Proposed Tariff Changes to Clarify that FCM Repowering Projects are Able to Unwind their Incremental Obligations

April, 2023

About LS Power

LS Power is a development, investment and operating company focused on the North American power and energy infrastructure sector

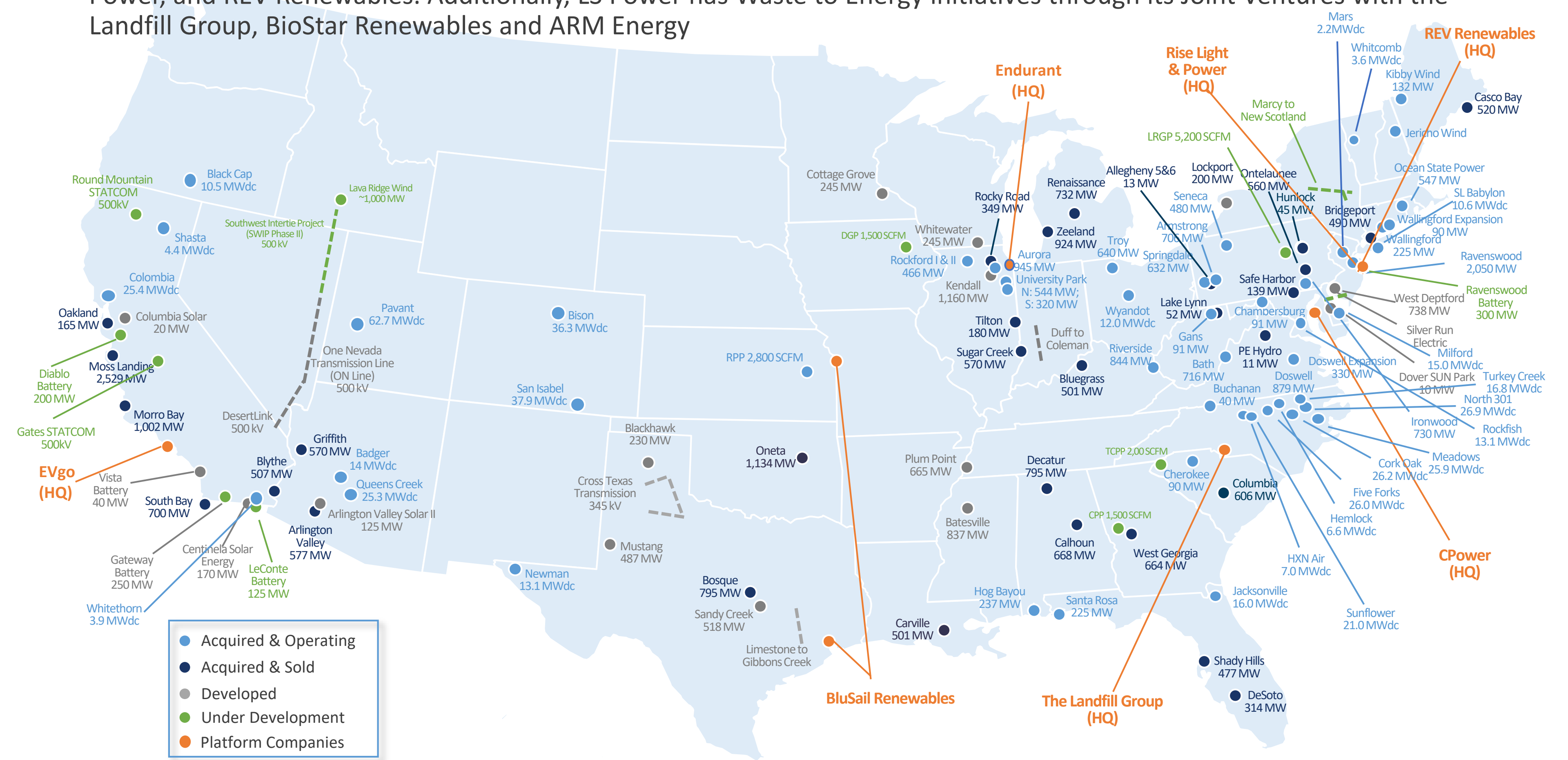
- Founded in 1990, LS Power has 280 employees across its principal and affiliate offices in New York, New Jersey, Missouri, Texas and California
- LS Power is at the leading edge of the industry's transition to low-carbon energy by commercializing new technologies and developing new markets.
  - **Utility-scale power projects across multiple fuel and technology types**, such as pumped storage hydro, wind, solar and natural gas-fired generation
  - **Battery energy storage**, market-leading utility-scale solutions that complement weather dependent renewables like wind and solar energy
  - **High voltage electric transmission infrastructure**, which is key to increasing grid reliability and efficiency, as well as carrying renewable energy from remote locations to population centers
  - **EVgo, the nation's largest public fast charging platform for electric vehicles** and first platform to be 100% powered by renewable energy
  - **CPower Energy Management**, the largest demand response provider in the country that is dedicated solely to the commercial and industrial sector
- Since inception, LS Power has developed, constructed, managed and acquired competitive power generation and transmission infrastructure, for which **we have raised over $47 billion in debt and equity financing.**
  - **Developed over 11,000 MW of power generation** (both conventional and renewable) across the United States
  - **Acquired over 34,000 MW of power generation assets** (both conventional and renewable)
  - **Developed over 660 miles of high voltage transmission**, with ~400 miles of additional transmission under development

