

184 FERC ¶ 61,082
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Willie L. Phillips, Acting Chairman;
James P. Danly, Allison Clements,
and Mark C. Christie.

ISO New England Inc.
New England Power Pool Participants Committee

Docket Nos. ER23-1588-000
ER23-1588-001

ORDER ACCEPTING TARIFF REVISIONS

(Issued August 4, 2023)

1. On April 7, 2023, pursuant to section 205 of the Federal Power Act (FPA),¹ ISO New England Inc. (ISO-NE), joined by New England Power Pool (NEPOOL) Participants Committee, submitted revisions to Appendix K to Section III of its Transmission, Markets and Services Tariff (Tariff) to update the payment rates, natural gas contract eligibility requirements, and administration of the Inventoried Energy Program.² In this order, we accept ISO-NE's proposed revisions, to become effective August 4, 2023, as requested.

I. Background

A. Inventoried Energy Program

2. In effect since May 28, 2019, the Inventoried Energy Program is a voluntary program, designed to make payments to generators for maintaining up to three days' worth of potential energy (i.e., fuel) on-site that can be converted into electricity at ISO-NE's direction. Applicable for the Capacity Commitment Periods associated with the 14th and 15th Forward Capacity Auctions (FCA), the Inventoried Energy Program is intended to compensate resources for maintaining inventoried energy during the 2023-2024 and 2024-2025 winters when energy security is most likely to be stressed.³

¹ 16 U.S.C. § 824d.

² ISO New England Inc., ISO New England Inc. Transmission, Markets & Services Tariff, III app. K, (Winter 2014-2015 Reliability Solutions) (14.0.0).

³ The winter months are defined as December through February of each Capacity Commitment Period.

3. As relevant here, the Inventoried Energy Program became effective by operation of law because the Commission lacked the quorum necessary to act on the relevant tariff revisions.⁴ On voluntary remand to the Commission,⁵ however, the Commission issued an order finding the Inventoried Energy Program just and reasonable.⁶ On appeal, the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) upheld all but one component of the Commission's decision to approve ISO-NE's proposed tariff revisions that implemented the Inventoried Energy Program. Specifically, the D.C. Circuit found that the inclusion of the eligibility of coal, hydroelectric, biomass, and nuclear generators in the Inventoried Energy Program was arbitrary and capricious, given record evidence that such market participants would not change their behavior in response to Inventoried Energy Program payments.⁷ The court stated that it would leave intact the remainder of the Commission's order but that it would vacate the inclusion of nuclear, coal, biomass, and hydroelectric generators in the program.⁸

4. On September 23, 2022, the Commission issued an order directing ISO-NE to revise its Appendix K to make nuclear, coal, biomass, and hydroelectric generators

⁴ *ISO New England Inc.*, Notice of Filing Taking Effect by Operation of Law, Docket No. ER19-1428-001 (issued Aug. 6, 2019) (August 6 Notice); *ISO New England Inc.*, Notice of Denial of Rehearing by Operation of Law, 169 FERC ¶ 61,013 (2019) (October 7 Notice).

⁵ Petitions for review of the Commission's Notice of Filing Taking Effect by Operation of Law and Notice of Denial of Rehearing by Operation of Law were filed with the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit). *Belmont Mun. Light Dep't v. FERC* (D.C. Circuit), Case No. 19-1224 et al. On April 14, 2020, the Commission filed a motion for voluntary remand with the D.C. Circuit to allow the Commission to issue an order addressing the filing since at that point the Commission had a quorum in that proceeding. On April 21, 2020, the D.C. Circuit granted the motion. *Belmont Mun. Light Dep't v. FERC* (D.C. Circuit), Case No. 19-1224 et. al. (Apr. 21, 2020).

⁶ *ISO New England Inc.*, 171 FERC ¶ 61,235 (2020) (June 2020 Order).

⁷ *Belmont Mun. Light Dep't v. FERC*, 38 F.4th 173, 187-90 (D.C. Cir. 2022) (*Belmont*).

⁸ *Id.* at 179.

ineligible to participate in the program.⁹ On November 22, 2022, ISO-NE filed revisions accordingly.¹⁰ By order issued April 24, 2023, the Commission accepted the revisions.¹¹

5. The Inventoried Energy Program has five components: (1) a two-settlement structure; (2) a forward rate; (3) a spot rate; (4) trigger conditions; and (5) a maximum duration. Participants in the Inventoried Energy Program can either participate in both the forward and spot market components of the program, or in the spot market component alone. As originally proposed, both the forward and spot market rates are fixed. The fixed forward rate is \$82.49 per megawatt-hour (MWh), which represents the expected minimum rate that a gas-only resource would need to sign a winter peaking liquefied natural gas (LNG) supply contract. The fixed spot rate is \$8.25/MWh for each trigger event (an Inventoried Energy Day), representing the price when a generator would be indifferent between selling stored energy for forward or spot settlement, and is calculated by dividing the fixed forward rate by the expected number of Inventoried Energy Days per winter (10 days). A trigger event occurs when the average of the high and low temperatures for a day at the Bradley International Airport in Windsor Locks, Connecticut, is less than or equal to 17 degrees Fahrenheit.¹²

II. ISO-NE Filing

6. ISO-NE proposes to revise Appendix K to Section III of its Tariff to update certain parameters of the Inventoried Energy Program in order to address unprecedented volatility and price changes in energy markets. Specifically, ISO-NE explains that the proposed revisions to Appendix K include (1) replacing the Inventoried Energy Program's fixed forward and spot rates with indexed rates that automatically adjust to changes in natural gas markets, (2) modifying natural gas contracting requirements in order to better align the Inventoried Energy Program with current commercial and industry practices in New England, and (3) changes to improve the administration and clarity of the Inventoried Energy Program. ISO-NE avers that the proposed revisions are

⁹ See *ISO New England Inc.*, 180 FERC ¶ 61,181, at P 7 (2022) (September 2022 Order).

¹⁰ *ISO New England Inc.*, Compliance Filing, Docket No. ER19-1428-006, at 1 (filed Nov. 22, 2022).

¹¹ *ISO New England Inc.*, 183 FERC ¶ 61,059 (2023) (April 2023 Order).

