

**SECTION III**

**MARKET RULE 1**

**APPENDIX A**

**MARKET MONITORING,  
REPORTING AND MARKET POWER MITIGATION**

**APPENDIX A**  
**MARKET MONITORING, REPORTING AND MARKET POWER MITIGATION**

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## **MARKET MONITORING, REPORTING AND MARKET POWER MITIGATION**

### **III.A.1. Introduction and Purpose; Structure and Oversight: Independence.**

#### **III.A.1.1. Mission Statement.**

The mission of the Internal Market Monitor and External Market Monitor shall be (1) to protect both consumers and Market Participants by the identification and reporting of market design flaws and market power abuses; (2) to evaluate existing and proposed market rules, tariff provisions and market design elements to remove or prevent market design flaws and recommend proposed rule and tariff changes to the ISO; (3) to review and report on the performance of the New England Markets; (4) to identify and notify the Commission of instances in which a Market Participant's behavior, or that of the ISO, may require investigation; and (5) to carry out the mitigation functions set forth in this *Appendix A*.

#### **III.A.1.2. Structure and Oversight.**

The market monitoring and mitigation functions contained in this *Appendix A* shall be performed by the Internal Market Monitor, which shall report to the ISO Board of Directors and, for administrative purposes only, to the ISO Chief Executive Officer, and by an External Market Monitor selected by and reporting to the ISO Board of Directors. Members of the ISO Board of Directors who also perform management functions for the ISO shall be excluded from oversight and governance of the Internal Market Monitor and External Market Monitor. The ISO shall enter into a contract with the External Market Monitor addressing the roles and responsibilities of the External Market Monitor as detailed in this *Appendix A*. The ISO shall file its contract with the External Market Monitor with the Commission. In order to facilitate the performance of the External Market Monitor's functions, the External Market Monitor shall have, and the ISO's contract with the External Market Monitor shall provide for, access by the External Market Monitor to ISO data and personnel, including ISO management responsible for market monitoring, operations and billing and settlement functions. Any proposed termination of the contract with the External Market Monitor or modification of, or other limitation on, the External Market Monitor's scope of work shall be subject to prior Commission approval.

#### **III.A.1.3. Data Access and Information Sharing.**

The ISO shall provide the Internal Market Monitor and External Market Monitor with access to all market data, resources and personnel sufficient to enable the Internal Market Monitor and External Market

Monitor to perform the market monitoring and mitigation functions provided for in this *Appendix A*. This access shall include access to any confidential market information that the ISO receives from another independent system operator or regional transmission organization subject to the Commission's jurisdiction, or its market monitor, as part of an investigation to determine (a) if a Market Violation is occurring or has occurred, (b) if market power is being or has been exercised, or (c) if a market design flaw exists. In addition, the Internal Market Monitor and External Market Monitor shall have full access to the ISO's electronically generated information and databases and shall have exclusive control over any data created by the Internal Market Monitor or External Market Monitor. The Internal Market Monitor and External Market Monitor may share any data created by it with the ISO, which shall maintain the confidentiality of such data in accordance with the terms of the ISO New England Information Policy.

#### **III.A.1.4. Interpretation.**

In the event that any provision of any ISO New England Filed Document is inconsistent with the provisions of this *Appendix A*, the provisions of *Appendix A* shall control. Notwithstanding the foregoing, Sections III.A.1.2, III.A.2.2 (a)-(c), (e)-(h), Section III.A.2.3 (a)-(g), (i), (n) and Section III.A.17.3 are also part of the Participants Agreement and cannot be modified in either *Appendix A* or the Participants Agreement without a corresponding modification at the same time to the same language in the other document.

#### **III.A.1.5. Definitions.**

Capitalized terms not defined in this *Appendix A* are defined in the definitions section of Section I of the Tariff.

### **III.A.2. Functions of the Market Monitor.**

#### **III.A.2.1. Core Functions of the Internal Market Monitor and External Market Monitor.**

The Internal Market Monitor and External Market Monitor will perform the following core functions:

- (a) Evaluate existing and proposed market rules, tariff provisions and market design elements, and recommend proposed rule and tariff changes to the ISO, the Commission, Market Participants, public utility commissioners of the six New England states, and to other interested entities, with the understanding that the Internal Market Monitor and External Market Monitor are not to effectuate any proposed market designs (except as specifically provided in Section III.A.2.4.4, Section III.A.9 and

Section III.A.10 of this *Appendix A*). In the event the Internal Market Monitor or External Market Monitor believes broader dissemination could lead to exploitation, it shall limit distribution of its identifications and recommendations to the ISO and to the Commission, with an explanation of why broader dissemination should be avoided at that time. Nothing in this Section III.A.2.1 (a) shall prohibit or restrict the Internal Market Monitor and External Market Monitor from implementing Commission accepted rule and tariff provisions regarding market monitoring or mitigation functions that, according to the terms of the applicable rule or tariff language, are to be performed by the Internal Market Monitor or External Market Monitor.

- (b) Review and report on the performance of the New England Markets to the ISO, the Commission, Market Participants, the public utility commissioners of the six New England states, and to other interested entities.
- (c) Identify and notify the Commission's Office of Enforcement of instances in which a Market Participant's behavior, or that of the ISO, may require investigation, including suspected tariff violations, suspected violations of Commission-approved rules and regulations, suspected market manipulation, and inappropriate dispatch that creates substantial concerns regarding unnecessary market inefficiencies.

### **III.A.2.2. Functions of the External Market Monitor.**

To accomplish the functions specified in Section III.A.2.1 of this *Appendix A*, the External Market Monitor shall perform the following functions:

- (a) Review the competitiveness of the New England Markets, the impact that the market rules and/or changes to the market rules will have on the New England Markets and the impact that the ISO's actions have had on the New England Markets. In the event that the External Market Monitor uncovers problems with the New England Markets, the External Market Monitor shall promptly inform the Commission, the Commission's Office of Energy Market Regulation staff, the ISO Board of Directors, the public utility commissions for each of the six New England states, and the Market Participants of its findings in accordance with the procedures outlined in Sections III.A.19 and III.A.20 of this *Appendix A*, provided that in the case of Market Participants and the public utility commissions, information in such findings shall be redacted as necessary to comply with the ISO New England Information Policy. Notwithstanding the foregoing, in the event the External Market Monitor believes broader dissemination could lead to exploitation, it shall limit distribution of its

identifications to the ISO and to the Commission, with an explanation of why broader dissemination should be avoided at that time.

- (b) Perform independent evaluations and prepare annual and ad hoc reports on the overall competitiveness and efficiency of the New England Markets or particular aspects of the New England Markets, including the adequacy of this *Appendix A*, in accordance with the provisions of Section III.A.17 of this *Appendix A*.
- (c) Conduct evaluations and prepare reports on its own initiative or at the request of others.
- (d) Monitor and review the quality and appropriateness of the mitigation conducted by the Internal Market Monitor. In the event that the External Market Monitor discovers problems with the quality or appropriateness of such mitigation, the External Market Monitor shall promptly inform the Commission, the Commission's Office of Energy Market Regulation staff, the ISO Board of Directors, the public utility commissions for each of the six New England states, and the Market Participants of its findings in accordance with the procedures outlined in Sections III.A.19 and/or III.A.20 of this *Appendix A*, provided that in the case of Market Participants and the public utility commissions, information in such findings shall be redacted as necessary to comply with the ISO New England Information Policy. Notwithstanding the foregoing, in the event the External Market Monitor believes broader dissemination could lead to exploitation, it shall limit distribution of its identifications to the ISO and to the Commission, with an explanation of why broader dissemination should be avoided at that time.
- (e) Prepare recommendations to the ISO Board of Directors and the Market Participants on how to improve the overall competitiveness and efficiency of the New England Markets or particular aspects of the New England Markets, including improvements to this *Appendix A*.
- (f) Recommend actions to the ISO Board of Directors and the Market Participants to increase liquidity and efficient trade between regions and improve the efficiency of the New England Markets.
- (g) Review the ISO's filings with the Commission from the standpoint of the effects of any such filing on the competitiveness and efficiency of the New England Markets. The External Market Monitor will have the opportunity to comment on any filings under development by the ISO and may file comments with the Commission when the filings are made by the ISO. The subject of any such comments will be the External Market Monitor's assessment of the effects of any proposed filing on the competitiveness and efficiency of the New England Markets, or the effectiveness of this *Appendix A*, as appropriate.
- (h) Provide information to be directly included in the monthly market updates that are provided at the meetings of the Market Participants.

### III.A.2.3. Functions of the Internal Market Monitor.

To accomplish the functions specified in Section III.A.2.1 of this *Appendix A*, the Internal Market Monitor shall perform the following functions:

- (a) Maintain *Appendix A* and consider whether *Appendix A* requires amendment. Any amendments deemed to be necessary by the Internal Market Monitor shall be undertaken after consultation with Market Participants in accordance with Section 11 of the Participants Agreement.
- (b) Perform the day-to-day, real-time review of market behavior in accordance with the provisions of this *Appendix A*.
- (c) Consult with the External Market Monitor, as needed, with respect to implementing and applying the provisions of this *Appendix A*.
- (d) Identify and notify the Commission's Office of Enforcement staff of instances in which a Market Participant's behavior, or that of the ISO, may require investigation, including suspected Tariff violations, suspected violations of Commission-approved rules and regulations, suspected market manipulation, and inappropriate dispatch that creates substantial concerns regarding unnecessary market inefficiencies, in accordance with the procedures outlined in Section III.A.19 of this *Appendix A*.
- (e) Review the competitiveness of the New England Markets, the impact that the market rules and/or changes to the market rules will have on the New England Markets and the impact that ISO's actions have had on the New England Markets. In the event that the Internal Market Monitor uncovers problems with the New England Markets, the Internal Market Monitor shall promptly inform the Commission, the Commission's Office of Energy Market Regulation staff, the ISO Board of Directors, the public utility commissions for each of the six New England states, and the Market Participants of its findings in accordance with the procedures outlined in Sections III.A.19 and III.A.20 of this *Appendix A*, provided that in the case of Market Participants and the public utility commissions, information in such findings shall be redacted as necessary to comply with the ISO New England Information Policy. Notwithstanding the foregoing, in the event the Internal Market Monitor believes broader dissemination could lead to exploitation, it shall limit distribution of its identifications to the ISO and to the Commission, with an explanation of why broader dissemination should be avoided at that time.
- (f) Provide support and information to the ISO Board of Directors and the External Market Monitor consistent with the Internal Market Monitor's functions.

- (g) Prepare an annual state of the market report on market trends and the performance of the New England Markets, as well as less extensive quarterly reports, in accordance with the provisions of Section III.A.17 of this *Appendix A*.
- (h) Make one or more of the Internal Market Monitor staff members available for regular conference calls, which may be attended, telephonically or in person, by Commission and state commission staff, by representatives of the ISO, and by Market Participants. The information to be provided in the Internal Market Monitor conference calls is generally to consist of a review of market data and analyses of the type regularly gathered and prepared by the Internal Market Monitor in the course of its business, subject to appropriate confidentiality restrictions. This function may be performed through making a staff member of the Internal Market Monitor available for the monthly meetings of the Market Participants and inviting Commission staff and the staff of state public utility commissions to those monthly meetings.
- (i) Be primarily responsible for interaction with external Control Areas, the Commission, other regulators and Market Participants with respect to the matters addressed in this *Appendix A*.
- (j) Monitor for conduct whether by a single Market Participant or by multiple Market Participants acting in concert, including actions involving more than one Resource, that may cause a material effect on prices or other payments in the New England Markets if exercised from a position of market power, and impose appropriate mitigation measures if such conduct is detected and the other applicable conditions for the imposition of mitigation measures as set forth in this *Appendix A* are met. The categories of conduct for which the Internal Market Monitor shall perform monitoring for potential mitigation are:
  - (i) *Economic withholding*, that is, submitting a Supply Offer or Day-Ahead Ancillary Services Offer for a Resource that is unjustifiably high and violates the economic withholding criteria set forth in Section III.A.5 or Section III.A.8 so that (i) the Resource is not or will not be dispatched or scheduled, or (ii) the bid or offer will set an unjustifiably high market clearing price.
  - (ii) *Uneconomic production from a Resource*, that is, increasing the output of a Resource to levels that would otherwise be uneconomic, absent an order of the ISO, in order to cause, and obtain benefits from, a transmission constraint.
  - (iii) *Anti-competitive Increment Offers and Decrement Bids*, which are bidding practices relating to Increment Offers and Decrement Bids that cause Day-Ahead LMPs not to achieve the degree of convergence with Real-Time LMPs that would be expected in a

workably competitive market, more fully addressed in Section III.A.11 of this *Appendix A*.