Utilize deep industry expertise as owner/operator

LS Power Project Portfolio

Extensive development/operating experience across multiple markets and technologies

- With over $47 billion in equity and debt raised, LS Power has developed and acquired 120 Power Generation projects (renewable and conventional generation), 7 Transmission projects, and 5 Battery Energy Storage projects
- LS Power's Energy Transition Platforms includes CPower Energy Management, Endurant Energy, EVgo, Rise Light & Power, and REV Renewables. Additionally, LS Power has Waste to Energy initiatives through its Joint Ventures with the Landfill Group, BioStar Renewables and ARM Energy



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Issue Summary

Under the ISO's interpretation of the tariff, there is no way for a "repowered" resource to unwind future FCM commitments, leading to an unexpected and nonsensical "bet-the-plant" situation

- In FCA15, LS bid an expansion at its Ocean State Power (OSP) facility, cleared the auction, and secured a 7-year price lock
  - Because the expansion would increase summer capacity by more than 20%, it was technically a "repowering". As a repowering, the *whole facility* is treated as **new** for purposes of FA, CPS monitoring, etc.
- Since the start of the year, LS has been exploring whether it is possible to functionally "revert" back to the plant as it exists today. The ISO tells us that based on their interpretation of the tariff, there is **no mechanism to shed the incremental MWs of a repowering project**. Based on their reading, a repowering project must either be:
  - **(a)** completed as originally contemplated in its Show of Interest; or
  - **(b)** terminated in its ***totality,*** which would result in the loss of the **whole plant's** ability to participate in the FCM in perpetuity (forfeit of CNRC) and forfeit of FA associated with MWs which are currently operational
- If a repowered resource is not developed for any reason, **including failure to obtain permits**, then the ISO's interpretation means that the whole resource must exit the FCM, even if a significant amount of capacity could remain operational
- This is not how we understood tariff to work and conversation with various NEPOOL stakeholders confirms that this is not how they understood the tariff to work, either. The ISO's current interpretation is untested and never been applied to another resource
- To that end, **LS is proposing tariff changes that clarify that the treatment of repowered resources** align with the treatment of both greenfield new builds and smaller uprates at existing facilities
  - Treatment would allow a repowered resource to shed its *incremental* obligations and forfeit FA and price-lock while retaining FCM-eligibility of the currently operating resource
- A failure to clarify the tariff could result in nonsensical and discriminatory outcomes:
  - ISO's interpretation leads to "bet the plant" outcomes that don't exist for any other resource type
  - ISO's interpretation could discourage existing resources from enhancing their facilities and could drive premature retirements

Background on Ocean State Power & its Repowering

A Reliable, 2-Block NGCC, Operating Since 1991

- OSP is an existing, operational facility with two NGCC power blocks (with dual fuel backup) located in Rhode Island
  - The facility is comprised of two different capacity resources of approximately 270 MWs with two different resource IDs (528, 529). Both resources are of the same vintage, same technology, and same configuration
- OSP has operated since 1991 and cleared in every FCA since the inception of the capacity market
- OSP offers valuable energy-security / fuel-security contributions to New England with connections to two interstate pipelines (TGP and Algonquin) as well as 2 million gallons of on-site oil storage
  - Today, both phases of OSP continue to operate in the real world and have various capacity and energy obligations
  - Both units had good performance during the most recent PfP event that occurred on December 24, 2022