¹² June 2020 Order, 171 FERC ¶ 61,235 at PP 6-9.

narrowly focused and maintain the existing overall structure of the Commission-approved Inventoried Energy Program.¹³

7. ISO-NE contends that the Commission should accept the filing without modification, as the proposed Tariff changes ensure that the Inventoried Energy Program provides accurate price signals reflecting the actual costs of providing service while avoiding overcompensation at the expense of regional customers. ISO-NE states that the Commission-approved Inventoried Energy Program is based on a rate that was fixed years in advance of the Inventoried Energy Program period, and that without updating the program, there is a risk of insufficiently incentivizing participation in the Inventoried Energy Program and failing to ensure that there is sufficient inventoried energy to ensure reliability during the coldest winter days.¹⁴ ISO-NE states that the proposed Inventoried Energy Program updates were considered through the complete NEPOOL Participant Processes and were supported with a 92.33% vote in favor at the Participants Committee.¹⁵ ISO-NE requests a waiver of FPA section 205's 60 day notice requirement and requests that the Commission accept the proposed revisions effective August 4, 2023, stating that this date is important so that participants can begin making commercial arrangements for fuel for the 2023-2024 winter and because the next calculated index rate must be posted by August 8, 2023.¹⁶

A. Updates to Payment Rates

8. Under the existing Tariff, ISO-NE states that the forward rate is the base rate that will be paid on a per MWh basis to program participants who make forward commitments to deliver inventoried energy. ISO-NE explains that the forward rate is also used for determining the spot rate applied to differences between the inventoried energy maintained by a program participant on an Inventoried Energy Day and the inventoried energy it sold forward.¹⁷

9. ISO-NE avers that the currently effective base rate of \$82.49/MWh of inventoried energy was adequate based on existing data when the Commission approved the Inventoried Energy Program in 2020. However, ISO-NE contends that the proposed revisions are necessary given that increasing price levels and volatility of liquid fossil

¹³ Transmittal at 4-5.

¹⁴ *Id.* at 11-12.

¹⁵ *Id.* at 12.

¹⁶ ISO-NE Response to Deficiency Letter at 1.

¹⁷ Transmittal at 6.

fuels, and particularly LNG, markets have increased uncertainty in the cost of securing inventoried energy. ISO-NE further states that the proposed revisions to the Inventoried Energy Program eliminate the use of stale pricing data to design the fixed rate in 2019.¹⁸ Given the expected volatility in liquid fossil fuels and LNG markets, ISO-NE argues that continuing to use the fixed rate increases the risk that the rate will not reflect the costs of securing inventoried energy, and could reduce the incentives to participate in the program. ISO-NE argues that the introduction of an indexed rate better aligns the payment rates with the actual costs of securing inventoried energy and provides additional transparency, allowing program participants to more accurately predict rates and hedge program participation costs.¹⁹

10. ISO-NE explains that the proposed revisions to Appendix K include a formula rate that calculates the base payment based on two indexed prices, the commodity price and liquidation price. ISO-NE states that the commodity price is based on Dutch TTF Natural Gas Last Day Financial Futures for the winter period (i.e., December through February), as determined in July immediately preceding the start of the winter season. ISO-NE contends that Dutch TTF prices represent the price of LNG in the Atlantic Basin and are therefore a reliable proxy for the cost of delivery into New England. ISO-NE states that the liquidation price is intended to represent the possibility that excess LNG may be procured but not used and potentially sold at a lower price after the winter period. ISO-NE states that the liquidation price is based on the average February Algonquin Citygates Fixed Price Future price as determined in July immediately preceding the winter period. ISO-NE argues that the Algonquin Citygates is representative of regional wholesale natural gas prices delivered to New England, and is therefore a reasonable proxy of the likely value of gas that must be liquidated at the end of the Inventoried Energy Program period.²⁰

11. ISO-NE states that the revisions also include a base rate cap of \$288/MWh, which it derived from estimates of the maximum price needed to secure inventoried energy and reflects liquidation costs and an upper-bound estimate of the opportunity cost of participating in the Inventoried Energy Program.²¹ ISO-NE explains that the filing

¹⁸ *Id.* at 5.

¹⁹ *Id.* at 6-7.

²⁰ *Id.* at 7.

²¹ *Id.* at 7-8.

specifies that the base payment rate will be established on August 1 and posted on August 8 to ensure sufficient time to undertake transactions prior to the winter period.²²

12. ISO-NE states that the filing also revises the spot payment rate to equal one-tenth of the base payment rate. ISO-NE explains that this ratio is consistent with the ratio of the spot and base payment rates in the existing Inventoried Energy Program, corresponding to the expected number of Inventoried Energy Days per winter, and will allow resources to earn equal expected revenues from selling inventoried energy either forward or on the spot market. ISO-NE states that these proposed revisions to the Inventoried Energy Program's rate calculations are just and reasonable, as they will more accurately align rates with actual market conditions and provide more transparency into how rates are calculated.²³

B. Updates to Natural Gas Contract Eligibility Requirements

13. ISO-NE explains that the filing also revises the eligibility requirements of natural gas units to better align with fuel and transportation contracting practices in New England. Specifically, ISO-NE proposes revisions that specify that eligible units' natural gas transportation contracts may not limit when natural gas can be called upon during a day beyond the requirements of the North American Energy Standards Board (NAESB) Wholesale Gas Quadrant scheduling and nomination standards. These revisions replace existing language that states that there may be no limitations whatsoever on when natural gas may be called upon during a day. ISO-NE avers that these revisions will provide sufficiently stringent contract eligibility standards while removing the existing overly restrictive language that requires a level of gas delivery firmness that is not available in New England. Further, ISO-NE explains that for a gas contract that includes an indexed strike price to be eligible for the Inventoried Energy Program, that index must be at a Northeast trading location for which S&P Global Commodity Insight's Platts Gas Daily publishes a daily average gas price value. ISO-NE states that this will ensure that the contract in question reflects regional market conditions, and will provide a basis for applying the applicable Inventoried Energy Program price cap.²⁴

²² *Id.*

²³ *Id.* at 8.

²⁴ *Id.* at 8-9; ISO-New England Inc., ISO New England Inc. Transmission, Markets & Services Tariff, III, app. K (Winter 2014-2015 Reliability Solutions) (14.0.0), § III.K.1(a)(iii).

