with interventions and protests due on or before May 5, 2022. Constellation Energy Generation, LLC; Calpine Corp.; New England States Committee on Electricity; Dominion Energy Services, Inc.; Massachusetts Department of Public Utilities; National Grid; and Eversource Energy Service Co. submitted timely motions to intervene. Solar Energy Industries Association (SEIA) and NTE Connecticut, LLC (NTE) submitted timely motions to intervene and comments. The No Coal No Gas Campaign (No Coal No Gas) submitted timely comments, and on May 20, 2022, submitted, on behalf of itself, Fix the Grid, Climate Code Blue, and 150 individual Pro Se Commenters listed in appendix A to this order, an out-of-time motion to intervene.

5. On May 16, 2022, ISO-NE submitted an answer to NTE, SEIA, and Pro Se Commenters. On May 31, 2022, No Coal No Gas submitted an answer to ISO-NE's answer.

6. In its comments, No Coal No Gas argues that capacity payments to a coal-fired power plant located in Merrimack, New Hampshire (Merrimack), and to other fossil fuel-powered generators, amount to a subsidy that is keeping such plants in operation, thereby contributing to climate change, and that such funding would be better spent modernizing the grid and developing renewable energy.¹¹ No Coal No Gas avers that ISO-NE has already found that Merrimack is not essential to system reliability for the 2025-2026 capacity year, and that Merrimack is actually harming reliability by contributing to climate change, which in turn creates more extreme climate events that threaten reliability.¹² Therefore, No Coal No Gas requests that the Commission rescind the results of FCA 16, cancel capacity payments to Merrimack, and work to restructure the Forward Capacity Market to deprioritize fossil fuels.

7. Pro Se Commenters similarly argue that the Commission should reject ISO-NE's filing because the Merrimack coal plant should not have received a CSO in FCA 16. Pro Se Commenters express their opposition to fossil fuels, especially coal, as well as the

⁹ *Id.* at 2 n.5.

¹⁰ *Id.* at 3.

¹¹ *See* No Coal No Gas Comments at 2.

¹² *Id.* at 2-3.

related greenhouse gas emissions, climate change, and reliability payments for such plants.

8. SEIA states that it does not object to the results of FCA 16 but questions “whether the Forward Capacity Market is producing results that will continue to attract new investment in the types of resources that are required to ensure the reliable delivery of electric power in New England.”¹³ SEIA further states that the FCA 16 results indicate that the auction may have retained far more resources on the power system than are required to satisfy the reserve margin but may not have obtained the types of reliable, flexible, and fast-responsive resources that are needed to avoid negative operating conditions in all seasons. SEIA also notes that the FCA 16 results indicate that the Forward Capacity Market is not taking into account year-round reliability contributions and services that energy storage systems provide.¹⁴ According to SEIA, storage systems allow the electrical grid to balance supply and demand and can transform solar power into a firm and reliable resource capable of meeting the resource adequacy needs of the ISO-NE region.¹⁵

9. NTE, the sponsor of the Killingly Energy Center generating facility (Killingly), which was not included in the FCA 16 results because its CSO was terminated,¹⁶ disputes the propriety of the termination of Killingly’s CSO and requests that the Commission note the pendency of its appeal to the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit).¹⁷

10. In response to NTE, SEIA, and Pro Se Commenters, ISO-NE argues that it ran FCA 16 according to ISO-NE’s Tariff and that the Commission should therefore accept the FCA 16 filing results as just and reasonable. ISO-NE states that SEIA and the Pro Se Commenters challenge the market design of the Forward Capacity Market, which the

¹³ SEIA Comments at 2.

¹⁴ *Id.* at 3.

¹⁵ *Id.* at 7.

¹⁶ Transmittal at 6 n.14.

¹⁷ NTE Comments at 5. NTE states that the D.C. Circuit has yet to rule on Killingly’s pending appeal of the Commission’s order approving ISO-NE’s request to terminate Killingly’s CSO in *ISO New England Inc.*, 178 FERC ¶ 61,001 (2022), which could impact Killingly’s CSO and its right to participate in FCA 16. *Id.* at 2-3. The Commission notes that, since the time Killingly made this argument, the D.C. Circuit dismissed Killingly’s petition for review. *NTE Conn., LLC v. FERC*, No. 22-1027, 2022 WL 1480154 (D.C. Cir. May 10, 2022) (granting motion to dismiss).