- (iv) *Anti-competitive Demand Bids*, which are addressed in Section III.A.10 of this *Appendix A*.
  - (v) Other categories of conduct that have material effects on prices or NCPC payments in the New England Markets. The Internal Market Monitor, in consultation with the External Market Monitor, shall; (i) seek to amend *Appendix A* as may be appropriate to include any such conduct that would substantially distort or impair the competitiveness of any of the New England Markets; and (ii) seek such other authorization to mitigate the effects of such conduct from the Commission as may be appropriate.
- (k) Perform such additional monitoring as the Internal Market Monitor deems necessary, including without limitation, monitoring for:
- (i) Anti-competitive gaming of Resources;
  - (ii) Conduct and market outcomes that are inconsistent with competitive markets;
  - (iii) Flaws in market design or software or in the implementation of rules by the ISO that create inefficient incentives or market outcomes;
  - (iv) Actions in one market that affect price in another market;
  - (v) Other aspects of market implementation that prevent competitive market results, the extent to which market rules, including this *Appendix A*, interfere with efficient market operation, both short-run and long-run; and
  - (vi) Rules or conduct that creates barriers to entry into a market.

The Internal Market Monitor will include significant results of such monitoring in its reports under Section III.A.17 of this *Appendix A*. Monitoring under this Section III.A.2.3(k) cannot serve as a basis for mitigation under III.A.11 of this *Appendix A*. If the Internal Market Monitor concludes as a result of its monitoring that additional specific monitoring thresholds or mitigation remedies are necessary, it may proceed under Section III.A.20.

- (l) Propose to the ISO and Market Participants appropriate mitigation measures or market rule changes for conduct that departs significantly from the conduct that would be expected under competitive market conditions but does not rise to the thresholds specified in Sections III.A.5, III.A.8, III.A.10, or III.A.11. In considering whether to recommend such changes, the Internal Market Monitor shall

evaluate whether the conduct has a significant effect on market prices or NCPC payments as specified below. The Internal Market Monitor will not recommend changes if it determines, from information provided by Market Participants (or parties that would be subject to mitigation) or from other information available to the Internal Market Monitor, that the conduct and associated price or NCPC payments under investigation are attributable to legitimate competitive market forces or incentives.

- (m) Evaluate physical withholding of Supply Offers and Day-Ahead Ancillary Services Offers in accordance with Section III.A.4 below for referral to the Commission.
- (n) If and when established, participate in a committee of regional market monitors to review issues associated with interregional transactions, including any barriers to efficient trade and competition.

#### **III.A.2.4. Overview of the Internal Market Monitor’s Mitigation Functions.**

##### **III.A.2.4.1. Purpose.**

The mitigation measures set forth in this *Appendix A* for mitigation of market power are intended to provide the means for the Internal Market Monitor to mitigate the market effects of any actions or transactions that are without a legitimate business purpose and that are intended to or foreseeably could manipulate market prices, market conditions, or market rules for electric energy or electricity products. Actions or transactions undertaken by a Market Participant that are explicitly contemplated in Market Rule 1 (such as virtual supply or load bidding) or taken at the direction of the ISO are not in violation of this *Appendix A*. These mitigation measures are intended to minimize interference with open and competitive markets, and thus to permit to the maximum extent practicable, price levels to be determined by competitive forces under the prevailing market conditions. To that end, the mitigation measures authorize the mitigation of only specific conduct that exceeds well-defined thresholds specified below. When implemented, mitigation measures affecting the LMP or clearing prices in other markets will be applied *ex ante*. Nothing in this *Appendix A*, including the application of a mitigation measure, shall be deemed to be a limitation of the ISO’s authority to evaluate Market Participant behavior for potential referral under Section III.A.19.

##### **III.A.2.4.2. Conditions for the Imposition of Mitigation.**



To achieve the foregoing purpose and objectives, mitigation measures are imposed pursuant to Sections III.A.5, III.A.8, III.A.10, and III.A.11 below.

**III.A.2.4.3. Applicability.**

Mitigation measures may be applied to Supply Offers, Increment Offers, Day-Ahead Ancillary Services Offers, Demand Bids, and Decrement Bids, as well as to the scheduling or operation of a generation unit or transmission facility.

**III.A.2.4.4. Mitigation Not Provided for Under This *Appendix A*.**

The Internal Market Monitor shall monitor the New England Markets for conduct that it determines constitutes an abuse of market power but does not trigger the thresholds specified below for the imposition of mitigation measures by the Internal Market Monitor. If the Internal Market Monitor identifies any such conduct, and in particular conduct exceeding the thresholds specified in this *Appendix A*, it may make a filing under §205 of the Federal Power Act (“§205”) with the Commission requesting authorization to apply appropriate mitigation measures. Any such filing shall identify the particular conduct the Internal Market Monitor believes warrants mitigation, shall propose a specific mitigation measure for the conduct, and shall set forth the Internal Market Monitor’s justification for imposing that mitigation measure.

**III.A.2.4.5. Duration of Mitigation.**

Any mitigation measure imposed on a specific Market Participant, as specified below, shall expire not later than six months after the occurrence of the conduct giving rise to the measure, or at such earlier time as may be specified by the Internal Market Monitor or as otherwise provided in this *Appendix A*.

**III.A.2.4.6. Correction of Mitigation.**

If the Internal Market Monitor determines that there are one or more errors in the mitigation applied pursuant to Sections III.A.5 or III.A.8 due to data entry, system or software errors by the ISO or the Internal Market Monitor, the Internal Market Monitor shall notify the market monitoring contacts specified by the Lead Market Participant within five Business Days of the Operating Day associated with the Supply Offer or Day-Ahead Ancillary Services Offer to which such mitigation applied. The ISO shall correct the error as part of the Data Reconciliation

Process by applying the correct values to the relevant Supply Offer or Day-Ahead Ancillary Services Offer in the settlement process.

The permissibility of correction of errors in mitigation, and the timeframes and procedures for permitted corrections, are addressed solely in this section and not in those sections of Market Rule 1 relating to settlement and billing processes.

**III.A.2.4.7. Delay of Day-Ahead Market Due to Mitigation Process.**

The posting of the Day-Ahead Market results may be delayed if necessary for the completion of mitigation procedures.

**III.A.3. Consultation Prior to Determination of Reference Levels for Physical and Financial Parameters of Resources and Benchmark Levels for Day-Ahead Ancillary Services Offers; Fuel Price Adjustments.**

Upon request of a Market Participant or at the initiative of the Internal Market Monitor, the Internal Market Monitor shall consult with a Market Participant with respect to the information and analysis used to determine Reference Levels under Section III.A.7 and Day-Ahead Ancillary Services Benchmark Levels under Section III.A.8.2 for that Market Participant. In order for the Internal Market Monitor to revise Reference Levels or Day-Ahead Ancillary Services Benchmark Levels, or treat an offer as not violating applicable conduct tests specified in Section III.A.5.5 or Section III.A.8.1.1 for an Operating Day or hour for which the offer is submitted, all cost data and other verifiable supporting information, other than automated index-based cost data received by the Internal Market Monitor from third party vendors, cost data and information calculated by the Internal Market Monitor, and cost data and information provided under the provisions of Section III.A.3.1 or Section III.A.3.2, must be submitted by a Market Participant, and all consultations must be completed, no later than 5:00 p.m. of the second business day prior to the Operating Day for which the Reference Level or Day-Ahead Ancillary Services Benchmark Level will be effective. Adjustments to fuel prices after this time must be submitted in accordance with the fuel price adjustment provisions in Section III.A.3.4.

**III.A.3.1. Consultation Prior to Offer.**

- (a) If an event occurs within the 24 hour period prior to the Operating Day that a Market Participant, including a Market Participant that is not permitted to submit a fuel price adjustment pursuant to Section III.A.3.4(c), believes will cause the operating cost of a Resource to exceed the level that

would violate one of the conduct tests specified in Section III.A.5 of this *Appendix A*, the Market Participant may contact the Internal Market Monitor to provide an explanation of the increased costs. If the Internal Market Monitor determines that there is an increased cost related to a Supply Offer, the Internal Market Monitor will either update the Reference Level or treat the offer as not violating applicable conduct tests specified in Section III.A.5.5 for the Operating Day for which the offer is submitted.

- (b) If an event occurs within the 24 hour period prior to the Operating Day that a Market Participant, including a Market Participant that is not permitted to submit a fuel price adjustment pursuant to Section III.A.3.4(c), believes will cause the expected close-out costs or input costs associated with a Day-Ahead Ancillary Services Offer to exceed the level that would violate the conduct test specified in Section III.A.8.1.1 of this *Appendix A*, the Market Participant may contact the Internal Market Monitor to provide an explanation of the increased costs. If the Internal Market Monitor determines that there is an increased cost related to a Day-Ahead Ancillary Services Offer, the Internal Market Monitor will either update one or both of the components of the Day-Ahead Ancillary Services Benchmark Level, as applicable, or treat the offer as not violating the conduct test specified in Section III.A.8.1.1 for the hour for which the offer is submitted.
- (c) If a Market Participant believes that the fuel price determined under Section III.A.7.5(e) should be modified, it may contact the Internal Market Monitor to request a change to the fuel price and provide an explanation of the basis for the change.
- (d) Any request pursuant to this Section III.A.3.1 must be submitted to the Internal Market Monitor with all supporting cost data and other verifiable supporting information. In order for a request pursuant to this Section III.A.3.1 to be considered for the purposes of the Day-Ahead Market, the Market Participant must contact the Internal Market Monitor at least 30 minutes prior to the close of the Day-Ahead Market. In order for a request to be considered for purposes of the first commitment analysis performed following the close of the Re-Offer Period, the Market Participant must contact the Internal Market Monitor at least 30 minutes prior to the close of the Re-Offer Period. A request submitted thereafter shall be considered in subsequent commitment and dispatch analyses if received between 8:00 a.m. and 5:00 p.m. and at least one hour prior to the close of the next hourly Supply Offer submittal period.

### **III.A.3.2. Dual Fuel Resources.**

In evaluating bids or offers under this *Appendix A* for dual fuel Resources, the Internal Market Monitor shall utilize the fuel type specified in the Supply Offer for the calculation of Reference Levels pursuant to Section III.A.7 below. If a Market Participant specifies a fuel type in the Supply Offer that, at the time the Supply Offer is submitted, is the higher cost fuel available to the Resource, then if the ratio of the higher cost fuel to the lower cost fuel, as calculated in accordance with the formula specified below, is greater than 1.75, the Market Participant must within five Business Days:

- (a) provide the Internal Market Monitor with written verification as to the cause for the use of the higher cost fuel.
- (b) provide the Internal Market Monitor with evidence that the higher cost fuel was used.

If the Market Participant fails to provide supporting information demonstrating the use of the higher-cost fuel within five Business Days of the Operating Day, then the Reference Level based on the lower cost fuel will be used in place of the Supply Offer for settlement purposes.