14. In addition, ISO-NE states that the revisions remove the burden on ISO-NE to make modifications to a prospective Inventoried Energy Program participant's application, or election, information in order to ensure consistency with a specific asset's operational characteristics. In its place, the revisions require the Market Participant to submit an affidavit with each election submission.²⁵

15. Finally, ISO-NE clarifies that proposed Appendix K retains the requirement that ISO-NE reject contracts that exceed certain price criteria, but modifies the language to reflect the use of Dutch TTF Natural Gas Last Day Financial Futures as the relevant index for calculating the base rate, in line with the proposed changes to the calculation of the forward and spot market rates.²⁶ ISO-NE states that the revisions to the Inventoried Energy Program's contracting requirements are just and reasonable, as they reflect actual natural gas contracting practices in New England while maintaining strict eligibility requirements that will ensure sufficient fuel supply during Inventoried Energy Days.²⁷

C. Updates to the Administration of the Inventoried Energy Program

16. ISO-NE explains that the filing includes revisions that require that only the lead market participant of an asset must submit real-time energy inventory reports, indicate when such reports must be submitted, and require that such reports must be accompanied by an affidavit. ISO-NE argues that these revisions will reduce the administrative burden on ISO-NE by reducing the number of reports it must review and placing the burden of providing accurate and complete information on the lead market participant.²⁸ In addition, ISO-NE explains that the filing also includes revisions that require oil generators participating in the program to only report on oil inventory dedicated for the

²⁵ Transmittal at 9; ISO New England Inc., ISO New England Inc. Transmission, Markets & Services Tariff, § III, app. K (Winter 2014-2015 Reliability Solutions) (14.0.0), § III.K.1.1.

²⁶ Transmittal at 9-10; ISO New England Inc., ISO New England Inc. Transmission, Markets & Services Tariff, § III, app. K (Winter 2014-2015 Reliability Solutions) (14.0.0), § III.K.1.1(a).

²⁷ Transmittal at 10.

²⁸ *Id.*; ISO New England Inc., ISO New England Inc. Transmission, Markets & Services Tariff, § III, app. K (Winter 2014-2015 Reliability Solutions) (14.0.0) § III.K.3.2.1.1.

exclusive use of the asset, which ISO-NE argues will ensure that it has a more accurate picture of the inventory subject to the Inventoried Energy Program.²⁹

17. Further, ISO-NE's proposed revisions include a requirement that market participants with assets that share fuel supply explain their methodology for sharing that fuel inventory. ISO-NE states that this language replaces existing language that requires ISO-NE to allocate fuel based on the assumed relative efficiency of the assets. ISO-NE argues that these revisions reduce ISO-NE's administrative burden and provide market participants with greater certainty that their shared fuel resources will be allocated in the manner that they intended.³⁰

III. Notice of Filing and Responsive Pleadings

18. Notice of ISO-NE's filing was published in the *Federal Register*, 88 Fed. Reg. 22,442 (Apr. 13, 2023), with interventions and protests due on or before April 28, 2023. Calpine Corporation; Connecticut Municipal Electric Cooperative, Massachusetts Municipal Wholesale Electric Company, New Hampshire Electric Cooperative, Inc., and Vermont Public Power Supply Authority; Constellation Energy Generation, LLC; Eversource Energy Service Company; Massachusetts Department of Public Utilities; and Massachusetts Electric Company and Nantucket Electric Company filed timely motions to intervene. CPV Towantic LLC, Eastern Generation LLC, JERA Americas Inc., and Vistra Corp. (collectively, Indicated Suppliers) filed a timely motion to intervene and comments in support. The Massachusetts Attorney General, the Connecticut Office of Consumer Counsel, the New Hampshire Office of the Consumer Advocate, and the Maine Office of the Public Advocate (collectively, Consumer Advocates) filed motions to intervene and a protest. Sierra Club and Conservation Law Foundation filed timely motions to intervene and a protest joined by Union of Concerned Scientists (collectively, Sierra Club), who filed a motion to intervene out-of-time. Out-of-time comments were filed by U.S. Senator Richard Blumenthal.

19. On May 15, 2023, ISO-NE filed a motion for leave to answer and an answer to the protests (ISO-NE Answer). On May 15, 2023, NEPOOL Participants Committee filed a motion for leave to answer and an answer to the protests (NEPOOL Answer).

²⁹ Transmittal at 10-11; ISO New England Inc., ISO New England Inc. Transmission, Markets & Services Tariff, § III, app. K (Winter 2014-2015 Reliability Solutions) (14.0.0), § III.K.3.2.1.1(a)(i).

³⁰ Transmittal at 11; ISO New England Inc., ISO New England Inc. Transmission, Markets & Services Tariff, § III, app. K (Winter 2014-2015 Reliability Solutions) (14.0.0), § III.K.1(b).

20. On May 26, 2023, Sierra Club filed a motion for leave to answer and an answer to the ISO-NE Answer (Sierra Club Answer). On May 26, 2023, Consumer Advocates filed a motion for leave to answer and an answer to the ISO-NE Answer and the NEPOOL Answer (Consumer Advocates Answer).

21. On May 25, 2023, Commission staff issued a letter informing ISO-NE that its filing was deficient and that additional information was necessary to evaluate the revisions to the Inventoried Energy Program (Deficiency Letter).

22. On June 9, 2023, ISO-NE filed its response to the Deficiency Letter (Deficiency Response). Notice of the Deficiency Response was published in the *Federal Register*, 88 Fed. Reg. 39,418 (June 16, 2023), with interventions and protests due on or before June 30, 2023. Public Citizen, Inc. filed a timely motion to intervene. Indicated Suppliers filed comments in support of the Deficiency Response.

IV. Discussion

A. Procedural Matters

23. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2022), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d), we grant the Union of Concern Scientists' late-filed motion to intervene given its interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

24. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2022), prohibits an answer to a protest or an answer unless otherwise ordered by the decisional authority. We accept the answers filed in this proceeding because they have provided information that assisted us in our decision-making process.