Commission has made clear is outside the scope of these FCA results filings and should therefore be dismissed.¹⁸ In addition, ISO-NE states that the Commission need not note that the termination of Killingly's CSO is pending appeal, as the D.C. Circuit has since dismissed the appeal.¹⁹

11. No Coal No Gas responds to ISO-NE, maintaining that accounting for the "climate crisis" in the FCA is within the scope of this proceeding.²⁰ No Coal No Gas asserts that ISO-NE's mandate is to oversee grid operation, market administration, and power system planning, and this mandate necessarily involves dealing with concerns about the impact of climate change on future generations because climate facts are real and connected to grid management.²¹ No Coal No Gas also contends that Merrimack should not have been included in FCA 16 in accord with ISO-NE's statements in its "Pathways Study" to determine policy options to align grid management with state energy policies and goals. No Coal No Gas explains that this study assumed that Merrimack would retire in 2025 to align with state policy goals.²² No Coal No Gas states that its comments should be taken into account, especially when there is no other officially sanctioned alternative method for meaningful input.²³ No Coal No Gas contends that the lack of a forum for expressing concerns about ISO-NE's capacity auction structure and the FCA results violate the Commission's mission and guiding principles of due process, transparency, and stakeholder involvement. According to No Coal No Gas, allowing the FCA 16 results to stand will lead to consumers paying for dangerous and inefficient energy, contrary to the Commission's mission to ensure safe, reliable, economic and efficient energy.²⁴

¹⁸ ISO-NE Answer at 3 & n.12.

¹⁹ On May 10, 2022, the D.C. Circuit granted ISO-NE's motion to dismiss NTE's petition for review. *NTE Conn., LLC. v. FERC*, No. 22-1027, 2022 WL 1480154 (D.C. Cir. May 10, 2022).

²⁰ No Coal No Gas Answer at 6.

²¹ *Id.* at 4.

²² *Id.* at 5 & n.20 (citing an ISO-NE draft study titled, Pathways Study, <https://www.iso-ne.com/static-assets/documents/2022/02/pathways-study-report.pdf> ("[W]e assume the Merrimack 1 and Merrimack 2 coal plants will retire on June 1, 2025.")).

²³ *Id.* at 3.

²⁴ *Id.* at 6.

12. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2021), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Further, we will grant No Coal No Gas's unopposed motion to intervene out-of-time on behalf of itself and other named entities or individuals given their interest, the early stage of this proceeding, and the absence of undue prejudice or delay.

13. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2021), prohibits an answer to a protest or answer unless otherwise ordered by the decisional authority. We accept ISO-NE's and No Coal No Gas's answers because they have provided information that assisted us in our decision-making process.

14. ISO-NE is required to file the results of the FCA with the Commission,²⁵ and the Commission evaluates the filing to determine if ISO-NE conducted the FCA in accordance with the Tariff.²⁶ No party has provided evidence that ISO-NE failed to conduct FCA 16 in accordance with its Tariff, and therefore we accept ISO-NE's filing, effective July 19, 2022, as requested.

15. We find that the protests by No Coal No Gas, SEIA, and Pro Se Commenters raise issues that are outside the scope of this proceeding because they do not bear on whether ISO-NE conducted FCA 16 in accordance with its Tariff.²⁷ Instead, these protests focus on the FCM market design.²⁸ We also find that the matter involving Killingly has been

²⁵ ISO-NE, Transmission, Markets & Servs. Tariff, § III.13 (Forward Capacity Market) (24.0.0), § III. 13.8.2.

²⁶ See *ISO New England*, 130 FERC ¶ 61,145 at P 33; *ISO New England Inc.*, 127 FERC ¶ 61,040, at PP 27, 30 (2009).

²⁷ See *ISO New England*, 130 FERC ¶ 61,145 at P 33 (dismissing protests that did not relate to whether ISO-NE conducted the FCA in accordance with the market rules).

²⁸ No Coal No Gas argues that there is no other officially sanctioned alternative method for meaningful input. However, such issues may be more properly pursued in other proceedings, such as complaints filed by these entities, as appropriate.

made moot by the D.C. Circuit Court's May 10, 2022 decision dismissing NTE's petition for review.²⁹

By direction of the Commission.

Debbie-Anne A. Reese,
Deputy Secretary.