For purposes of this Section III.A.3.2, the ratio of the Resource's higher cost fuel to the lower cost fuel is calculated as, for the two primary fuels utilized in the dispatch of the Resource, the maximum fuel index price for the Operating Day divided by the minimum fuel index price for the Operating Day, using the two fuel indices that are utilized in the calculation of the Resource's Reference Levels for the Day-Ahead Energy Market for that Operating Day.

### **III.A.3.3. Market Participant Access to its Reference Levels and Day-Ahead Ancillary Services Benchmark Levels.**

The Internal Market Monitor will make available to the Market Participant the Reference Levels and both components of the Day-Ahead Ancillary Services Benchmark Levels applicable to that Market Participant's Supply Offers and any Day-Ahead Ancillary Services Offers through the MUI. Updated Reference Levels and components of the Day-Ahead Ancillary Services Benchmark Levels will be made available whenever calculated. The Market Participant shall not modify such Reference Levels or the components of the Day-Ahead Ancillary Services Benchmark Levels in the ISO's or Internal Market Monitor's systems.

### **III.A.3.4. Fuel Price Adjustments.**

- (a) A Market Participant may submit a fuel price, to be used in calculating the Reference Levels for a Resource's Supply Offer and the Day-Ahead Ancillary Services Avoidable Input Cost for any associated

Day-Ahead Ancillary Services Offers, whenever the Market Participant's expected price to procure fuel for the Resource will be greater than that used by the Internal Market Monitor in calculating the Reference Levels for the Supply Offer and the Day-Ahead Ancillary Services Avoidable Input Cost for any associated Day-Ahead Ancillary Services Offers. A fuel price may be submitted for Supply Offers entered in the Day-Ahead Energy Market, the Re-Offer Period, or for a Real-Time Offer Change, and for any associated Day-Ahead Ancillary Services Offers entered in the Day-Ahead Ancillary Services Market. A fuel price is subject to the following conditions:

(i) In order for the submitted fuel price to be utilized in calculating the Reference Levels for a Supply Offer and the Day-Ahead Ancillary Services Avoidable Input Cost for any associated Day-Ahead Ancillary Services Offers, the fuel price must be submitted prior to the applicable offer deadline.

(ii) The submitted fuel price must reflect the price at which the Market Participant expects to be able to procure fuel to supply energy under the terms of its Supply Offer and to cover an award consistent with any associated Day-Ahead Ancillary Services Offers, exclusive of resource-specific transportation costs. Modifications to Reference Levels or Day-Ahead Ancillary Services Avoidable Input Costs based on changes to transportation costs must be addressed through the consultation process specified in Section III.A.3.1.

(iii) The submitted fuel price may be no lower than the lesser of (1) 110% of the fuel price used by the Internal Market Monitor in calculating the Reference Levels for the Resource's Supply Offer and any Day-Ahead Ancillary Services Avoidable Input Cost or (2) the fuel price used by the Internal Market Monitor in calculating the Reference Levels for the Resource's Supply Offer and any Day-Ahead Ancillary Services Avoidable Input Cost plus \$2.50/MMbtu.

(b) Within five Business Days following submittal of a fuel price, a Market Participant must provide the Internal Market Monitor with documentation or analysis to support the submitted fuel price, which may include but is not limited to (i) an invoice or purchase confirmation for the fuel utilized or (ii) a quote from a named supplier or (iii) a price from a publicly available trading platform or price reporting agency, demonstrating that the submitted fuel price reflects the cost at which the Market Participant expected to purchase fuel for the operating period covered by the Supply Offer and any associated Day-Ahead Ancillary Services Offers, as of the time that the Supply Offer and any associated Day-Ahead Ancillary Services Offers were submitted, under an arm's length fuel purchase transaction. Any amount to be

added to the quote from a named supplier, or to a price from a publicly available trading platform or price reporting agency, must be submitted and approved using the provision for consultations prior to the determination of Reference Levels and the components of Day-Ahead Ancillary Services Benchmark Levels in Section III.A.3. The submitted fuel price must be consistent with the fuel price reflected on the submitted invoice or purchase confirmation for the fuel utilized, the quote from a named supplier or the price from a publicly available trading platform or price reporting agency, plus any approved adder, or the other documentation or analysis provided to support the submitted fuel price.

(c) If, within a 12 month period, the requirements in sub-section (b) are not met for a Resource and, for the time period for which the fuel price adjustment that does not meet the requirements in sub-section (b) was submitted, (i) the Market Participant was determined to be pivotal according to the pivotal supplier test described in Section III.A.5.2.1 or (ii) the Resource was determined to be in a constrained area according to the constrained area test described in Section III.A.5.2.2 or (iii) the Resource satisfied any of the conditions described in Section III.A.5.5.6.1, then a fuel price adjustment pursuant to Section III.A.3.4 shall not be permitted for that Resource for up to six months. The following table specifies the number of months for which a Market Participant will be precluded from using the fuel price adjustment, based on the number of times the requirements in sub-section (b) are not met within the 12 month period. The 12 month period excludes any previous days for which the Market Participant was precluded from using the fuel price adjustment. The period of time for which a Market Participant is precluded from using the fuel price adjustment begins two weeks after the most-recent incident occurs.

Number of Incidents	Months Precluded (starting from most-recent incident)
1	2
2 or more	6

**III.A.4. Physical Withholding.**

**III.A.4.1. Identification of Conduct Inconsistent with Competition.**

This section defines thresholds used to identify possible instances of physical withholding. This section does not limit the Internal Market Monitor's ability to refer potential instances of physical withholding to the Commission.

Generally, physical withholding involves not offering to sell or schedule the output of or services provided by a Resource capable of serving the New England Markets when it is economic to do so. Physical withholding may include, but is not limited to:

- (a) falsely declaring that a Resource has been forced out of service or otherwise become unavailable,
- (b) refusing to make a Supply Offer or Day-Ahead Ancillary Services Offer, or schedules for a Resource when it would be in the economic interest absent market power, of the withholding entity to do so,
- (c) operating a Resource in Real-Time to produce an output level that is less than the ISO Dispatch Rate, or
- (d) operating a transmission facility in a manner that is not economic, is not justified on the basis of legitimate safety or reliability concerns, and contributes to a binding transmission constraint.

#### **III.A.4.2. Thresholds for Identifying Physical Withholding.**

##### **III.A.4.2.1. Initial Thresholds.**

Except as specified in subsection III.A.4.2.4 below, the following initial thresholds will be employed by the Internal Market Monitor to identify physical withholding of a Resource:

- (a) Withholding that exceeds the lower of 10% or 100 MW of a Resource's capacity;
- (b) Withholding that exceeds in the aggregate the lower of 5% or 200 MW of a Market Participant's total capacity for Market Participants with more than one Resource;
- (c) As applied to the Day-Ahead Ancillary Services Market, withholding that exceeds the greater of 20% or 100 MW of the total Day-Ahead Ancillary Services capability of a Market Participant's Resources; or
- (d) Operating a Resource in Real-Time at an output level that is less than 90% of the ISO's Dispatch Rate for the Resource.

##### **III.A.4.2.2. Adjustment to Generating Capacity.**

The amounts of generating capacity and Day-Ahead Ancillary Services capability considered withheld for purposes of applying the foregoing thresholds shall include unjustified deratings, that is, falsely declaring a Resource derated, and the portions of a Resource's available output that are not offered. The amounts deemed withheld shall not include generating output that is subject to a forced outage or capacity that is out of service for maintenance in accordance with an ISO maintenance schedule, subject to verification by the Internal Market Monitor as may be appropriate that an outage was forced.

**III.A.4.2.3. Withholding of Transmission.**

A transmission facility shall be deemed physically withheld if it is not operated in accordance with ISO instructions and such failure to conform to ISO instructions causes transmission congestion. A transmission facility shall not be deemed withheld if it is subject to a forced outage or is out of service for maintenance in accordance with an ISO maintenance schedule, subject to verification by the Internal Market Monitor as may be appropriate that an outage was forced.

**III.A.4.2.4. Resources in Congestion Areas.**

Minimum quantity thresholds shall not be applicable to the identification of physical withholding by a Resource in an area the ISO has determined is congested.

**III.A.4.3. Hourly Market Impacts.**

Before evaluating possible instances of physical withholding for imposition of sanctions, the Internal Market Monitor shall investigate the reasons for the change in accordance with Section III.A.3. If the physical withholding in question is not explained to the satisfaction of the Internal Market Monitor, the Internal Market Monitor will determine whether the conduct in question causes a price impact in the New England Markets in excess of any of the thresholds specified in Sections III.A.5 or III.A.8, as appropriate.

**III.A.5. Supply Offer Mitigation.**

**III.A.5.1. Resources with Capacity Supply Obligations.**

Only Supply Offers associated with Resources with Capacity Supply Obligations will be evaluated for economic withholding in the Day-Ahead Energy Market. All Supply Offers will be evaluated for economic withholding in the Real-Time Energy Market.



### **III.A.5.1.1. Resources with Partial Capacity Supply Obligations.**

Supply Offers associated with Resources with a Capacity Supply Obligation for less than their full capacity shall be evaluated for economic withholding and mitigation as follows:

- (a) all Supply Offer parameters shall be reviewed for economic withholding;
- (b) the energy price Supply Offer parameter shall be reviewed for economic withholding up to and including the higher of: (i) the block containing the Resource's Economic Minimum Limit, or; (ii) the highest block that includes any portion of the Capacity Supply Obligation;
- (c) if a Resource with a partial Capacity Supply Obligation consists of multiple assets, the offer blocks associated with the Resource that shall be evaluated for mitigation shall be determined by using each asset's Seasonal Claimed Capability value in proportion to the total of the Seasonal Claimed Capabilities for all of the assets that make up the Resource. The Lead Market Participant of a Resource with a partial Capacity Supply Obligation consisting of multiple assets may also propose to the Internal Market Monitor the offer blocks that shall be evaluated for mitigation based on an alternative allocation on a monthly basis. The proposal must be made at least five Business Days prior to the start of the month. A proposal shall be rejected by the Internal Market Monitor if the designation would be inconsistent with competitive behavior

### **III.A.5.2. Structural Tests.**

There are two structural tests that determine which mitigation thresholds are applied to a Supply Offer:

- (a) if a supplier is determined to be pivotal according to the pivotal supplier test, then the thresholds in Section III.A.5.5.1 "General Threshold Energy Mitigation" and Section III.A.5.5.4 "General Threshold Commitment Mitigation" apply, and;
- (b) if a Resource is determined to be in a constrained area according to the constrained area test, then the thresholds in Section III.A.5.5.2 "Constrained Area Energy Mitigation" and Section III.A.5.5.4 "Constrained Area Commitment Mitigation" apply.

#### **III.A.5.2.1. Pivotal Supplier Test.**

The pivotal supplier test examines whether a Market Participant has aggregate energy Supply Offers (up to and including Economic Max) that exceed the supply margin in the Real-Time

Energy Market. A Market Participant whose aggregate energy associated with Supply Offers exceeds the supply margin is a pivotal supplier.

The supply margin for an interval is the total energy Supply Offers from available Resources (up to and including Economic Max), less total system load (as adjusted for net interchange with other Control Areas, including Operating Reserve). Resources are considered available for an interval if they can provide energy within the interval. The applicable interval for the current operating plan in the Real-Time Energy Market is any of the hours in the plan. The applicable interval for UDS is the interval for which UDS issues instructions.

The pivotal supplier test shall be run prior to each determination of a new operating plan for the Operating Day, and prior to each execution of the UDS.