B. Substantive Matters

1. Comments in Support

25. In their comments, Indicated Suppliers request that the Commission find ISO-NE's proposed revisions to Appendix K just and reasonable. Indicated Suppliers reiterate ISO-NE's argument that the Inventoried Energy Program updates are narrowly tailored to align contracting and incentives with actual market conditions and to improve the Inventoried Energy Program's administration, while maintaining the Inventoried Energy Program's core structure. Indicated Suppliers state that New England's winter reliability challenges are well documented and complex, and that the Inventoried Energy Program updates are necessary to ensure that the program is implemented more effectively to

address these challenges.³¹ Indicated Suppliers argue that the fixed rates in the Commission-approved Inventoried Energy Program are not competitive, and that modifying the Inventoried Energy Program to include indexed rates would ensure that the costs of participation in the Inventoried Energy Program will be recovered, which will in turn incentivize program participation. Indicated Suppliers note that the Commission has previously accepted indexed rates,³² including within ISO-NE's Tariff.³³ Further, Indicated Suppliers agree with ISO-NE that the proposed Inventoried Energy Program updates will align contracting requirements with real-world conditions, reduce the program's administrative burden, and improve the accuracy of data used in the program's implementation. Indicated Suppliers opine that ISO-NE's proposed revisions will assist ISO-NE and Inventoried Energy Program participants in implementing the Inventoried Energy Program in a manner that reduces potential sources of confusion and error, while maximizing the use of available energy inventories to the benefit of New England consumers. Finally, Indicated Suppliers state that there is overwhelming stakeholder support for the revisions as a means of improving reliability in New England in the upcoming winters.³⁴

2. Protests

26. Consumer Advocates and Sierra Club argue that the updates to the Inventoried Energy Program may increase the costs of the program, and that ISO-NE has not

³¹ Indicated Suppliers Comments at 4-6.

³² *Id.* at 6-7 (citing *Actions Regarding the Comm'n's Pol'y on Price Index Formation & Transparency, & Indices Referenced in Nat. Gas & Elec. Tariffs*, 179 FERC ¶ 61,036 (2022); *Price Discovery in Nat. Gas & Elec. Mkts.*, 109 FERC ¶ 61,184 (2004); *Price Discovery in Nat. Gas & Elec. Mkts.*, 104 FERC ¶ 61,121 (2003); accord 16 U.S.C. § 824t (directing the Commission to “consider the degree of price transparency provided by existing price publishers and providers of trade processing services” and “rely on such publishers and services to the maximum extent possible” in carrying out its obligation to “facilitate price transparency in markets for the sale . . . of electric energy in interstate commerce”)).

³³ *Id.* at 7 (citing ISO New England Inc.; ISO New England Inc. Transmission, Markets and Services Tariff; § III.1 (Market Operations) (66.0.0), § III.1.10.1A; *id.* § III.9 (Forward Reserve Market) (19.0.0), § III.9.6.2; *id.* § III.13.1 (Forward Capacity Auction Qualification) (79.1.0), §§ III.13.1.1.1.2, III.13.1.1.1.3, III.13.1.1.1.4, III.13.1.1.2.2.4, III.13.1.2.3.2.1.2.A, III.13.1.2.3.2.1.5, III.13.1.4.1.1.2.7; *id.* § III.3 (Accounting and Billing) (27.0.0), § III.3.3.7; *id.* § III.13.7 (Performance, Payments and Charges in the FCM) (72.1.0), §§ III.13.7.3.1, III.13.7.1.1(a), III.13.7.5.1.1.7).

³⁴ *Id.* at 8-9.

satisfactorily demonstrated that the benefits of the updates would be commensurate with these added costs.³⁵ Consumer Advocates argue that, as with the initial Inventoried Energy Program filing, ISO-NE has not provided an assessment of how much inventoried energy New England needs to provide reliability, and that without this benchmark, there is no means of comparing the benefits and costs of the proposed updates.³⁶ Sierra Club argues that ISO-NE has not shown that the increase in natural gas prices in and of itself is insufficient to incentivize generators to maintain sufficient fuel inventory to maintain system reliability during the period covered by the Inventoried Energy Program. Further, Sierra Club argues that maintaining sufficient fuel inventories during reliability events is already a requirement of generators that hold capacity supply obligations.³⁷

27. Consumer Advocates state that the significant changes in energy markets that ISO-NE uses as a justification for making these updates to the Inventoried Energy Program have also significantly impacted consumers, driving consumer electricity prices up across New England. Consumer Advocates argue that the Commission should consider this increase in consumer electricity prices, as well as the fact that New England customers must pay for the costs of the Mystic Cost of Service Agreement (COSA), the term of which overlaps with the Inventoried Energy Program, when deciding whether the proposed Inventoried Energy Program updates are just and reasonable.³⁸

28. Consumer Advocates and Sierra Club note that ISO-NE determined that no winter reliability program was necessary for the 2022-2023 winter, as such a program would be unlikely to provide significant benefit given existing market conditions, would be costly, and could undermine the performance of the market. Consumer Advocates and Sierra Club argue that this determination demonstrates that winter reliability programs do not necessarily provide sufficient benefits to justify their costs, and that ISO-NE is obligated to make this showing.³⁹

29. Sierra Club argues that the *Belmont* decision not only required ISO-NE to disallow certain types of resources from participating in the Inventoried Energy Program, but also required that the Inventoried Energy Program only award incentive payments to resources that would be likely to change their behavior in response to those payments. Sierra Club argues that ISO-NE has not shown that generators that are eligible to

³⁵ Consumer Advocates Protest at 11-12; Sierra Club Protest at 1-2.

³⁶ Consumer Advocates Protest at 12-13.

³⁷ Sierra Club Protest at 1-2.

³⁸ Consumer Advocates Protest at 17-20.

³⁹ Consumer Advocates Protest at 15-16; Sierra Club Protest at 4-5, 7.

participate in the Inventoried Energy Program would not already procure fuel ahead of the winter regardless of whether they receive Inventoried Energy Program payments.⁴⁰

30. Sierra Club further argues that one of the primary rationales for the initial implementation of the Inventoried Energy Program was to influence entry and exit decisions prior to the FCA. Sierra Club states that ISO-NE explained that one of the reasons it determined not to implement a 2022-2023 winter reliability program was that such a program would have been implemented long after the FCA had run and therefore could not have influenced entry and exit decisions, thereby failing to accomplish an essential goal of such a program. Sierra Club states that ISO-NE has not addressed how the program update's potential increase in rates would be able to influence entry and exit decisions given the FCA for the 2023-2024 Capacity Commitment Period has already run.⁴¹

31. Consumer Advocates argue that ISO-NE's proposal to index Inventoried Energy Program rates to the Dutch TTG LNG market could result in windfall profits to oil generators if LNG prices continue to exceed those of oil, and that maintaining fixed rates would ameliorate this concern.⁴² Further, Consumer Advocates argue that the Inventoried Energy Program could interfere with the pay-for-performance (PFP) program, given the overlap in the two programs' objectives.⁴³

32. Consumer Advocates argue that the Inventoried Energy Program updates are not narrow changes, but rather a significant redesign of a program that has already been fully litigated, and that implementing the proposed revisions to the Inventoried Energy Program would put the program back in legal limbo. Consumer Advocates aver that, given that the Inventoried Energy Program is already in place, the Commission could reject the Inventoried Energy Program updates without jeopardizing the program's implementation, and that such a rejection would not prevent ISO-NE from resubmitting

⁴⁰ Sierra Club Protest at 4, 6 (citing *Belmont*, 38 F.4th at 186).