- OSP cleared one of its two power blocks as a repowering with that block increasing its output from 270 MW to 334 MW
  - This is a 64 MW increase representing a ~23% increase in summer output
- The repowered resource *also* secured a 7-year price lock at $3.98/kW-month for FCAs 15-21 on the full 334 MW size
- The repowered resource was originally thought to necessitate modest network upgrades but subsequent analysis has shown that no upgrades are required
- OSP did not change its primary or secondary energy sources, still an NGCC with dual-fuel backup

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Summary of Key Tariff Provisions

- **III.13.1.1.1.2 (a)** requires an *existing* capacity resource to clear as *new* if it increases its capacity by at least 20%
- **III.13.1.1.2.2.4** allowed *new* resources, through FCA 15, to secure a 7-year price lock
  - These provisions also forbid a price-locked resource from making any sort of "de-list or export bid" on the price-locked capacity meaning that a price-locked cannot terminate incremental capacity using a Retirement De-List bid or a Permanent De-List bid
- **III.13.2.3.2 (e)** is an accounting provision which notes that a resource which *clears* as new under III.13.1.1.1.2 will have its existing capacity "permanently de-listed". This provision makes sure that there is no duplicate capacity in the market (i.e., that the original MWs from the "existing" resource is netted out from the "new" expanded resource)
  - This provision *intentionally* relies on the undefined and ambiguous phrase "permanently de-listed." The ISO stated in the Filing Letter from ER08-199 that "the phrase 'permanently de-listed' was intentionally made lower-case so as to not implicate the formal requirements associated with clearing Permanent De-List Bids…"
- **III.13.3.4A** describes how the ISO can terminate or "adjust" downward the CSO of capacity resources
- **III.13.3.8** describes how a resource can demonstrate FCM Commercial Operation on its full output or a "portion thereof" if it completes CPS milestones, any transmission upgrades for network service, and does a commercialization audit.

Appendix includes copies of all relevant tariff language

OSP's Predicament

- **III.13.1.1.1.2 (the repowering provision)** specifies that a resource shall clear as a new resource if investment will increase output by at least 20%. **III.13.2.3.2 (e)** notes that "If any portion of the New Generating Capacity Resource clears in the Forward Capacity Auction, the associated Existing Generating Capacity Resource shall be permanently de-listed"
  - Reading these provisions together, ISO-NE has concluded that if an existing resource *clears* in an FCA as a New Capacity Resource then the Existing Capacity Resource must be "permanently delisted", **irrespective of whether the new resource is actually built**. This interpretation means that a resource must exit the FCM in perpetuity (unless it re-enters as a repowering), even if the a significant amount of capacity have been, and could remain operational and commercial
- **III.13.3.8** describes how a resource can demonstrate FCM Commercial Operation on its full output or a "portion thereof" if it completes CPS milestones, any transmission upgrades for network service, and does a commercialization audit
  - OSP's uprate has no required network upgrades and is willing to do a commercialization audit, but the ISO has concluded that it can not commercialize *any* of its 270 MW of currently operational capacity because it has not achieved all of the CPS milestones contemplated in its original Show of Interest
  - Although this provision nominally allows for partial commercialization, it is not clear if there is any mechanism, in practice, to partially commercialize a facility if it has not met *all aspects of it SOI or CPS milestones*
  - Uncertainty remains as to what would happen if OSP were to try to develop the uprate and it was unable to deliver a full 334 MW, as part of CPS monitoring includes MW thresholds (e.g. what happens if a project comes in 1 MW short?)
  - Additionally, the ISO has indicated that it still might not be willing to allow OSP to be commercialized because if it comes up with less than a 20% uprate because it should not have been able to clear under III.13.1.1.1.2 in the first place
- OSP cannot partially terminate, retire, or delist the 64 incremental MWs under **III.13.3.4A** because they are not currently FCM operational and because the price lock, **III.13.1.1.2.2.4**, does not allow OSP to make any "de-list or export bid" on the price-locked capacity