#### **III.A.5.2.2. Constrained Area Test.**

A Resource is considered to be within a constrained area if:

- (a) for purposes of the Real-Time Energy Market, the Resource is located on the import-constrained side of a binding constraint and there is a sensitivity to the binding constraint such that the UDS used to relieve transmission constraints would commit or dispatch the Resource in order to relieve that binding transmission constraint, or;
- (b) for purposes of the Day-Ahead Energy Market, the LMP at the Resource's Node exceeds the LMP at the Hub by more than \$25/MWh.

#### **III.A.5.3. Calculation of Impact Test in the Day-Ahead Energy Market.**

The price impact for the purposes of Section III.A.5.5.2 "Constrained Area Energy Mitigation" is equal to the difference between the LMP at the Resource's Node and the LMP at the Hub.

#### **III.A.5.4. Calculation of Impact Tests in the Real-Time Energy Market.**

The energy price impact test applied in the Real-Time Energy Market shall compare two LMPs at the Resource's Node. The first LMP will be calculated based on the Supply Offers submitted for all Resources. If a Supply Offer has been mitigated in a prior interval, the calculation of the first LMP shall be based on the mitigated value. The second LMP shall be calculated by substituting Supply Offers of

Resources that have failed the applicable conduct test with the lesser of the Reference Level and Supply Offer. The difference between the two LMPs is the price impact of the conduct violation.

A Supply Offer shall be determined to have no price impact if the offer block that violates the conduct test is:

- (a) less than the LMP calculated using the submitted Supply Offers, and less than the LMP calculated using the lesser of their Reference Levels and Supply Offer for Resources that have failed the conduct test, or;
- (b) greater than the LMP calculated using the submitted Supply Offers, and greater than the LMP calculated using the lesser of their Reference Levels and Supply Offer for Resources that have failed the conduct test, and the Resource has not been dispatched into the offer block that exceeds the LMP.

### **III.A.5.5. Supply Offer Mitigation by Type.**

#### **III.A.5.5.1. General Threshold Energy Mitigation.**

##### **III.A.5.5.1.1. Applicability.**

Mitigation pursuant to this section shall be applied to all Supply Offers in the Real-Time Energy Market submitted by a Lead Market Participant that is determined to be a pivotal supplier in the Real-Time Energy Market.

##### **III.A.5.5.1.2. Conduct Test.**

A Supply Offer fails the conduct test for general threshold energy mitigation if any offer block price exceeds the Reference Level by an amount greater than 300% or \$100/MWh, whichever is lower. Offer block prices below \$25/MWh are not subject to the conduct test.

##### **III.A.5.5.1.3. Impact Test.**

A Supply Offer that fails the conduct test for general threshold energy mitigation shall be evaluated against the impact test for general threshold energy mitigation. A Supply Offer fails the impact test for general threshold energy mitigation if there is an increase in the LMP greater than 200% or \$100/MWh, whichever is lower as determined by the real-time impact test.

#### **III.A.5.5.1.4. Consequence of Failing Both Conduct and Impact Test.**

If a Supply Offer fails the general threshold conduct and impact tests, then the financial parameters of the Supply Offer shall be set to the lesser of their Reference Levels and Supply Offer, including all energy offer block prices and all types of Start-Up Fees and the No-Load Fee.

#### **III.A.5.5.2. Constrained Area Energy Mitigation.**

##### **III.A.5.5.2.1. Applicability.**

Mitigation pursuant to this section shall be applied to Supply Offers in the Day-Ahead Energy Market and Real-Time Energy Market associated with a Resource determined to be within a constrained area.

##### **III.A.5.5.2.2. Conduct Test.**

A Supply Offer fails the conduct test for constrained area energy mitigation if any offer block price exceeds the Reference Level by an amount greater than 50% or \$25/MWh, whichever is lower.

##### **III.A.5.5.2.3. Impact Test.**

A Supply Offer fails the impact test for constrained area energy mitigation if there is an increase greater than 50% or \$25/MWh, whichever is lower, in the LMP as determined by the day-ahead or real-time impact test.

##### **III.A.5.5.2.4. Consequence of Failing Both Conduct and Impact Test.**

If a Supply Offer fails the constrained area conduct and impact tests, then the financial parameters of the Supply Offer shall be set to the lesser of their Reference Levels and Supply Offer, including all energy offer blocks and all types of Start-Up Fees and the No-Load Fee.

#### **III.A.5.5.3. Manual Dispatch Energy Mitigation.**

##### **III.A.5.5.3.1. Applicability.**

Mitigation pursuant to this section shall be applied to Supply Offers associated with a Resource, when the Resource is manually dispatched above the Economic Minimum Limit value specified

in the Resource's Supply Offer and the energy price parameter of its Supply Offer at the Desired Dispatch Point is greater than the Real-Time Price at the Resource's Node.

**III.A.5.5.3.2. Conduct Test.**

A Supply Offer fails the conduct test for manual dispatch energy mitigation if any offer block price divided by the Reference Level is greater than 1.10.

**III.A.5.5.3.3. Consequence of Failing the Conduct Test.**

If a Supply Offer for a Resource fails the manual dispatch energy conduct test, then the financial parameters of the Supply Offer shall be set to the lesser of their Reference Levels and Supply Offer, including all energy offer blocks and all types of Start-Up Fees and the No-Load Fee.

**III.A.5.5.4. General Threshold Commitment Mitigation.**

**III.A.5.5.4.1. Applicability.**

Mitigation pursuant to this section shall be applied to all Supply Offers in the Real-Time Energy Market submitted by a Lead Market Participant that is determined to be a pivotal supplier in the Real-Time Energy Market.

**III.A.5.5.4.2. Conduct Test.**

A Resource shall fail the conduct test for general threshold commitment mitigation if the low Load Cost at Offer divided by the Low Load Cost at Reference Level is greater than 3.00.

**III.A.5.5.4.3. Consequence of Failing Conduct Test.**

If a Resource fails the general threshold commitment conduct test, then the financial parameters of its Supply Offer are set to the lesser of their Reference Levels and Supply Offer, including all energy offer block prices and all types of Start-Up Fees and the No-Load Fee.

**III.A.5.5.5. Constrained Area Commitment Mitigation.**

**III.A.5.5.5.1. Applicability.**

Mitigation pursuant to this section shall be applied to any Resource determined to be within a constrained area in the Real-Time Energy Market.

#### **III.A.5.5.5.2. Conduct Test.**

A Resource shall fail the conduct test for constrained area commitment mitigation if the Low Load Cost at Offer divided by the Low Load Cost at Reference Level is greater than 1.25.

#### **III.A.5.5.5.3. Consequence of Failing Test.**

If a Supply Offer fails the constrained area commitment conduct test, then the financial parameters of its Supply Offer are set to the lesser of their Reference Levels and Supply Offer, including all energy offer block prices and all types of Start-Up Fees and the No-Load Fee.

#### **III.A.5.5.6. Reliability Commitment Mitigation.**

##### **III.A.5.5.6.1. Applicability.**

Mitigation pursuant to this section shall be applied to Supply Offers for Resources that are (a) committed to provide, or Resources that are required to remain online to provide, one or more of the following:

- i. local first contingency;
- ii. local second contingency;
- iii. VAR or voltage;
- iv. distribution (Special Constraint Resource Service);
- v. dual fuel resource auditing;

(b) otherwise manually committed by the ISO for reasons other than meeting anticipated load plus reserve requirements.

##### **III.A.5.5.6.2. Conduct Test.**

A Supply Offer shall fail the conduct test for local reliability commitment mitigation if the Low Load Cost at Offer divided by the Low Load Cost at Reference Level is greater than 1.10.

##### **III.A.5.5.6.3. Consequence of Failing Test.**

If a Supply Offer fails the local reliability commitment conduct test, it shall be evaluated for commitment based on an offer with all financial parameters set to the lesser of their Reference

Levels and Supply Offer. This includes all offer blocks and all types of Start-Up Fees and the No-Load Fee. If a Resource is committed, then the financial parameters of its Supply Offer are set to the lesser of their Reference Level or Supply Offer, including all energy offer block prices and all types of Start-Up Fees and the No-Load Fee.

#### **III.A.5.5.7. Start-Up Fee and No-Load Fee Mitigation.**

##### **III.A.5.5.7.1. Applicability.**

Mitigation pursuant to this section shall be applied to any Supply Offer submitted in the Day-Ahead Energy Market or Real-Time Energy Market if the resource is committed.

##### **III.A.5.5.7.2. Conduct Test.**

A Supply Offer shall fail the conduct test for Start-Up Fee and No-Load Fee mitigation if its Start-Up Fee or No-Load Fee divided by the Reference Level for that fee is greater than 3.

##### **III.A.5.5.7.3. Consequence of Failing Conduct Test.**

If a Supply Offer fails the conduct test, then the financial parameters of its Supply Offer shall be set to the lesser of their Reference Levels and Supply Offer, including all energy offer block prices and all types of Start-Up Fees and the No-Load Fee.

#### **III.A.5.5.8. Low Load Cost.**

Low Load Cost, which is the cost of operating the Resource at its Economic Minimum Limit, is calculated as the sum of:

- (a) If the Resource is starting from an offline state, the Start-Up Fee;
- (b) The sum of the No Load Fees for the Commitment Period; and
- (c) The sum of the hourly values resulting from the multiplication of the price of energy at the Resource's Economic Minimum Limit times its Economic Minimum Limit, for each hour of the Commitment Period.

All Supply Offer parameter values used in calculating the Low Load Cost are the values in place at the time the commitment decision is made.

Low Load Cost at Offer equals the Low Load Cost calculated with financial parameters of the Supply Offer as submitted by the Lead Market Participant.

Low Load Cost at Reference Level equals the Low Load Cost calculated with the financial parameters of the Supply Offer set to Reference Levels.

For Low Load Cost at Offer, the price of energy is the energy price parameter of the Resource's Supply Offer at the Economic Minimum Limit offer block. For Low Load Cost at Reference Level, the price of energy is the energy price parameter of the Resource's Reference Level at the Economic Minimum Limit offer block.

#### **III.A.5.6. Duration of Energy Threshold Mitigation.**

Any mitigation imposed pursuant to Sections III.A.5.5.1 "General Threshold Energy Mitigation" or III.A.5.5.2 "Constrained Area Energy Mitigation" is in effect for the following duration:

- (a) in the Real-Time Energy Market, mitigation starts when the impact test violation occurs and remains in effect until there is one complete hour in which:
  - i. for general threshold mitigation, the Market Participant whose Supply Offer is subject to mitigation is not a pivotal supplier; or,
  - ii. for constrained area energy mitigation, the Resource is not located within a constrained area.
- (b) in the Day-Ahead Energy Market (applicable only for Section III.A.5.5.2 "Constrained Area Energy Mitigation"), mitigation is in effect in each hour in which the impact test is violated.

Any mitigation imposed pursuant to Section III.A.5.5.3 "Manual Dispatch Energy Mitigation" is in effect for at least one hour until the earlier of either (a) the hour when manual dispatch is no longer in effect and the Resource returns to its Economic Minimum Limit, or (b) the hour when the energy price parameter of its Supply Offer at the Desired Dispatch Point is no longer greater than the Real-Time Price at the Resource's Node.

#### **III.A.5.7. Duration of Commitment Mitigation.**



Any mitigation imposed pursuant to Sections III.A.5.5.4 “General Threshold Commitment Mitigation”, III.A.5.5.5 “Constrained Area Commitment Mitigation”, or III.A.5.5.6 “Reliability Commitment Mitigation” is in effect for the duration of the Commitment Period.

#### **III.A.5.8. Duration of Start-Up Fee and No-Load Fee Mitigation.**

Any mitigation imposed pursuant to Sections III.A.5.5.7 “Start-Up Fee and No-Load Fee Mitigation” is in effect for any hour in which the Supply Offer fails the conduct test in Section III.A.5.5.7.2.