⁴¹ Sierra Club Protest at 8-9 (citing *ISO New England Inc.*, Motion for Leave to Answer and Answer, Docket No. ER19-1428-000, at 5 (filed Apr. 30, 2019); *ISO New England Inc.*, Winter 2022/23 Analysis: Assessment and Recommendations, at Slide 28 (July 14, 2022) (ISO-NE Winter 2022/23 Analysis), https://www.iso-ne.com/static-assets/documents/2022/07/a09_mc_2022_07_12-14_winter_2022_2023_presentation.pptx).

⁴² Consumer Advocates Protest at 16-17.

⁴³ *Id.* at 14.

revisions with additional supporting evidence based on the program's performance in the first year of the Inventoried Energy Program.⁴⁴

33. In his comments, U.S. Senator Richard Blumenthal writes that the concern voiced by Consumer Advocates and Sierra Club that the potentially large increase in costs to the Inventoried Energy Program could outweigh the benefits seems to be well-founded, and that any windfall payments to oil and natural gas suppliers would not be just and reasonable. He argues that the Commission should therefore carefully consider whether or not the filing is just and reasonable.⁴⁵

3. Answers

34. In its answer, ISO-NE reiterates that the proposed revisions to the Inventoried Energy Program are necessary to preserve the objectives of the original Inventoried Energy Program, which was already approved by the Commission, and that the continued use of fixed rates would increase the risk that rates do not reflect the actual cost of holding inventoried energy. ISO-NE argues that the price of electricity has been rising as a result of rising fuel costs, which should also be reflected in the cost of inventoried energy.⁴⁶

35. ISO-NE argues that the protestors misrepresent the likely costs of the revisions to the Inventoried Energy Program by focusing on the maximum possible cost increases, which would be very unlikely to occur, and that costs with an indexed rate could possibly be even lower than under the fixed rate.⁴⁷ Further, ISO-NE states that protestors' argument that there should be different rates for oil and gas resources represents a collateral attack on the Commission-approved Inventoried Energy Program, which also provided the same rate to different resource types, and should therefore be rejected.⁴⁸

36. In its answer, NEPOOL states that the proposed revisions to the Inventoried Energy Program were carefully considered and approved by the NEPOOL Markets Committee and Participants Committee.⁴⁹ NEPOOL argues that the proposed revisions

⁴⁴ *Id.* at 1-2, 20-22.

⁴⁵ U.S. Senator Blumenthal Comments at 1-2.

⁴⁶ ISO-NE Answer at 2-6.

⁴⁷ *Id.* at 6-8.

⁴⁸ *Id.* at 8.

⁴⁹ NEPOOL Answer at 4-9.

meet the just and reasonable standard by updating the Inventoried Energy Program to accommodate market conditions that could not have been anticipated when the program was initially adopted, and increase program effectiveness and transparency, as the current fixed rate disincentivizes participation in the Inventoried Energy Program. NEPOOL states that the just and reasonable standard requires only that rates fall within the range of reasonableness, and that the proposed indexed rates fall within that range. Finally, NEPOOL argues that the protests appear to be an attempt to relitigate the original Inventoried Energy Program.⁵⁰

37. In its answer, Sierra Club argues that rising fuel costs represent only one aspect of changes in circumstances since the initial development of the Commission-approved Inventoried Energy Program, and that winter reliability analyses conducted by ISO-NE for the winter periods of 2022-2023, 2023-2024, and 2024-2025 indicate that the risk of energy shortfalls that ISO-NE predicted for the 2023-2024 and 2024-2025 winter periods is lower than ISO-NE has predicted when it developed the Commission-approved Inventoried Energy Program. Sierra Club states that ISO-NE's assessment of the 2022-2023 winter found that wind energy provided additional reliability benefits during periods of high heating demand when gas availability is lower, and that these benefits were not accounted for when the Inventoried Energy Program was initially implemented. In addition, Sierra Club states that the Merrimack Generating Station, which has been shown to operate during many of the coldest winter hours, will continue to operate during the term of the Inventoried Energy Program, even though it had been assumed that this facility would retire before the second year of the Inventoried Energy Program when the program was initially developed.⁵¹ Sierra Club also states that there is more behind-the-meter solar than was assumed when the Inventoried Energy Program was initially developed, and that this additional solar reduces the need to draw down inventoried energy.⁵²

38. Sierra Club argues that the expected addition of the Vineyard Wind offshore wind project will further reduce the need for Inventoried Energy for the 2024-2025 winter, and that even with the potential loss of the Everett LNG Facility, the region will likely be able to avoid an energy shortfall by increasing oil inventories.⁵³ Sierra Club argues that the 2022-2023 winter analysis showed that oil facilities are already properly incentivized to procure fuel, and that any program to incentivize the procurement of oil would be compensating these facilities for something they are already doing. Sierra Club argues

⁵⁰ *Id.* at 8-10.

⁵¹ Sierra Club Answer at 3-6.

⁵² *Id.* at 7.

⁵³ *Id.* at 8-10.

that ISO-NE has not shown that this would also be the case for the 2023-2024 and 2024-2025 winters.⁵⁴ Sierra Club states that the Commission must reject the proposed revisions, as ISO-NE has not provided evidence of their need or effectiveness given the costs, and because of the “D.C. Circuit’s admonition regarding the appropriate use of incentive programs.”⁵⁵

39. In their answer, Consumer Advocates argue that ISO-NE’s and NEPOOL’s Answers fail to demonstrate that the benefits of the proposed revisions would be commensurate with the costs, and that ISO-NE has also failed to provide an assessment of how much inventoried energy the region needs, which is essential to providing such a cost-benefit analysis.⁵⁶ Consumer Advocates state that the proposed revisions increase the cost risk to consumers, and dispute ISO-NE’s argument that costs may be similar under the indexed rate as under the existing fixed rate, as if that were so, there would be no need to make the proposed revisions.⁵⁷

40. Consumer Advocates also assert that recent ISO-NE winter analyses do not convincingly show the need for the Inventoried Energy Program, especially in light of ISO-NE’s recommendation to not implement an Inventoried Energy Program for the 2022-2023 winter, and ISO-NE’s finding that the Inventoried Energy Program may provide limited value in the 2024-2025 winter if the Everett Marine Terminal remains in operation after the end of the term of the Mystic COSA.⁵⁸ In addition, Consumer Advocates argue that ISO-NE’s robust analysis of the 2024-2025 winter shows that

⁵⁴ *Id.* at 10-11.