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Treatment of repowered resources is worse than either greenfield new or smaller uprates of existing resources

- **Operational capacity is never at risk on either a new greenfield project or a minor uprate at an existing unit**. Failure to meet CPS milestones can only result in the termination of *incremental* MWs
- FA on currently operational capacity is never at risk, either. A repowered resource must post FA on MWs that are currently operational but which cannot be commercialized under the ISO's tariff. **Results in roughly five times more FA posted per non-operational MW for repowered resources**

	Greenfield New	Minor Uprate (≤20%)	Repowerings (>20%)
Project Description	A new 64 MW gen separate from OSP	A 53 MW uprate at OSP (19% increase)	A 64 MW uprate at OSP (24% increase)
FA at risk	64 MW	53 MW	334 MW
CNRC at risk	64 MW	53 MW	334 MW
Currently operational capacity at risk	0 MW	0 MW	270 MW

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Preferred Outcome

- OSP would like to clarify the tariff to make clear that it has the right to shed its 64 MW of incremental obligations while also maintaining the ability of its 270 MW of currently operational capacity to continue to participate in the FCM

- **The most reasonable outcome would have OSP face the same set of penalties that would occur if a minor uprate or a greenfield new project were terminated.** This would require OSP to:
  - **Forfeit FA on the 64 MW of non-operational capacity that OSP cleared in FCAs 15-17.** If these MWs do not get built, OSP should lose the FA posted to support them
  - **Forfeit the price lock on the full 334 MW resource**. OSP should not benefit from a price lock on new or existing capacity if it does not build an uprate

- Allowing OSP to shed its repowering benefits both load *and* generators
  - **Load** would receive three benefits:

    (1) ~**$3mm in Financial Assurance** forfeited by OSP and refunded to load

    (2) SENE customers would avoid having to pay $3.98/kWm for 334 MW of capacity in FCA 16-21. Based on the two most recent auctions, which cleared around $2.6/kwm, this would **save customers $15mm in just FCA 16 and FCA 17**

    (3) Allow a 270 MW firm-fuel, flexible resource continue to participate in FCM and provide winter energy security benefits
  - **Generators** would receive a benefit, too:

    (1) The elimination of 64 MW of capacity from the supply stack in future FCAs

Conceptual Tariff Language for Partial Commercialization

Partial Commercialization allows for Partial Termination under existing provisions

- Changes to the FCM Commercial Operation provision (III.13.3.8) would clarify that a repowered resource can commercialize up to its current audited output level – irrespective of whether all CPS monitoring milestones are met
  - Language would limit this pathway to repowerings that are more like upgrades than replacements (i.e., those where the base technology and fuel are not changing)
  - Language would be limited to resources where no network upgrades required – minimizing impact on other new resources
- Partial commercialization allows for partial termination of non-commercial MWs by the ISO (or by us) under current market rules (III.13.3.4A)
- **Allows OSP to commercialize (i.e. retain) its operational 270 MW unit and the ISO to terminate the incremental 64 MW**

If a resource:

1. qualified and cleared as a New Generating Capacity Resource pursuant to repowering provisions
2. did not change its prime mover or primary energy source in its Show of Interest Form from the resource that was previously counted as a capacity resource, and
3. completed any transmission upgrade(s) necessary for the resource to obtain the requisite interconnection service on the uprated facility

Then,

the ISO shall confirm FCM Commercial Operation of the portion of the re-powered resource equal to the repowered resource's Establish Claimed Capability audit value

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FCM Commercial Operation Changes (III.13.3.8)

Proposed Additions in Red

A resource (or portion thereof) achieves FCM Commercial Operation when (1) the ISO has determined that the resource (or portion thereof) has achieved all its critical path schedule milestones, including completion of any transmission upgrades necessary for the resource to obtain the requisite interconnection service; and (2) the ISO verifies the resource's (or a portion of the resource's) summer capacity rating (or, for a resource with winter capacity only, its winter capacity rating).