#### **III.A.6. Physical and Financial Parameter Offer Thresholds.**

Physical parameters of a Supply Offer are limited to thresholds specified in this section. Physical parameters are limited by the software accepting offers, except those that can be re-declared in real time during the Operating Day. Parameters that exceed the thresholds specified here but are not limited through the software accepting offers are subject to Internal Market Monitor review after the Operating Day and possible referral to the Commission under Section III.A.19 of this Appendix.

##### **III.A.6.1. Time-Based Offer Parameters.**

Supply Offer parameters that are expressed in time (i.e., Minimum Run Time, Minimum Down Time, Start-Up Time, and Notification Time) shall have a threshold of two hours for an individual parameter or six hours for the combination of the time-based offer parameters compared to the Resource’s Reference Levels. Offers may not exceed these thresholds in a manner that reduce the flexibility of the Resource. To determine if the six hour threshold is exceeded, all time-based offer parameters will be summed for each start-up state (hot, intermediate and cold). If the sum of the time-based offer parameters for a start-up state exceeds six hours above the sum of the Reference Levels for those offer parameters, then the six hour threshold is exceeded.

##### **III.A.6.2. Financial Offer Parameters.**

The Start-Up Fee and the No-Load Fee values of a Resource’s Supply Offer may be no greater than three times the Start-Up Fee and No-Load Fee Reference Level values for the Resource. In the event a fuel price has been submitted under Section III.A.3.4, the Start-Up Fee and No-Load Fee for the associated Supply Offer shall be limited in a Real-Time Offer Change. The limit shall be the percent increase in the new fuel price, relative to the fuel price otherwise used by the Internal Market Monitor, multiplied by the Start-Up Fee or No-Load Fee from the Re-Offer Period. Absent a fuel price adjustment, a Start-Up Fee or

No-Load Fee may be changed in a Real-Time Offer Change to no more than the Start-Up Fee and No-Load Fee values submitted for the Re-Offer Period.

### **III.A.6.3. Other Offer Parameters.**

Non-financial or non-time-based offer parameters shall have a threshold of a 100% increase, or greater, for parameters that are minimum values, or a 50% decrease, or greater, for parameters that are maximum values (including, but not limited to, ramp rates, Economic Maximum Limits and maximum starts per day) compared to the Resource's Reference Levels.

Offer parameters that are limited by performance caps or audit values imposed by the ISO are not subject to the provisions of this section.

### **III.A.7. Calculation of Resource Reference Levels for Physical Parameters and Financial Parameters of Resources.**

Market Participants are responsible for providing the Internal Market Monitor with all the information and data necessary for the Internal Market Monitor to calculate up-to-date Reference Levels for each of a Market Participant's Resources.

#### **III.A.7.1. Methods for Determining Reference Levels for Physical Parameters.**

The Internal Market Monitor will calculate a Reference Level for each element of a bid or offer that is expressed in units other than dollars (such as time-based or quantity level bid or offer parameters) on the basis of one or more of the following:

- (a) Original equipment manufacturer (OEM) operating recommendations and performance data for all Resource types in the New England Control Area, grouped by unit classes, physical parameters and fuel types.
- (b) Applicable environmental operating permit information currently on file with the issuing environmental regulatory body.
- (c) Verifiable Resource physical operating characteristic data, including but not limited to facility and/or Resource operating guides and procedures, historical operating data and any verifiable documentation related to the Resource, which will be reviewed in consultation with the Market Participant.

#### **III.A.7.2. Methods for Determining Reference Levels for Financial Parameters of Offers.**

The Reference Levels for Start-Up Fees, No-Load Fees, Interruption Costs and offer blocks will be calculated separately and assuming no costs from one component are included in another component.

**III.A.7.2.1. Order of Reference Level Calculation.**

The Internal Market Monitor will calculate a Reference Level for each offer block of an offer according to the following hierarchy, under which the first method that can be calculated is used:

- (a) accepted offer-based Reference Levels pursuant to Section III.A.7.3;
- (b) LMP-based Reference Levels pursuant to Section III.A.7.4; and,
- (c) cost-based Reference Levels pursuant to Section III.A.7.5.

**III.A.7.2.2. Circumstances in Which Cost-Based Reference Levels Supersede the Hierarchy of Reference Level Calculation.**

In the following circumstances, cost-based Reference Levels shall be used notwithstanding the hierarchy specified in Section III.A.7.2.1.

- (a) When in any hour the cost-based Reference Level is higher than either the accepted offer-based or LMP-based Reference Level.
- (b) When the Supply Offer parameter is a Start-Up Fee or the No-Load Fee.
- (c) For any Operating Day for which the Lead Market Participant requests the cost-based Reference Level.
- (d) For any Operating Day for which, during the previous 90 days:
  - (i) the Resource has been flagged for VAR, SCR, or as a Local Second Contingency Protection Resource for any hour in the Day-Ahead Energy Market or the Real-Time Energy Market, and;
  - (ii) the ratio of the sum of the operating hours for days for which the Resource has been flagged during the previous 90 days in which the number of hours operated out of economic merit order in the Day-Ahead Energy Market and the Real-Time Energy Market exceed the number of hours operated in economic merit order in the Day-Ahead Energy Market and Real-Time Energy Market, to the total number of operating hours in the Day-Ahead Energy Market and Real-Time Energy Market during the previous 90 days is greater than or equal to 50 percent.

- (e) When in any hour the incremental energy parameter of an offer, including adjusted offers pursuant to Section III.2.4, is greater than \$1,000/MWh.

For the purposes of this subsection:

- i. A flagged day is any day in which the Resource has been flagged for VAR, SCR, or as a Local Second Contingency Protection Resource for any hour in either the Day-Ahead Energy Market or the Real-Time Energy Market.
  - ii. Operating hours are the hours in the Day-Ahead Energy Market for which a Resource has cleared output (MW) greater than zero and hours in the Real-Time Energy Market for which a Resource has metered output (MW) greater than zero. For days for which Real-time Energy Market metered values are not yet available in the ISO's or the Internal Market Monitor's systems, telemetered values will be used.
  - iii. Self-scheduled hours will be excluded from all of the calculations described in this subsection, including the determination of operating hours.
  - iv. The determination as to whether a Resource operated in economic merit order during an hour will be based on the energy offer block within which the Resource is operating.
- (e) The Market Participant submits a fuel price pursuant to Section III.A.3.4. When the Market Participant submits a fuel price for any hour of a Supply Offer in the Day-Ahead Energy Market or Re-Offer Period, then the cost-based Reference Level is used for the entire Operating Day. If a fuel price is submitted for a Supply Offer after the close of the Re-Offer Period for the next Operating Day or for the current Operating Day, then the cost-based Reference Level for the Supply Offer is used from the time of the submittal to the end of the Operating Day.
- (f) When the Market Participant submits a change to any of the following parameters of the Supply Offer after the close of the Re-Offer Period:
- (i) hot, intermediate, or cold Start-Up Fee, or a corresponding fuel blend,
  - (ii) No-Load Fee or its corresponding fuel blends,
  - (iii) whether to include the Start-Up Fee and No-Load Fee in the Supply Offer,
  - (iv) the quantity or price value of any Block in the Supply Offer or its corresponding fuel blends, and
  - (v) whether to use the offer slope for the Supply Offer,

then, the cost-based Reference Level for the Supply Offer will be used from the time of the submittal to the end of the Operating Day.

**III.A.7.3. Accepted Offer-Based Reference Level.**

The Internal Market Monitor shall calculate the accepted offer-based Reference Level as the lower of the mean or the median of a generating Resource's Supply Offers that have been accepted and are part of the seller's Day-Ahead Generation Obligation or Real-Time Generation Obligation in competitive periods over the previous 90 days, adjusted for changes in fuel prices utilizing fuel indices generally applicable for the location and type of Resource. For purposes of this section, a competitive period is an Operating Day in which the Resource is scheduled in economic merit order.

**III.A.7.4. LMP-Based Reference Level.**

The Internal Market Monitor shall calculate the LMP-based Reference Level as the mean of the LMP at the Resource's Node during the lowest-priced 25% of the hours that the Resource was dispatched over the previous 90 days for similar hours (on-peak or off-peak), adjusted for changes in fuel prices.

**III.A.7.5. Cost-Based Reference Level.**

The Internal Market Monitor shall calculate cost-based Reference Levels taking into account information on costs provided by the Market Participant through the consultation process prescribed in Section III.A.3.

The following criteria shall be applied to estimates of cost:

- (a) The provision of cost estimates by a Market Participant shall conform with the timing and requirements of Section III.A.3 "Consultation Prior to Determination of Reference Levels for Physical and Financial Parameters of Resources".
- (b) Costs must be documented.
- (c) All cost estimates shall be based on estimates of current market prices or replacement costs and not inventory costs wherever possible. All cost estimates, including opportunity cost estimates, must be quantified and analytically supported.
- (d) When market prices or replacement costs are unavailable, cost estimates shall identify whether the reported costs are the result of a product or service provided by an Affiliate of the Market Participant.
- (e) The Internal Market Monitor will evaluate cost information provided by the Market Participant in comparison to other information available to the Internal Market Monitor. Reference Levels

associated with Resources for which a fuel price has been submitted under Section III.A.3.4 shall be calculated using the lower of the submitted fuel price or a price, calculated by the Internal Market Monitor, that takes account of the following factors and conditions:

- i. Fuel market conditions, including the current spread between bids and asks for current fuel delivery, fuel trading volumes, near-term price quotes for fuel, expected natural gas heating demand, and Market Participant-reported quotes for trading and fuel costs; and
- ii. Fuel delivery conditions, including current and forecasted fuel delivery constraints and current line pack levels for natural gas pipelines.

#### **III.A.7.5.1. Estimation of Incremental Operating Cost.**

The Internal Market Monitor's determination of a Resource's marginal costs shall include an assessment of the Resource's incremental operating costs in accordance with the following formulas,

Incremental Energy/Reduction:

$(\text{incremental heat rate} * \text{fuel costs}) + (\text{emissions rate} * \text{emissions allowance price}) + \text{variable operating and maintenance costs} + \text{opportunity costs}.$

Opportunity costs may include, but are not limited to, economic costs associated with complying with:

- (a) emissions limits;
- (b) water storage limits;
- (c) other operating permits that limit production of energy; and
- (d) reducing electricity consumption.

No-Load:

$(\text{no-load fuel use} * \text{fuel costs}) + (\text{no-load emissions} * \text{emission allowance price})$   
+ no-load variable operating and maintenance costs + other no-load costs that are not fuel, emissions or variable and maintenance costs.

Start-Up/Interruption:

(start-up fuel use \* fuel costs) + (start-up emissions \* emission allowance price) + start-up variable and maintenance costs + other start-up costs that are not fuel, emissions or variable and maintenance costs.

### **III.A.8. Day-Ahead Ancillary Services Offer Mitigation.**

Day-Ahead Ancillary Services Offers will be evaluated for economic withholding in the Day-Ahead Market and mitigated as described in this Section III.A.8.

#### **III.A.8.1. Conduct and Impact Test.**

##### **III.A.8.1.1. Conduct Test.**

A Day-Ahead Ancillary Services Offer price fails the conduct test for Day-Ahead Ancillary Services Offer mitigation in a given hour if such price exceeds an amount greater than the sum of (i) the greater of \$2/MWh and 200% of the Day-Ahead Ancillary Services Expected Close-Out Component as described in Section III.A.8.2.1; and (ii) 150% of the Day-Ahead Ancillary Services Avoidable Input Cost as described in Section III.A.8.2.2.