⁵⁵ *Id.* at 12.

⁵⁶ Consumer Advocates Answer at 3-5.

⁵⁷ *Id.* at 5-6.

⁵⁸ *Id.* at 6-7 (citing ISO New England, Inc., ISO-NE 2023/24 Winter Outlook Scenarios, at Slide 3 (May 4, 2023) (ISO-NE Winter 2023/24 Analysis), www.iso-ne.com/static-assets/documents/2023/05/npc-2023-05-04-coo-rpt-2023-24-winter-outlook-scenarios.pdf; ISO New England, Inc., ISO-NE Winter 2024/25 Analysis With and Without Everett Marine Terminal, at Slide 3 (May 4, 2023) (ISO-NE Winter 2024/25 Analysis), www.iso-ne.com/static-assets/documents/2023/05/npc-2023-05-04-coo-rpt-winter-2024-25-analysis-with-and-without-everett.pdf (“This estimate is on the lower end of expected incremental fuel.”)).

ISO-NE has the capability to carry out a more comprehensive cost-benefit analysis for the proposed revisions to the Inventoried Energy Program, but has chosen not to do so.⁵⁹

4. Deficiency Letter, Response, and Comments

41. In the Deficiency Letter, Commission staff asked ISO-NE to provide any quantitative studies, liquidity analysis, work papers, and any other information used to support the choice of financial product (i.e., the Dutch TTF Natural Gas Last Day Financial Futures prices) and the measurement period of between July 17 and July 31 immediately preceding the start of the relevant winter season.⁶⁰

42. Regarding the commodity price, ISO-NE states that it principally relied on industry news sources and information obtained in discussions with Market Participants and stakeholders who are in the business of buying and selling natural gas in New England.⁶¹ ISO-NE states that, as Europe generally relies on LNG supplies to meet demand for natural gas (a trend reinforced by supply disruptions associated with Russia's invasion of Ukraine), the European benchmark price of natural gas (i.e., the Dutch TTF price) has become the price index for LNG transactions in the Atlantic basin region that would supply LNG to New England. ISO-NE states that the Dutch TTF is a highly liquid hub for European gas trading, reflecting transactions that include substantial imports of LNG. ISO-NE states that there is no indication that market conditions are likely to meaningfully change during the period when the Inventoried Energy Program is in effect such that the Dutch TTF would not reasonably represent Atlantic basin LNG prices.

43. ISO-NE states that it chose the period between July 17 and July 31 for establishing the forward market price for the Inventoried Energy Program rate because it allows the rate to be set using prices that reflect up-to-date market conditions while also allowing this rate to be established before commercial arrangements to secure inventoried energy at the forward rate must be finalized.⁶² ISO-NE states that it chose a fifteen-day measurement period for forward prices to derive a rate that is representative of prevailing market conditions for local natural gas and global LNG and is not overly sensitive to short-term price volatility on any one particular trading day. Additionally, ISO-NE states that its discussions with companies involved in the New England LNG and natural gas markets indicated that August through October is a particularly active time when Market Participants enter into arrangements for natural gas and LNG supplies for the upcoming

⁵⁹ *Id.* at 8-9.

⁶⁰ Deficiency Letter at 1-2.

⁶¹ ISO-NE Response to Deficiency Letter at 2.

⁶² *Id.* at 3.

winter, and that using the period between July 17 and July 31 to establish the forward market price therefore allows ISO-NE to establish and publish the Inventoried Energy Program price for the coming winter in early August.

44. Regarding the liquidation price, ISO-NE states that a liquidation price is included in the proposed Inventoried Energy Program updates because those who procure incremental LNG or oil supplies for the winter may not consume or sell their entire fuel inventory by the end of the winter season.⁶³ ISO-NE states that it chose a February futures contract price at the Algonquin Citygate as a proxy for this price because it provides a reasonable proxy for the price of any gas liquidated after the end of (or during the latter portions of) the Inventoried Energy Program period. ISO-NE states that, as it noted in its transmittal, the Algonquin Citygate is a commonly referenced pricing hub for gas delivered to New England, and therefore is a reasonable proxy for the value of delivered natural gas in the region, including for the likely value of any gas that will have to be liquidated after the end of the Inventoried Energy Program period. ISO-NE states that it chose the July 17-31 period to derive the average weekly February forward price at the Algonquin Citygate for the same reasons explained in its response to staff's question about the commodity price.

45. In their comments in support, Indicated Suppliers argue that ISO-NE's Deficiency Response demonstrated that the reference prices and measurement timeframes for the commodity and liquidation prices transparently and accurately approximate actual fuel market conditions that Inventoried Energy Program participants will face.⁶⁴ Indicated Suppliers argue that the indices ISO-NE selected accurately reflect prevailing market conditions, and that the timeframes used are appropriate, as they will establish commodity and liquidation prices immediately prior to the period when program participants are making commercial winter fuel arrangements.⁶⁵ Indicated Suppliers state that ISO-NE's proposed revisions to the Inventoried Energy Program are reflective of real-world conditions and are just and reasonable. Indicated Suppliers state that the Commission should accept ISO-NE's request for waiver of the 60-day notice period to allow for an August 4, 2023 effective date to ensure that ISO-NE can post the indexed rates for the Inventoried Energy Program's 2023-2024 winter season by August 8, 2023.⁶⁶

⁶³ *Id.* at 4.

⁶⁴ Indicated Suppliers Deficiency Response Comments in Support at 2.

⁶⁵ *Id.* at 3-5.

⁶⁶ *Id.* at 5.