(a) For a Generating Capacity Resource (or portion thereof) that has achieved all its critical path schedule milestones, the ISO shall confirm FCM Commercial Operation as soon as practicable following the ISO's verification of the resource's summer capacity rating (or, for a resource with winter capacity only, its winter capacity rating), which may take place in any month of the year. The ISO shall verify the summer capacity rating of a Generating Capacity Resource that is an Intermittent Power Resource following no fewer than 30 consecutive calendar days of operation (for periods from October 1 through May 31, a Market Participant must request such verification).

(b) For a Demand Capacity Resource (or portion thereof) …

(c) For an Import Capacity Resource (or portion thereof) …

(d) For a resource that qualified as a New Generating Capacity Resource pursuant to Section III.13.1.1.1.2 (re-powering) that cleared in a previous Forward Capacity Auction, did not change its prime mover or primary energy source in its New Capacity Show of Interest Form pursuant to Section III.13.1.1.2 from the resource that was previously counted as a capacity resource, and completed any transmission upgrade(s) necessary for the re-powered resource to obtain the requisite interconnection service, the ISO shall confirm FCM Commercial Operation of the portion of the re-powered resource equal to the re-powered resource's summer capacity rating (or, for a resource with winter capacity only, its winter capacity rating). The summer capacity rating can be established using an Establish Claimed Capability Audit.

Conceptual Tariff Language for Price Lock Termination

Allows for the ISO to terminate a price lock if certain provisions are met and clarifies pricing treatment for auctions in which a price-locked resource has already cleared.

- Allows ISO to terminate a price lock on a repowered resource if the resource has not yet fully commercialized
  - Does **not** affect truly *new* resources with a price-lock obtained prior to FCA 15 (those do not clear as repowering)
  - Does **not** affect DR resources with a price-lock obtained prior to FCA 15 (those are not Generating Capacity Resources)
  - Does **not** affect generating capacity resources which cleared a minor uprate (<20%) under III.13.1.1.1.3
  - Does **not** affect repowered resources with active price-locks that are currently commercial
  - No new resources will fall into this category because resources can no longer obtain a price-lock
- Based on our review, the repowered portion of OSP is the only resource that fits into this bucket
- It is reasonable to assume that the price-locked resource would have cleared the FCM as an existing resource for auctions already run. The portion of OSP which is an existing resource (with no price-lock) has cleared every FCA.

The ISO may terminate a price-lock If a resource:

1. qualified and cleared as a New Generating Capacity Resource pursuant to repowering provisions
2. Has not commercialized

If the ISO terminates a price-lock, then,

- **For auctions already run:** the resource shall be paid the zonal FCM price of that CCP (not the price-locked rate)
- **For future auctions:** the resource participates like any other existing generating capacity resource (i.e., can delist, no guaranteed clear, paid prevailing market price)

Price Lock Changes (III.13.1.1.2.2.4)

Proposed Additions in Red

Project Sponsors shall be required to specify whether they are making the election set forth in this Section III.13.1.1.2.2.4 for each Forward Capacity Auction up to and including the auction held in February 2021 for the June 1, 2024 through May 31, 2025 Capacity Commitment Period, and no election shall be permitted thereafter.

For each Forward Capacity Auction occurring up to and including the February 2021 auction, in the New Capacity Qualification Package, the Project Sponsor must specify whether, if its New Capacity Offer clears in the Forward Capacity Auction, the associated Capacity Supply Obligation and Capacity Clearing Price (indexed for inflation) shall continue to apply after the Capacity Commitment Period associated with the Forward Capacity Auction in which the offer clears, for up to six additional and consecutive Capacity Commitment Periods, in whole Capacity Commitment Period increments only. For incremental capacity qualified pursuant to Section III.13.1.1.1.3.A, this election shall apply to both the incremental amount of capacity and the existing Qualified Capacity matched to the incremental capacity at the same generating resource. If no such election is made in the New Capacity Qualification Package, the Capacity Supply Obligation and Capacity Clearing Price associated with the New Capacity Offer shall apply only for the Capacity Commitment Period associated with the Forward Capacity Auction in which the New Capacity Offer clears. If a New Capacity Offer clears in the Forward Capacity Auction, the capacity associated with the resulting Capacity Supply Obligation may not be subject to any type of de-list or export bid in subsequent Forward Capacity Auctions for Capacity Commitment Periods for which the Project Sponsor elected to have the Capacity Supply Obligation and Capacity Clearing Price continue to apply pursuant to this Section III.13.1.1.2.2.4.