##### **III.A.8.1.2. Impact Test.**

A Day-Ahead Ancillary Services Offer with a price that fails the conduct test for Day-Ahead Ancillary Services Offer mitigation shall be evaluated against the impact test for Day-Ahead Ancillary Services Offer mitigation. A Day-Ahead Ancillary Services Offer fails the impact test for Day-Ahead Ancillary Services Offer mitigation if there is an increase in any Day-Ahead Price, as calculated pursuant to Sections III.A.8.3 or III.A.8.4, in any hour of the Operating Day and such increase is greater than 150% of the median difference between:

- (i) the threshold prices for failing the conduct test described in Section III.A.8.1.1 for all Day-Ahead Ancillary Services Offers in the hour of the Operating Day being evaluated; and
- (ii) the Day-Ahead Ancillary Services Benchmark Levels as described in Section III.A.8.2 for all Day-Ahead Ancillary Services Offers in the hour of the Operating Day being evaluated.

##### **III.A.8.1.3. Consequence of Failing Both Conduct and Impact Test.**

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If any Day-Ahead Ancillary Services Offer with a price that fails the Day-Ahead Ancillary Services Offer conduct test fails the impact test, then all Day-Ahead Ancillary Services Offer prices that failed the conduct test in the hour being evaluated shall be set to the applicable Day-Ahead Ancillary Services Benchmark Level.

### **III.A.8.2. Day-Ahead Ancillary Services Benchmark Levels.**

A resource's Day-Ahead Ancillary Services Benchmark Level for the hour associated with the resource's Day-Ahead Ancillary Services Offer is the sum of the Day-Ahead Ancillary Services Expected Close-Out Component and the resource's Day-Ahead Ancillary Services Avoidable Input Cost for such hour.

#### **III.A.8.2.1. Day-Ahead Ancillary Services Expected Close-Out Component.**

The Day-Ahead Ancillary Services Expected Close-Out Component for a given hour is the lesser of the following:

- (a) the expected value of the greater of (i) the hourly Real-Time Hub Price less the hourly Day-Ahead Ancillary Services Strike Price and (ii) zero; and
- (b) the historical average of the estimated likelihood that the Real-Time Hub Price will be equal to or less than its expected value, multiplied by the greater of \$100/MWh and the expected hourly Real-Time Hub Price.

#### **III.A.8.2.2. Day-Ahead Ancillary Services Avoidable Input Cost.**

For purposes of calculating Day-Ahead Ancillary Services Benchmark Levels and conducting the conduct test described in Section III.A.8.1.1, Day-Ahead Ancillary Services Avoidable Input Costs shall be determined as follows:

- (a) For a Generator Asset with natural gas as its only fuel type, or a dual-fuel Generator Asset that has specified natural gas as its fuel type in its Supply Offer for the hour associated with the Day-Ahead Ancillary Services Offer, the Day-Ahead Ancillary Services Avoidable Input Cost shall be calculated based on the asset's average heat rate



and the expected price of natural gas to cover the Day-Ahead Ancillary Services award, adjusted for the expected hourly Real-Time Hub Price.

(b) For an asset that is an Electric Storage Facility, the Day-Ahead Ancillary Services Avoidable Input Cost shall be calculated based on the expected cost of charging energy to cover the Day-Ahead Ancillary Services award, adjusted for the expected Real-Time revenue associated with that charged energy during the Operating Day.

(c) For asset types other than those described in subsections (a) and (b), the Day-Ahead Ancillary Services Avoidable Input Cost shall be zero.

(d) The Day-Ahead Ancillary Services Avoidable Input Cost shall in no case be less than zero.

#### **III.A.8.2.3. Cost Information Provided Through Consultation.**

In performing the Day-Ahead Ancillary Services Benchmark Level calculations in this Section III.A.8.2, the Internal Market Monitor shall take into account, as appropriate, information provided by the Market Participant through the consultation process described in Section III.A.3. The criteria enumerated in (a) through (e) of Section III.A.7.5 shall apply to estimates of costs when performing Day-Ahead Ancillary Services Benchmark Level calculations.

#### **III.A.8.3. Calculation of Impact to the Day-Ahead Ancillary Services Market.**

For the purpose of determining any increase in Day-Ahead Ancillary Services prices pursuant to Section III.A.8.1.2, the Day-Ahead Ancillary Service impact test shall calculate the difference between two Day-Ahead Ancillary Service prices for each product in each hour. The first price shall be calculated based on a run of the Day-Ahead Market using all Day-Ahead offers and bids as submitted. The second price shall be calculated based on a second run of the Day-Ahead Market substituting Day-Ahead Ancillary Services Benchmark Levels for the Day-Ahead Ancillary Services Offer prices that have failed the Day-Ahead Ancillary Services conduct test.

#### **III.A.8.4. Calculation of Impact to the Day-Ahead Energy Market.**

For the purpose of determining any increase in Day-Ahead energy prices pursuant to Section III.A.8.1.2, the Day-Ahead Ancillary Service impact test shall calculate the difference between two prices in each hour. The first price shall be the Hub Price calculated based on a run of the Day-Ahead Market using all Day-Ahead offers and bids as submitted. The second price shall be the Hub Price calculated based on a second run of the Day-Ahead Market substituting Day-Ahead Ancillary Services Benchmark Levels for the Day-Ahead Ancillary Services Offer prices that have failed the Day-Ahead Ancillary Services conduct test.

#### **III.A.8.5. Duration of Day-Ahead Ancillary Services Offer Mitigation.**

Any mitigation imposed on a Day-Ahead Ancillary Services Offer pursuant to this Section III.A.8 is in effect only for the hour in which the Day-Ahead Ancillary Services Offer has a price that fails the conduct test in Section III.A.8.1.1.

#### **III.A.9. Regulation.**

The Internal Market Monitor will monitor the Regulation market for conduct that it determines constitutes an abuse of market power. If the Internal Market Monitor identifies any such conduct, it may make a filing under Section 205 of the Federal Power Act with the Commission requesting authorization to apply appropriate mitigation measures or to revise Market Rule 1 to address such conduct (or both). The Internal Market Monitor may make such a filing at any time it deems necessary, and may request expedited treatment from the Commission. Any such filing shall identify the particular conduct the Internal Market Monitor believes warrants mitigation or revisions to Market Rule 1 (or both), shall propose a specific mitigation measure for the conduct or revision to Market Rule 1 (or both), and shall set forth the Internal Market Monitor's justification for imposing that mitigation measure or revision to Market Rule 1 (or both).

#### **III.A.10. Demand Bids.**

The Internal Market Monitor will monitor the Energy Market as outlined below:

- (a) LMPs in the Day-Ahead Energy Market and Real-Time Energy Market shall be monitored to determine whether there is a persistent hourly deviation in any location that would not be expected in a workably competitive market.

- (b) The Internal Market Monitor shall compute the average hourly deviation between Day-Ahead Energy Market and Real-Time Energy Market LMPs, measured as:  $(LMP_{\text{real time}} / LMP_{\text{day ahead}}) - 1$ . The average hourly deviation shall be computed over a rolling four-week period or such other period determined by the Internal Market Monitor.
- (c) The Internal Market Monitor shall estimate and monitor the average percentage of each Market Participant's bid to serve load scheduled in the Day-Ahead Energy Market, using a methodology intended to identify a sustained pattern of under-bidding as accurately as deemed practicable. The average percentage will be computed over a specified time period determined by the Internal Market Monitor.

If the Internal Market Monitor determines that: (i) The average hourly deviation is greater than ten percent (10%) or less than negative ten percent (-10%), (ii) one or more Market Participants on behalf of one or more LSEs have been purchasing a substantial portion of their loads with purchases in the Real-Time Energy Market, (iii) this practice has contributed to an unwarranted divergence of LMPs between the two markets, and (iv) this practice has created operational problems, the Internal Market Monitor may make a filing under Section 205 of the Federal Power Act with the Commission requesting authorization to apply appropriate mitigation measures or to revise Market Rule 1 to address such conduct (or both). The thresholds identified above shall not limit the Internal Market Monitor's authority to make such a filing. The Internal Market Monitor may make such a filing at any time it deems necessary, and may request expedited treatment from the Commission. Any such filing shall identify the particular conduct that the Internal Market Monitor believes warrants mitigation or revisions to Market Rule 1 (or both), shall propose a specific mitigation measure for the conduct or revision to Market Rule 1 (or both), and shall set forth the Internal Market Monitor's justification for imposing that mitigation measure or revision to Market Rule 1 (or both).

### **III.A.11. Mitigation of Increment Offers and Decrement Bids.**

#### **III.A.11.1. Purpose.**

The provisions of this section specify the market monitoring and mitigation measures applicable to Increment Offers and Decrement Bids. An Increment Offer is one to supply energy and a Decrement Bid is one to purchase energy, in either such case not being backed by physical load or generation and submitted in the Day-Ahead Energy Market in accordance with the procedures and requirements specified in Market Rule 1 and the ISO New England Manuals.

### **III.A.11.2. Implementation.**

#### **III.A.11.2.1. Monitoring of Increment Offers and Decrement Bids.**

Day-Ahead LMPs and Real-Time LMPs in each Load Zone or Node, as applicable, shall be monitored to determine whether there is a persistent hourly deviation in the LMPs that would not be expected in a workably competitive market. The Internal Market Monitor shall compute the average hourly deviation between Day-Ahead LMPs and Real-Time LMPs, measured as:

$$(\text{LMP}_{\text{real time}} / \text{LMP}_{\text{day ahead}}) - 1.$$

The average hourly deviation shall be computed over a rolling four-week period or such other period determined by the Internal Market Monitor to be appropriate to achieve the purpose of this mitigation measure.

#### **III.A.11.3. Mitigation Measures.**

If the Internal Market Monitor determines that (i) the average hourly deviation computed over a rolling four week period is greater than ten percent (10%) or less than negative ten percent (-10%), and (ii) the bid and offer practices of one or more Market Participants has contributed to a divergence between LMPs in the Day-Ahead Energy Market and Real-Time Energy Market, then the following mitigation measure may be imposed:

The Internal Market Monitor may limit the hourly quantities of Increment Offers for supply or Decrement Bids for load that may be offered in a Location by a Market Participant, subject to the following provisions:

- (i) The Internal Market Monitor shall, when practicable, request explanations of the relevant bid and offer practices from any Market Participant submitting such bids.
- (ii) Prior to imposing a mitigation measure, the Internal Market Monitor shall notify the affected Market Participant of the limitation.
- (iii) The Internal Market Monitor, with the assistance of the ISO, will restrict the Market Participant for a period of six months from submitting any virtual transactions at the same Node(s), and/or electrically similar Nodes to, the Nodes where it had submitted the virtual transactions that contributed to the unwarranted divergence between the LMPs in the Day-Ahead Energy Market and Real-Time Energy Market.

#### **III.A.11.4. Monitoring and Analysis of Market Design and Rules.**

The Internal Market Monitor shall monitor and assess the impact of Increment Offers and Decrement Bids on the competitive structure and performance, and the economic efficiency of the New England Markets. Such monitoring and assessment shall include the effects, if any, on such bids and offers of any mitigation measures specified in this Market Rule 1.

#### **III.A.12. Cap on FTR Revenues.**

If a holder of an FTR between specified delivery and receipt Locations (i) had an Increment Offer and/or Decrement Bid that was accepted by the ISO for an applicable hour in the Day-Ahead Energy Market for delivery or receipt at or near delivery or receipt Locations of the FTR; and (ii) the result of the acceptance of such Increment Offer or Decrement Bid is that the difference in LMP in the Day-Ahead Energy Market between such delivery and receipt Locations is greater than the difference in LMP between such delivery and receipt Locations in the Real-Time Energy Market, then the Market Participant shall not receive any Transmission Congestion Credit associated with such FTR in such hour, in excess of one divided by the number of hours in the applicable month multiplied by the amount originally paid for the FTR in the FTR Auction. A Location shall be considered at or near the FTR delivery or receipt Location if seventy-five % or more of the energy injected or withdrawn at that Location and which is withdrawn or injected at another Location is reflected in the constrained path between the subject FTR delivery and receipt Locations that were acquired in the FTR Auction.