5. Commission Determination

46. We find that ISO-NE's proposed revisions to the Inventoried Energy Program are just and reasonable, and we accept the proposed Tariff revisions effective August 4, 2023, as requested. We find that the proposed Tariff revisions more accurately align rates with actual market conditions, which have changed significantly since 2019, when ISO-NE initially filed the proposal, and in total, represent a just and reasonable means of ensuring market participants have appropriate incentives to participate in the program. The revisions maintain the overall structure of the Commission-approved Inventoried Energy Program, while updating the Tariff to help ensure that the Inventoried Energy Program can fulfill its purpose of incenting resources to maintain inventoried energy during periods when reliability is most threatened.⁶⁷

47. The Inventoried Energy Program was initially proposed by ISO-NE in 2019 based on market conditions at that time. We agree with ISO-NE that the proposed Tariff revisions reasonably update program payment rates, which will better reflect the expected costs of program participation. More specifically, the revisions eliminate the use of fixed payment rates that ISO-NE has demonstrated are based on outdated fuel price data from 2019. As ISO-NE explains, current fuel prices exceed these fixed payment rates,⁶⁸ which could reduce incentives to participate in the Inventoried Energy Program. We agree with ISO-NE that the proposed use of fuel price indices at liquid hubs to establish the forward and spot rates will reasonably reflect prevailing market conditions in New England at the time program participants are likely to make fuel supply arrangements for the following winter, and thus reasonably reflect the costs of participating in the Inventoried Energy Program. The Commission has previously accepted the use of indexed pricing in wholesale electricity markets, including in the context of ISO-NE winter reliability programs.⁶⁹ Furthermore, we find that the updates to the Inventoried Energy Program's contract eligibility requirements and program administration align contract eligibility requirements with actual market conditions and will improve the program's effective administration without changing the program's core structure.

48. Many of protestors' arguments concerning the overall design of the Inventoried Energy Program have been fully litigated and, except for issues not relevant here, affirmed by the D.C. Circuit in *Belmont*. For example, the Commission addressed in the

⁶⁷ June 2020 Order, 171 FERC ¶ 61,235 at PP 32-33.

⁶⁸ Transmittal at 6.

⁶⁹ See *ISO New England, Inc.*, Docket No. ER15-2208-002 (Dec. 23, 2015) (delegated order) (accepting for filing ISO-NE's revisions to Appendix K to Section III of the Tariff specifying the formula for calculating the annual payment rate under the Winter Reliability Program from 2015-2018).

June 2020 Order Consumer Advocates' argument here that the Inventoried Energy Program will interfere with Pay-for-Performance.⁷⁰ The proposed revisions at issue here reflect only narrow modifications and provide no basis to revisit past findings related to the Inventoried Energy Program's core structure, which will remain unchanged.

49. We disagree with Consumer Advocates' and Sierra Club's contentions that the proposed revisions are unjust and unreasonable because ISO-NE has failed to demonstrate or quantify the need for the program, or that the benefits of the proposed indexed rates are commensurate with their potential costs to customers. As the Commission noted in the June 2020 Order, a detailed cost-benefit analysis is not required for the Commission to find revisions to the Tariff just and reasonable.⁷¹ The increase in fuel costs since 2019 does not negate this finding, which was affirmed by the D.C.

⁷⁰ June 2020 Order, 171 FERC ¶ 61,235 at P 117 (“We disagree with arguments that the existing fuel security cost-of-service Tariff provisions or Pay-for-Performance negates the need for the Inventoried Energy Program, or that the costs of the Inventoried Energy Program are duplicative to those of Pay-for-Performance. As discussed above, this program aims to ameliorate a misaligned incentives issue that was not resolved by the fuel security cost-of-service Tariff provisions and still exists under Pay-for-Performance.”).

⁷¹ *Id.* P 58 (“Regarding arguments that ISO-NE has not demonstrated a need for the Inventoried Energy Program or program benefits, we find that a detailed cost-benefit analysis is not required for the Commission to find proposed Tariff provisions just and reasonable. The Commission does not generally ‘require the mathematical specificity of a cost-benefit analysis’ to find a proposal just and reasonable. Here, we find that ISO-NE’s proposal to compensate fuel-secure resources is a reasonable short-term measure, which will likely provide reliability benefits, such as incenting up to 1.8 million MWh of inventoried energy to be available during stressed winter conditions in light of the fuel security concerns presented in the OFSA” (internal citations omitted)). See also *Sw. Power Pool, Inc.*, 173 FERC ¶ 61,267, at P 30 (2020) (“Although the Commission carefully considers evidence of costs and benefits, it does not require a quantified cost-benefit analysis of proposals.”); *PJM Interconnection, L.L.C.*, 155 FERC ¶ 61,062, at P 15 (2016) (“[W]hile the Commission is required to consider all relevant factors and make a ‘common-sense assessment’ that costs that may be incurred are consistent with the ratepayers’ overall needs and interests, the Commission’s findings in making such an assessment need not be accompanied by a quantitative cost-benefit analysis.” (quoting *Process Gas Consumers Grp. v. FERC*, 866 F.2d 470, 476-77 (D.C. Cir. 1989))).

Circuit.⁷² The fuel security concerns identified in the initial proceeding⁷³ continue today⁷⁴ and, as ISO-NE explains, compensating resources at rates that reflect actual market conditions is necessary to incent program participants to incur the costs necessary to maintain (and if needed, liquidate) sufficient inventoried energy to support winter reliability.⁷⁵ As noted above, we find that ISO-NE's proposal to update the Inventoried Energy Program to account for changes in natural gas and LNG markets since the Inventoried Energy Program was originally proposed is just and reasonable and will help to ensure that the Inventoried Energy Program achieves its purpose.

50. We also disagree with protestors' argument that ISO-NE has failed to provide evidence that the Inventoried Energy Program will actually incentivize gas and oil resources to procure inventoried fuel. In the June 2020 Order, we found that "by providing additional compensation to fuel secure resources, the Inventoried Energy Program is a short-term solution that helps address the misaligned incentives problem"⁷⁶ resulting from "the different values that generators and society place on investments in energy supply arrangements."⁷⁷ Likewise, here we find that ISO-NE's proposed indexed rates, which are responsive to the price fluctuations that fuel markets have experienced

⁷² *Belmont*, 38 F.4th at 186 ("Most broadly, Petitioners attack [the Inventoried Energy Program] itself. Among other things, they contend that it does not effectively address a pressing fuel security risk . . . and that its total costs are unreasonable. We find the Commission's reasoning on these points to be adequate, and so we reject these challenges.").

⁷³ See *ISO New England, Inc.*, Inventoried Energy Program, Docket No. ER19-1428-000, at 3-4 (filed Mar. 25, 2019) (Original IEP Filing).

⁷⁴ *ISO New England, Inc.*, Presentations for June 20th Second New England Winter Gas-Electric Forum, Docket No. AD22-9-000, at Slide 2 (filed June 9, 2023) ("Winter energy concerns are highest in scenarios when stored fuels are rapidly depleted; during these periods timely replenishment is critical to minimizing the potential for energy shortfalls."); *id.* at Slide 16 (describing New England's "continued reliance on a constrained natural gas system in the winter coupled with a limited number of LNG import facilities").