The ISO may terminate the a multi-year rate election of an Existing Generating Capacity Resource or a New Generating Capacity Resource obtained pursuant to this Section III.13.1.1.2.2.4 if the resource previously qualified as a New Generating Capacity Resource pursuant to Section III.13.1.1.1.2 (re-powering) and cleared in a previous Forward Capacity Auction, and if the resource has not achieved FCM Commercial Operation pursuant to III.13.3.8. If the ISO terminates a multi-year rate election of a qualifying resource, then that resource shall be paid the Capacity Clearing Price of each Forward Capacity Auction in which the resource already obtained a Capacity Supply Obligation. Upon termination of the multi-year rate election, the Existing Generating Capacity Resource can participate in the Forward Capacity Auction pursuant to Section III.13.1.2.

Are other tariff changes required? No.

- **Do we need to make changes to Financial Assurance? No.** The tariff already has rules that make a distinction between Commercial and Non-Commercial Capacity. For example FAP VII.B.1-2 explain that FA is only required on non-commercial capacity (i.e., capacity which has not been commercialized under III.13.3.8). When capacity is commercialized, FA on the commercial MWs should be refunded per VII.B.3
  - Our proposal does not make any changes to the definition of Non-Commercial Capacity so does not require any changes to FA rules
- **Do we need to make changes to treatment of Interconnection Agreements? No.** III.13.3.5 provides the ISO with the right to terminate an Interconnection Agreement ("IA") when the associated CSO has been terminated. This provision has been used previously to adjust downward an IA to match the CSO of a resource which was also adjusted downward (under III.13.3.4A)
  - Note that Section III.13.3.5 does not require termination. Instead, the Tariff leaves the termination decision to the ISO's discretion. We understand that the ISO's general practice is that the ISO will amend an IA or terminate the IA and replace it with a new IA to reflect the termination or partial termination of a CSO
- **What about changes to CNR Capability? No.** In ER18-704, the ISO stated that a resource may achieve partial Commercial Operation for purposes of CNRC when it can show that it can meet some of its CSO. Section II.48.3 notes that partial termination of a resource by the ISO (or by us) would reduce our capacity network rights down to our FCM qualified capacity

Conclusions & Next Steps

- LS Power has uncovered confusion about tariff rules that lead to discriminatory treatment of repowered resources
  - The ISO's interpretation of these rules leads to an inadvertent "bet-the-plant" situation if a resource is not developed for any reason then it will be terminated in its ***totality,*** which would result in the loss of the **whole plant's** ability to participate in the FCM in perpetuity and forfeit FA associated with MWs which are currently operational
- LS proposes tariff changes that clarify the treatment of repowered resources
  - Proposed treatment aligns with outcome when a greenfield project or minor uprate is unwound
  - Not clear that this language is even needed, but codifies a reasonable outcome
- Proposed language would allow OSP to prospectively unwind its repowering without losing its existing facility, while still paying a reasonable penalty for non-delivery of cleared capacity and forfeiting its price-lock
- Allowing LS to unwind these obligations would:
  - save consumers tens-of-millions of dollars between FA refunds, price-lock termination, and continued FCM participation
  - enhance winter energy security by allowing a firm-fuel resource to remain a capacity resource and participate in the FCM and all other ISO markets
  - rationalize the supply stack
- **Schedule**: Because OSP remains under a CPS monitoring we request that the committee move expeditiously
  - **April 13 (Today):** Issue Discussion and Proposed Tariff Changes
  - **April 25:** Markets Committee Vote on Proposed Tariff Changes
  - **May 4:** Participants Committee Vote on Proposed Tariff Changes

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Appendix: Relevant Tariff Provisions