²⁹*See supra* note 18 and accompanying text.

Appendix A

Pro Se Commenters

1. Steven Botkin
2. Robert Feder
3. Carole Rein
4. Susan Lemont
5. Jamie Glass
6. Penelope Z. Andrews
7. Montserrat Archbald
8. Joy Guthrie
9. Charles Schuerhoff
10. Susan M. Smoller
11. Lisa Demaine
12. Mary Elizabeth Raven
13. Kent Wittenburg
14. Steven Wenner
15. David McDermott Hughes
16. Bryce Luchan
17. Croitiene ganMoryn
18. Maria Wilkins
19. Leif Taranta (#1)
20. Barbara Southard
21. Carol Lewis (#1)
22. Lizzie Rutberg
23. Richard Keleher
24. Patricia Ramsey
25. Barry Glunt
26. William W. Gile
27. Susan Durling
28. Alan Field
29. Deborah Gerson
30. Emma Shapiro-Weiss
31. John Hanson
32. Lara Lofdahl
33. Gerald Beck
34. Peter Barrer
35. Kathryn Kerma
36. Ron Blau
37. Jacob Evelyn
38. Rose Shuker-Haines
39. Jordan K. Parlett

40. Amanda Nash
41. Carol Dipirro
42. Cindy Callaway
43. Marcy Kass
44. Katherine Leswing
45. Michelle Sayles
46. Donna Hayward
47. Minga Claggett-Borne
48. Mary and Don Fite
49. Katherine Fisher
50. Barbara Peterson
51. Lucy Weiss
52. Lucy Lee
53. Elisse Ghitelman
54. Leif Taranta (#2)
55. Rebecca Dalgin
56. Johnny Sanchez
57. Betsy J. Stowers
58. Judith Black
59. Cecily Anderson
60. James Mulloy
61. Marsha Feder
62. Rebecca Beaulieu
63. Robert W. Persons
64. Rory Erlich
65. Hilary Rasch
66. Marisa Keller
67. Nastasia Lawton-Sticklor
68. Regina LaRocque
69. Annie Winkler
70. Solomon Chase
71. Michael Shun
72. Steven Jones
73. Elizabeth Rocco
74. David Greenberg
75. Michele Vitti
76. Elizabeth Yates
77. Lucie Torrey
78. Sarah Thorne
79. Leigh Ann Reynolds
80. Lila Kohrman-Glaser
81. Siobhan Senier
82. Patricia Beffa-Negrini

83. Bill Sloan
84. Adam Maynard
85. Chagit Steiner
86. Wharton Sinkler
87. Georgia Elgar
88. Royal Graves
89. Rebecca Jones
90. Deborah Rohner
91. Grace Hall
92. Margaret B. Longley
93. Chris Balch
94. Juliana Stoner
95. Patricia Martin
96. Jeanne Kreiger
97. Carol Lewis (#2)
98. Jacob Fox
99. Jennifer Near
100. Bonnie Hill
101. Julie Macuga
102. Wrendolyn James
103. David Greene
104. Jennifer Dube
105. Peter Dube
106. Douglas R. Knight
107. Linds Jakows
108. Lois Cote
109. Lane Lloyd
110. Amy Antonucci
111. Leah Hastings
112. Steve Wenner
113. Isaac Petersen
114. Betsy Torg
115. Maria T. Marcum
116. Dana Dwinell-Yardley
117. Abigail Mnookin
118. Mark Taranta
119. Lauren Ockene
120. Janelle Maynard
121. Paul Shorb
122. Aruni Kacker
123. Jennifer Smith
124. Jesse N. Mills
125. Samantha Hayward

126. Maeve McBride
127. Kendra Ford
128. Doug Bogen
129. Derek Price
130. Gavin Sellors
131. Cody Pajic
132. Robert V. McCarthy
133. Oliver W. Stephenson
134. Daniel Flynn
135. Constance Kent
136. Laura Easley
137. Laura Simon
138. Margaret Hughes
139. Robert Bonney
140. Connor Wertz
141. Eleanor Reid
142. Ian McDonald
143. Tim DeChristopher
144. Alec Fleischer
145. Olivia Chatfield
146. Terisa E. Turner
147. Fergus Marshall
148. Sabine von Merin
149. Rachel Kannair
150. Kyrra Robicheau