⁷⁵ See Transmittal at 6 (explaining that not adjusting the rates "could diminish the program's ability to cover Market Participants' costs to secure fuel supply, and limit the incremental inventoried energy incited by the program to improve winter reliability"); Schatzki Testimony at 5-8.

⁷⁶ June 2020 Order, 171 FERC ¶ 61,235 at P 62.

⁷⁷ *Id.* P 33.

since ISO-NE originally proposed the Inventoried Energy Program, are a just and reasonable means of addressing the misaligned incentives problem that persists in New England. By updating payment rates such that they reflect the costs of securing (and if necessary, liquidating) inventoried fuel, ISO-NE's proposed revisions make it more "like[ly] that financially secure generators will maintain adequate fuel supplies during periods of system stress."⁷⁸

51. We also disagree with Sierra Club's contention that resources with Capacity Supply Obligations are already required to enter the fuel supply arrangements incited by the Inventoried Energy Program. Although the Tariff imposes strict requirements on capacity resources, it does not require resources with Capacity Supply Obligations to maintain the inventoried energy during the winter months, i.e., the costs for which the voluntary participants in the Inventoried Energy Program are compensated.⁷⁹ As explained in the June 2020 Order, the Inventoried Energy Program provides additional compensation to resources that may not be otherwise sufficiently incentivized to make additional investments in energy supply arrangements.⁸⁰

52. We disagree with Consumer Advocates' argument that the Inventoried Energy Program could result in windfall payments to oil generators that participate in the Inventoried Energy Program if the price of LNG exceeds that of oil. While there are possible circumstances in which oil generators could be compensated above the costs that they would incur to participate in the Inventoried Energy Program, this is consistent with the uniform payment construct the Commission initially approved for the Inventoried Energy Program, which will pay all program participants the same rate for providing the

⁷⁸ *Belmont*, 38 F.4th at 183, 186; *see also NextEra Energy Res., LLC v. FERC*, 898 F.3d 14, 24 (D.C. Cir. 2018) (describing that FERC may "base its market predictions on 'basic economic theory, given that it explain[s] and applie[s] the relevant economic principles in a reasonable manner'" (quoting *Sacramento Mun. Util. Dist. v. FERC*, 616 F.3d 520, 531 (D.C. Cir. 2010) (per curiam)); *Wis. Pub. Power Inc. v. FERC*, 493 F.3d 239, 261 (D.C. Cir. 2007) (holding that the Commission's prediction that a rate would "provide efficient incentive to invest" was a "reasonable predictive judgment that warrants judicial deference").

⁷⁹ *See generally* ISO New England Inc., ISO New England Inc. Transmission, Markets & Services Tariff; § III.13 (Forward Capacity Market) (5.0.0).

⁸⁰ June 2020 Order, 171 FERC ¶ 61,235 at P 62. *See also* Original IEP Filing at 8 (describing that "the program may incent Market Participants to acquire more inventoried energy [at the start of winter] than they otherwise would absent the program" and that "as a resource depletes its inventory, the resource may consider replenishing its stock of inventoried energy to earn great program revenues").

same service. This uniform payment is also true for any resource that clears as an inframarginal resource in the auctions ISO-NE currently administers for capacity, energy, forward reserves, and other ancillary service products.

53. In addition, we find that ISO-NE's decision in July 2022 not to accelerate the implementation of the Inventoried Energy Program for winter 2022-2023 does not call into question the potential benefits of the Inventoried Energy Program in winters 2023-2024 and 2024-2025. In the ISO-NE Winter 2022/23 Analysis, ISO-NE specifically highlighted that the benefits of implementing an accelerated Inventoried Energy Program might be "limited by the short time available to secure 'spot' LNG cargoes from program approval and this winter."⁸¹ We do not believe that ISO-NE's concerns associated with implementing the Inventoried Energy Program in time for the 2022-2023 winter, for which it was neither designed nor approved, undermines the program's anticipated benefits for the winters for which it was designed and approved.

54. We also disagree with Sierra Club and Consumer Advocates' argument that ISO-NE's reliability analyses for the 2022-2023, 2023-2024, and 2024-2025 winter periods demonstrate that the costs of the proposed revisions outweigh their benefits. As NEPOOL points out, ISO-NE assumed in these analyses that the Inventoried Energy Program will "operate as intended" during the 2023-2024 and 2024-2025 winter periods and incent resources to secure inventoried energy.⁸² These reliability analyses thus underscore the important role of the Inventoried Energy Program in providing winter reliability in New England during the 2023-2024 and 2024-2025 winter periods.

55. Finally, we disagree with Sierra Club's argument that the timing of the proposed revisions undermines the rationale for the Inventoried Energy Program to influence resource entry and exit decisions. As the Commission stated in the June 2020 Order, deterring retirements of fuel-secure resources is not the primary purpose of the Inventoried Energy Program, although it may be a beneficial outcome.⁸³ As ISO-NE stated in its initial Inventoried Energy Program filing, the purpose of the Inventoried Energy Program is to incentivize resources to maintain inventoried energy to support

⁸¹ ISO-NE Winter 2022/23 Analysis at Slide 28.

⁸² NEPOOL Answer at 10 n.43. *See also* ISO-NE Winter 2023/24 Analysis at Slide 3 (assuming "[i]ncremental fuel of ~3Bcf LNG and ~10 million gallons of oil [] from the Inventoried Energy Program" in ISO-NE's 2023-2024 winter scenario assessment); ISO-NE Winter 2024/25 Analysis at Slide 3 ("Similar to the 2023/24 analysis, incremental fuel of ~3Bcf LNG and ~10 million gallons of oil [was] assumed from the Inventoried Energy Program.").

⁸³ June 2020 Order, 171 FERC ¶ 61,235 at PP 95-96 ("[A]s ISO-NE asserts, the program is not intended to deter the retirement of a specific resource.").

winter reliability,⁸⁴ and ISO-NE's proposed revisions are designed to improve the program's ability to achieve this goal.

The Commission orders:

ISO-NE's proposed revisions to the Inventoried Energy Program are hereby accepted, effective August 4, 2023, as discussed in the body of this order.

By the Commission.

(S E A L)

Debbie-Anne A. Reese,
Deputy Secretary.

⁸⁴ Original IEP Filing at 5.