III.13.1.1.1.2. Resources Previously Counted as Capacity

A resource that has previously been counted as a capacity resource, including a deactivated or retired capacity resource, may elect to participate in the Forward Capacity Auction as a New Generating Capacity Resource, as described in this Section III.13.1.1.1.2. The incremental expenditure required to reactivate a resource that previously has been deactivated or retired pursuant to Section I.3.9 of the Transmission, Markets and Services Tariff (or its predecessor provisions) may be included in the calculation of the dollar per kilowatt thresholds in this Section III.13.1.1.1.2. **A resource accepted for participation in the Forward Capacity Auction as a New Generating Capacity Resource pursuant to this Section III.13.1.1.1.2 shall participate in the Forward Capacity Auction pursuant to Section III.13.2.3.2(e).** A Market Participant that elects to have a resource that has previously been counted as a capacity resource participate in the Forward Capacity Auction as a New Generating Capacity Resource, must notify the ISO when the existing resource ceases to operate and the New Generating Capacity Resource commences operation. If a Market Participant with a resource that has previously been counted as a capacity resource elects, pursuant to Section III.13.3.4(a)(iii), to have the resource that has previously been counted as a capacity resource cover the Capacity Supply Obligation of a New Generating Capacity Resource and the resource that has previously been counted as a capacity resource must take an outage in order for the New Generating Capacity Resource to commence Commercial Operation (as defined in Schedule 22, 23, or 25 of Section II of the Transmission, Markets and Services Tariff), then the Market Participant must notify the ISO that the outage is for the purpose of the New Generating Capacity Resource commencing Commercial Operation (as defined in Schedule 22, 23, or 25 of Section II of the Transmission, Markets and Services Tariff). **A resource shall be accepted for participation as a new resource if it complies with one of the following three subsections:**

(a) Where investment in the resource will result, by the commencement of the Capacity Commitment Period, in an increase in output by an amount exceeding the greater of: (i) 20 percent of the summer Qualified Capacity of the resource at the time of the qualification process for the Forward Capacity Auction; or (ii) 40 MW above the summer Qualified Capacity of the resource at the time of the qualification process for the Forward Capacity Auction, the whole resource shall participate in the Forward Capacity Auction as a New Generating Capacity Resource…

III.13.2.3.2 (e) Step 2: Compilation of Offers and Bids – Repowering

Offers and bids associated with a resource participating in the Forward Capacity Auction as a New Generating Capacity Resource pursuant to Section III.13.1.1.1.2 (resources previously counted as capacity resources) shall be addressed in the Forward Capacity Auction in accordance with the provisions of this Section III.13.2.3.2(e). The Project Sponsor shall offer such a New Generating Capacity Resource into the Forward Capacity Auction in the same manner and pursuant to the same rules as other New Generating Capacity Resources, as described in Section III.13.2.3.2(a). As long as any capacity is offered from the New Generating Capacity Resource, the amount of capacity offered is the amount that the auctioneer shall include in the aggregate supply curve at the relevant prices, and the quantity of capacity offered from the associated Existing Generating Capacity Resource shall not be included in the aggregate supply curve. **If any portion of the New Generating Capacity Resource clears in the Forward Capacity Auction, the associated Existing Generating Capacity Resource shall be permanently de-listed as of the start of the associated Capacity Commitment Period.** If at any price, no capacity is offered from the New Generating Capacity Resource, then the auctioneer shall include capacity from the associated Existing Generating Capacity Resource at that price, subject to any bids submitted and accepted in the qualification process for that Existing Generating Capacity Resource pursuant to Section III.13.1.2.5. Bids submitted and accepted in the qualification process for an Existing Generating Capacity Resource pursuant to Section III.13.1.2.5 shall only be entered into the Forward Capacity Auction after the associated New Generating Capacity Resource is fully withdrawn (that is, the Forward Capacity Auction reaches a price at which the resource's New Capacity Offer is zero capacity), and shall only then be subject to the reliability review described in Section III.13.2.5.2.5.

LS views this provision as an accounting exercise. Permanently de-listing an existing resource's capacity when it receives a CSO as a new resource simply removes capacity from an existing resource and transfers the same capacity to a new resource.