#### **III.A.13. Additional Internal Market Monitor Functions Specified in Tariff.**

##### **III.A.13.1. Review of Offers and Bids in the Forward Capacity Market.**

In accordance with the following provisions of Section III.13 of Market Rule 1, the Internal Market Monitor is responsible for reviewing certain bids and offers made in the Forward Capacity Market. Section III.13 of Market Rule 1 specifies the nature and detail of the Internal Market Monitor's review and the consequences that will result from the Internal Market Monitor's determination following such review.

(a) [Reserved].

- (b) Section III.13.1.2.3.1.6.3 - Internal Market Monitor review of Static De-List Bids, Permanent De-List Bids, and Retirement De-List Bids from an Existing Generating Capacity Resource that is associated with a Station having Common Costs.
- (c) Section III.13.1.2.3.2 - Review by Internal Market Monitor of Bids from Existing Generating Capacity Resources.
- (d) Section III.13.1.3.3A(d) - Review by Internal Market Monitor of offers from Existing Import Capacity Resources.
- (e) Section III.13.1.3.5.6 - Review by Internal Market Monitor of Offers from New Import Capacity Resources.
- (f) Section III.13.1.7 - Internal Market Monitor review of summer and winter Seasonal Claimed Capability values.

**III.A.13.2. Supply Offers and Demand Bids Submitted for Reconfiguration Auctions in the Forward Capacity Market.**

Section III.13.4 of Market Rule 1 addresses reconfiguration auctions in the Forward Capacity Market. As addressed in Section III.13.4.2 of Market Rule 1, a supply offer or demand bid submitted for a reconfiguration auction shall not be subject to mitigation by the Internal Market Monitor.

**III.A.13.3. Monitoring of Transmission Facility Outage Scheduling.**

*Appendix G* of Market Rule 1 addresses the scheduling of outages for transmission facilities. The Internal Market Monitor shall monitor the outage scheduling activities of the Transmission Owners. The Internal Market Monitor shall have the right to request that each Transmission Owner provide information to the Internal Market Monitor concerning the Transmission Owner's scheduling of transmission facility outages, including the repositioning or cancellation of any interim approved or approved outage, and the Transmission Owner shall provide such information to the Internal Market Monitor in accordance with the ISO New England Information Policy.

**III.A.13.4. Monitoring of Forward Reserve Resources.**

The Internal Market Monitor will receive information that will identify Forward Reserve Resources, the Forward Reserve Threshold Price, and the assigned Forward Reserve Obligation. Prior to mitigation of Supply Offers or Demand Bids associated with a Forward Reserve Resource, the Internal Market Monitor shall consult with the Market Participant in accordance with Section III.A.3 of this *Appendix A*. The Internal Market Monitor and the Market Participant shall consider the impact on meeting any Forward

Reserve Obligations in those consultations. If mitigation is imposed, any mitigated offers shall be used in the calculation of qualifying megawatts under Section III.9.6.4 of Market Rule 1.

**III.A.14. Treatment of Supply Offers for Resources Subject to a Cost-of-Service Agreement.**

Article 5 of the form of Cost-of-Service Agreement in *Appendix I* to Market Rule 1 addresses the monitoring of resources subject to a cost-of-service agreement by the Internal Market Monitor and External Market Monitor. Pursuant to Section 5.2 of Article 5 of the Form of Cost-of-Service Agreement, after consultation with the Lead Market Participant, Supply Offers that exceed Stipulated Variable Cost as determined in the agreement are subject to adjustment by the Internal Market Monitor to Stipulated Variable Cost.

**III.A.15. Request for Additional Cost Recovery.**

**III.A.15.1. Cost Recovery Request Following Capping.**

If as a result of an offer being capped under Section III.1.9, a Market Participant believes that it will not recover the fuel and variable operating and maintenance costs of the Resource, as reflected in the offer, for the hours of the Operating Day during which the offer was capped, the Market Participant may, within 20 days of the receipt of the first Invoice issued containing credits or charges for the applicable Operating Day, submit an additional cost recovery request to the Internal Market Monitor.

A request under this Section III.A.15 may seek recovery of additional costs incurred for the duration of the period of time for which the Resource was operated at the cap.

**III.A.15.1.1. Timing and Contents of Request.**

Within 20 days of the receipt of the first Invoice containing credits or charges for the applicable Operating Day, a Market Participant requesting additional cost recovery under this Section III.A.15.1 shall submit to the Internal Market Monitor a request in writing detailing: (i) the actual fuel and variable operating and maintenance costs for the Resource for the applicable Operating Days, with supporting data, documentation and calculations for those costs; and (ii) an explanation of why the actual costs of operating the Resource exceeded the capped costs.

**III.A.15.1.2. Review by Internal Market Monitor.**

To evaluate a Market Participant's request, the Internal Market Monitor shall use the data, calculations and explanations provided by the Market Participant to verify the actual fuel and variable operating and

maintenance costs for the Resource for the applicable Operating Days, using the same standards and methodologies the Internal Market Monitor uses to evaluate requests to update Reference Levels under Section III.A.3 of Appendix A. To the extent the Market Participant's request warrants additional cost recovery, the Internal Market Monitor shall reflect that adjustment in the Resource's Reference Levels for the period covered by the request. The ISO shall then re-apply the cost verification and capping formulas in Section III.1.9 using the updated Reference Levels to re-calculate the adjustments to the Market Participant's offers required thereunder, and then shall calculate additional cost recovery using the adjusted offer values.

Within 20 days of the receipt of a completed submittal, the Internal Market Monitor shall provide a written response to the Market Participant's request, detailing (i) the extent to which it agrees with the request with supporting explanation, and (ii) a calculation of the additional cost recovery. Changes to credits and charges resulting from an additional cost recovery request shall be included in the Data Reconciliation Process.

#### **III.A.15.1.3. Cost Allocation.**

The ISO shall allocate charges to Market Participants for payment of any additional cost recovery granted under this Section III.A.15.1 in accordance with the cost allocation provisions of Market Rule 1 that otherwise would apply to payments for the services provided based on the Resource's actual dispatch for the Operating Days in question.

#### **III.A.15.2. Section 205 Filing Right.**

- (i) If either
  - (a) as a result of mitigation applied to a Resource under this *Appendix A* for all or part of one or more Operating Days, or
  - (b) in the absence of mitigation, as a result of a request under Section III.A.15.1 being denied in whole or in part,

a Market Participant believes that it will not recover the fuel, variable operating and maintenance costs, or Day-Ahead Ancillary Services close-out or input costs of the Resource, as reflected in the offer, for the hours of the Operating Day during which the offer was mitigated or the Section III.A.15.1 request was denied, the Market Participant may submit a filing to the Commission seeking recovery of those costs pursuant to Section 205 of the Federal Power Act. For filings to



address cost recovery under Section III.A.15.2(i)(a), the filing must be made within sixty days of receipt of the first Invoice issued containing credits or charges for the applicable Operating Day. For filings to address cost recovery under Section III.A.15.2(i)(b), the filing must be made within sixty days of receipt of the first Invoice issued that reflects the denied request for additional cost recovery under Section III.A.15.1.

- (ii) A request under this Section III.A.15.2 may seek recovery of additional costs incurred during the following periods: (a) if as a result of mitigation, costs incurred for the duration of the mitigation event, and (b) if as a result of having a Section III.A.15.1 request denied, costs incurred for the duration of the period of time addressed in the Section III.A.15.1 request.
- (iii) A Market Participant also may submit a filing under Section III.A.15.2(i)(a) to seek recovery of opportunity costs within the Day-Ahead Market as a result of mitigation applied to the Resource's Day-Ahead Ancillary Services Offer under Section III.A.8. To recover such opportunity costs, the Market Participant must demonstrate as part of the filing requirements of Section III.A.15.2.1(iii) and (iv) that the original, unmitigated Day-Ahead Ancillary Services Offer reflected costs anticipated by the Market Participant at the time the offer was made. The filing must be made within the time period specified for a filing to address cost recovery under Section III.A.15.2(i)(a).

#### **III.A.15.2.1. Contents of Filing.**

Any Section 205 filing made pursuant to this section shall include: (i) the actual fuel, variable operating and maintenance costs, or Day-Ahead Ancillary Services close-out or input costs, or opportunity costs as described in Section III.A.15.2(iii), for the Resource for the applicable Operating Days, with supporting data and calculations for those costs; (ii) regarding actual costs, an explanation of (a) why such actual costs exceeded the Reference Level or Day-Ahead Ancillary Services Benchmark Level costs or, (b) in the absence of mitigation, why such actual costs, as reflected in the original offer and to the extent not recovered under Section III.A.15.1, exceeded the costs as reflected in the capped offer; (iii) sufficient documentation and information supporting the basis for the original offer at the time the offer was submitted; (iv) an explanation as to why the original offer should not have been mitigated to the applicable Reference Level or Benchmark Level, or in the absence of mitigation, why the Section III.A.15.1 request should not have been denied in whole or in part; (v) the Internal Market Monitor's written explanation provided pursuant to Section III.A.15.2.2; and (vi) all requested regulatory costs in connection with the filing.

#### **III.A.15.2.2. Review by Internal Market Monitor Prior to Filing.**

Within twenty days of the receipt of the applicable Invoice, a Market Participant that intends to make a Section 205 filing pursuant to this Section III.A.15.2 shall submit to the Internal Market Monitor the information and explanation detailed in Section III.A.15.2.1(i), (ii), (iii), and (iv) that is to be included in the Section 205 filing. Within twenty days of the receipt of a completed submittal, the Internal Market Monitor shall provide a written explanation of the events that resulted in the Section III.A.15.2 request for additional cost recovery. The Market Participant shall include the Internal Market Monitor's written explanation in the Section 205 filing made pursuant to this Section III A.15.2.

#### **III.A.15.2.3. Cost Allocation.**

In the event that the Commission accepts a Market Participant's filing for cost recovery under this section, the ISO shall allocate charges to Market Participants for payment of those costs in accordance with the cost allocation provisions of Market Rule 1 that otherwise would apply to payments for the services provided based on the Resource's actual dispatch for the Operating Days in question.

#### **III.A.16. ADR Review of Internal Market Monitor Mitigation Actions.**

##### **III.A.16.1. Actions Subject to Review.**

A Market Participant may obtain prompt Alternative Dispute Resolution ("ADR") review of any Internal Market Monitor mitigation imposed on a Resource as to which that Market Participant has bidding or operational authority. A Market Participant must seek review pursuant to the procedure set forth in *Appendix D* to this Market Rule 1, but in all cases within the time limits applicable to billing adjustment requests. These deadlines are currently specified in the ISO New England Manuals. Actions subject to review are:

- Imposition of a mitigation remedy.
- Continuation of a mitigation remedy as to which a Market Participant has submitted material evidence of changed facts or circumstances. (Thus, after a Market Participant has unsuccessfully challenged imposition of a mitigation remedy, it may challenge the continuation of that mitigation in a subsequent ADR review on a showing of material evidence of changed facts or circumstances.)

##### **III.A.16.2. Standard of Review.**

On the basis of the written record and the presentations of the Internal Market Monitor and the Market Participant, the ADR Neutral shall review the facts and circumstances upon which the Internal Market Monitor based its decision and the remedy imposed by the Internal Market Monitor. The ADR Neutral shall remove the Internal Market Monitor's mitigation only if it concludes that the Internal Market Monitor's application of the Internal Market Monitor mitigation policy was clearly erroneous. In considering the reasonableness of the Internal Market Monitor's action, the ADR Neutral shall consider whether adequate opportunity was given to the Market Participant to present information, any voluntary remedies proposed by the Market Participant, and the need of the Internal Market Monitor to act quickly to preserve competitive markets.