This provision *intentionally* relies on the undefined and ambiguous phrase "permanently de-listed." The ISO stated in the Filing Letter from ER08-199 that "the phrase 'permanently de-listed' was intentionally made lower-case so as to not implicate the formal requirements associated with clearing Permanent De-List Bids…"

III.13.3.4A Termination of Capacity Supply Obligations

If a Project Sponsor fails to comply with the requirements of Sections III.13.3.2 or III.13.3.3, or if a Project Sponsor covers a Capacity Supply Obligation for two Capacity Commitment Periods, or 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, then **the ISO, after consultation with the Project Sponsor, shall have the right, through a filing with the Commission, to terminate the resource's Capacity Supply Obligation for any future Capacity Commitment Periods and the resource's right to any payments associated with that Capacity Supply Obligation in the Capacity Commitment Period, and to adjust the resource's qualified capacity for participation in the Forward Capacity Market; provided that, where a Project Sponsor voluntarily withdraws its resource from critical path schedule monitoring in accordance with Section III.13.3.6, no filing with the Commission shall be necessary to terminate the resource's Capacity Supply Obligation.** Upon Commission ruling, the Project Sponsor shall forfeit any financial assurance provided with respect to that Capacity Supply Obligation. If in these circumstances, however, the ISO does not take steps to terminate the resource's Capacity Supply Obligation and instead permits the Project Sponsor to continue to cover its Capacity Supply Obligation, such continuation shall be subject to the ISO's right to revoke that permission and to file with the Commission to terminate the resource's Capacity Supply Obligation, and subject to continued reporting by the Project Sponsor as described in this Section III.13.3….

LS views this provision as allowing the ISO to "adjust" downward the CSO at OSP from 334 MW to the currently operational 270.18 MW. Nothing in this provision requires ISO-NE to terminate the entire facility should it not complete its uprate.

III.13.1.1.2.2.4. Capacity Commitment Period Election

Project Sponsors shall be required to specify whether they are making the election set forth in this Section III.13.1.1.2.2.4 for each Forward Capacity Auction up to and including the auction held in February 2021 for the June 1, 2024 through May 31, 2025 Capacity Commitment Period, and no election shall be permitted thereafter.

For each Forward Capacity Auction occurring up to and including the February 2021 auction, in the New Capacity Qualification Package, **the Project Sponsor must specify whether, if its New Capacity Offer clears in the Forward Capacity Auction, the associated Capacity Supply Obligation and Capacity Clearing Price (indexed for inflation) shall continue to apply after the Capacity Commitment Period associated with the Forward Capacity Auction in which the offer clears, for up to six additional and consecutive Capacity Commitment** Periods, in whole Capacity Commitment Period increments only. For incremental capacity qualified pursuant to Section III.13.1.1.1.3.A, this election shall apply to both the incremental amount of capacity and the existing Qualified Capacity matched to the incremental capacity at the same generating resource. If no such election is made in the New Capacity Qualification Package, the Capacity Supply Obligation and Capacity Clearing Price associated with the New Capacity Offer shall apply only for the Capacity Commitment Period associated with the Forward Capacity Auction in which the New Capacity Offer clears. **If a New Capacity Offer clears in the Forward Capacity Auction, the capacity associated with the resulting Capacity Supply Obligation may not be subject to any type of de-list or export bid in subsequent Forward Capacity Auctions for Capacity Commitment Periods for which the Project Sponsor elected to have the Capacity Supply Obligation and Capacity Clearing Price continue to apply pursuant to this Section III.13.1.1.2.2.4.**

OSP secured a 7-year price lock in FCA 15. The price lock provisions forbid OSP from making any sort of “de-list or export bid”, meaning that we cannot retire the 64 MW of incremental capacity using a Retirement De-List bid or a Permanent De-List bid. The only method for MW reductions is via a “partial termination” under III.13.3.4A.

III.13.3.8 FCM Commercial Operation

A resource (**or portion thereof**) achieves FCM Commercial Operation when (1) the ISO has determined that the resource (or portion thereof) has achieved all its critical path schedule milestones, including completion of any transmission upgrades necessary for the resource to obtain the requisite interconnection service; and (2) the ISO verifies the resource's (or a portion of the resource's) summer capacity rating (or, for a resource with winter capacity only, its winter capacity rating).

(a) **For a Generating Capacity Resource (or portion thereof**) that has achieved all its critical path schedule milestones, the ISO shall confirm FCM Commercial Operation as soon as practicable following the ISO's verification of the resource's summer capacity rating (or, for a resource with winter capacity only, its winter capacity rating), which may take place in any month of the year. The ISO shall verify the summer capacity rating of a Generating Capacity Resource that is an Intermittent Power Resource following no fewer than 30 consecutive calendar days of operation (for periods from October 1 through May 31, a Market Participant must request such verification). …

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