### **III.A.17. Reporting.**

#### **III.A.17.1. Data Collection and Retention.**

Market Participants shall provide the Internal Market Monitor and External Market Monitor with any and all information within their custody or control that the Internal Market Monitor or External Market Monitor deems necessary to perform its obligations under this *Appendix A*, subject to applicable confidentiality limitations contained in the ISO New England Information Policy. This would include a Market Participant's cost information if the Internal Market Monitor or External Market Monitor deems it necessary, including start up, no-load and all other actual marginal costs, when needed for monitoring or mitigation of that Market Participant. Additional data requirements may be specified in the ISO New England Manuals. If for any reason the requested explanation or data is unavailable, the Internal Market Monitor and External Market Monitor will use the best information available in carrying out their responsibilities. The Internal Market Monitor and External Market Monitor may use any and all information they receive in the course of carrying out their market monitor and mitigation functions to the extent necessary to fully perform those functions.

Market Participants must provide data and any other information requested by the Internal Market Monitor that the Internal Market Monitor requests to determine:

- (a) the opportunity costs associated with Demand Reduction Offers;
- (b) the accuracy of Demand Response Baselines;
- (c) the method used to achieve a demand reduction, and;
- (d) the accuracy of metered demand reported to the ISO.

### **III.A.17.2. Periodic Reporting by the ISO and Internal Market Monitor.**

#### **III.A.17.2.1. Monthly Report.**

The ISO will prepare a monthly report, which will be available to the public both in printed form and electronically, containing an overview of the market's performance in the most recent period.

#### **III.A.17.2.2. Quarterly Report.**

The Internal Market Monitor will prepare a quarterly report consisting of market data regularly collected by the Internal Market Monitor in the course of carrying out its functions under this *Appendix A* and analysis of such market data. Final versions of such reports shall be disseminated contemporaneously to the Commission, the ISO Board of Directors, the Market Participants, and state public utility commissions for each of the six New England states, provided that in the case of the Market Participants and public utility commissions, such information shall be redacted as necessary to comply with the ISO New England Information Policy. The format and content of the quarterly reports will be updated periodically through consensus of the Internal Market Monitor, the Commission, the ISO, the public utility commissions of the six New England States and Market Participants. The entire quarterly report will be subject to confidentiality protection consistent with the ISO New England Information Policy and the recipients will ensure the confidentiality of the information in accordance with state and federal laws and regulations. The Internal Market Monitor will make available to the public a redacted version of such quarterly reports. The Internal Market Monitor, subject to confidentiality restrictions, may decide whether and to what extent to share drafts of any report or portions thereof with the Commission, the ISO, one or more state public utility commission(s) in New England or Market Participants for input and verification before the report is finalized. The Internal Market Monitor shall keep the Market Participants informed of the progress of any report being prepared pursuant to the terms of this *Appendix A*.

#### **III.A.17.2.3. Reporting on General Performance of the Forward Capacity Market.**

The performance of the Forward Capacity Market, including reconfiguration auctions, shall be subject to the review of the Internal Market Monitor. No later than 180 days after the completion of the second Forward Capacity Auction, the Internal Market Monitor shall file with the Commission and post to the ISO's website a full report analyzing the operations and effectiveness

of the Forward Capacity Market. Thereafter, the Internal Market Monitor shall report on the functioning of the Forward Capacity Market in its annual markets report in accordance with the provisions of Section III.A.17.2.4 of this *Appendix A*.

**III.A.17.2.4. Annual Review and Report by the Internal Market Monitor.**

The Internal Market Monitor will prepare an annual state of the market report on market trends and the performance of the New England Markets and will present an annual review of the operations of the New England Markets. The annual report and review will include an evaluation of the procedures for the determination of energy, reserve and regulation clearing prices, NCPC costs and the performance of the Forward Capacity Market and FTR Auctions. The review will include a public forum to discuss the performance of the New England Markets, the state of competition, and the ISO's priorities for the coming year. In addition, the Internal Market Monitor will arrange a non-public meeting open to appropriate state or federal government agencies, including the Commission and state regulatory bodies, attorneys general, and others with jurisdiction over the competitive operation of electric power markets, subject to the confidentiality protections of the ISO New England Information Policy, to the greatest extent permitted by law.

**III.A.17.2.5. Additional Ad Hoc Reporting on Performance and Competitiveness of Markets.**

In furtherance of its function under Section III.A.2 of this *Appendix A*, including without limitation Sections III.A.2.3(e) and (k) therein, the Internal Market Monitor shall perform independent evaluations and prepare ad hoc reports on the overall competitiveness and performance of the New England Markets or particular aspects of the New England Markets, including the competitiveness and performance of a major market design change. The Internal Market Monitor shall have the sole discretion to determine when to prepare an ad hoc report and may prepare such report on its own initiative or pursuant to a request by the ISO, New England state public utility commissions or one or more Market Participants. However, the Internal Market Monitor will report on the competitiveness and performance of any new major market design change within one to three years, respectively, of the effective date of operation of the market design change, or as soon as adequate data becomes available. While the Internal Market Monitor may solicit or receive input of the External Market Monitor, Market Participants and other stakeholders, including New England state public utility commissions, the methodology and

criteria used to conduct its independent analysis shall be at the sole discretion of the Internal Market Monitor. The Internal Market Monitor shall describe its methodology and criteria used in an ad hoc report of its significant findings and, if any, recommendations. The Internal Market Monitor shall file with the Commission and post to the ISO's website a final version of an ad hoc report. Thereafter, the Internal Market Monitor shall continue to report on the competitiveness and performance of any market design change that has been the subject of an ad hoc report in its quarterly or annual reports under Sections III.A.17.2.2 and III.A.17.2.4.

### **III.A.17.3. Periodic Reporting by the External Market Monitor.**

The External Market Monitor will perform independent evaluations and prepare annual and ad hoc reports on the overall competitiveness and efficiency of the New England Markets or particular aspects of the New England Markets, including the adequacy of *Appendix A*. The External Market Monitor shall have the sole discretion to determine whether and when to prepare ad hoc reports and may prepare such reports on its own initiative or pursuant to requests by the ISO, state public utility commissions or one or more Market Participants. Final versions of such reports shall be disseminated contemporaneously to the Commission, the ISO Board of Directors, the Market Participants, and state public utility commissions for each of the six New England states, provided that in the case of the Market Participants and public utility commissions, such information shall be redacted as necessary to comply with the ISO New England Information Policy. Such reports shall, at a minimum, include:

- (i) Review and assessment of the practices, market rules, procedures, protocols and other activities of the ISO insofar as such activities, and the manner in which the ISO implements such activities, affect the competitiveness and efficiency of New England Markets.
- (ii) Review and assessment of the practices, procedures, protocols and other activities of any independent transmission company, transmission provider or similar entity insofar as its activities affect the competitiveness and efficiency of the New England Markets.
- (iii) Review and assessment of the activities of Market Participants insofar as these activities affect the competitiveness and efficiency of the New England Markets.
- (iv) Review and assessment of the effectiveness of *Appendix A* and the administration of *Appendix A* by the Internal Market Monitor for consistency and compliance with the terms of *Appendix A*.
- (v) Review and assessment of the relationship of the New England Markets with any independent transmission company and with adjacent markets.

The External Market Monitor, subject to confidentiality restrictions, may decide whether and to what extent to share drafts of any report or portions thereof with the Commission, the ISO, one or more state public utility commission(s) in New England or Market Participants for input and verification before the report is finalized. The External Market Monitor shall keep the Market Participants informed of the progress of any report being prepared.

#### **III.A.17.4. Other Internal Market Monitor or External Market Monitor Communications With Government Agencies.**

##### **III.A.17.4.1. Routine Communications.**

The periodic reviews are in addition to any routine communications the Internal Market Monitor or External Market Monitor may have with appropriate state or federal government agencies, including the Commission and state regulatory bodies, attorneys general, and others with jurisdiction over the competitive operation of electric power markets.

##### **III.A.17.4.2. Additional Communications.**

The Internal Market Monitor and External Market Monitor are not a regulatory or enforcement agency. However, they will monitor market trends, including changes in Resource ownership as well as market performance. In addition to the information on market performance and mitigation provided in the monthly, quarterly and annual reports the External Market Monitor or Internal Market Monitor shall:

- (a) Inform the jurisdictional state and federal regulatory agencies, as well as the Markets Committee, if the External Market Monitor or Internal Market Monitor determines that a market problem appears to be developing that will not be adequately remediable by existing market rules or mitigation measures;
- (b) If the External Market Monitor or Internal Market Monitor receives information from any entity regarding an alleged violation of law, refer the entity to the appropriate state or federal agencies;
- (c) If the External Market Monitor or Internal Market Monitor reasonably concludes, in the normal course of carrying out its monitoring and mitigation responsibilities, that certain market conduct constitutes a violation of law, report these matters to the appropriate state and federal agencies; and,

- (d) Provide the names of any companies subjected to mitigation under these procedures as well as a description of the behaviors subjected to mitigation and any mitigation remedies or sanctions applied.

**III.A.17.4.3. Confidentiality.**

Information identifying particular participants required or permitted to be disclosed to jurisdictional bodies under this section shall be provided in a confidential report filed under Section 388.112 of the Commission regulations and corresponding provisions of other jurisdictional agencies. The Internal Market Monitor will include the confidential report with the quarterly submission it provides to the Commission pursuant to Section III.A.17.2.2.

**III.A.17.5. Other Information Available from Internal Market Monitor and External Market Monitor on Request by Regulators.**

The Internal Market Monitor and External Market Monitor will normally make their records available as described in this paragraph to authorized state or federal agencies, including the Commission and state regulatory bodies, attorneys general and others with jurisdiction over the competitive operation of electric power markets (“authorized government agencies”). With respect to state regulatory bodies and state attorneys general (“authorized state agencies”), the Internal Market Monitor and External Market Monitor shall entertain information requests for information regarding general market trends and the performance of the New England Markets, but shall not entertain requests that are designed to aid enforcement actions of a state agency. The Internal Market Monitor and External Market Monitor shall promptly make available all requested data and information that they are permitted to disclose to authorized government agencies under the ISO New England Information Policy. Notwithstanding the foregoing, in the event an information request is unduly burdensome in terms of the demands it places on the time and/or resources of the Internal Market Monitor or External Market Monitor, the Internal Market Monitor or External Market Monitor shall work with the authorized government agency to modify the scope of the request or the time within which a response is required, and shall respond to the modified request.

The Internal Market Monitor and External Market Monitor also will comply with compulsory process, after first notifying the owner(s) of the items and information called for by the subpoena or civil investigative demand and giving them at least ten Business Days to seek to modify or quash the compulsory process. If an authorized government agency makes a request in writing, other than compulsory process, for information or data whose disclosure to authorized government agencies is not



permitted by the ISO New England Information Policy, the Internal Market Monitor and External Market Monitor shall notify each party with an interest in the confidentiality of the information and shall process the request under the applicable provisions of the ISO New England Information Policy. Requests from the Commission for information or data whose disclosure is not permitted by the ISO New England Information Policy shall be processed under Section 3.2 of the ISO New England Information Policy. Requests from authorized state agencies for information or data whose disclosure is not permitted by the ISO New England Information Policy shall be processed under Section 3.3 of the ISO New England Information Policy. In the event confidential information is ultimately released to an authorized state agency in accordance with Section 3.3 of the ISO New England Information Policy, any party with an interest in the confidentiality of the information shall be permitted to contest the factual content of the information, or to provide context to such information, through a written statement provided to the Internal Market Monitor or External Market Monitor and the authorized state agency that has received the information.

### **III.A.18. Ethical Conduct Standards.**

#### **III.A.18.1. Compliance with ISO New England Inc. Code of Conduct.**

The employees of the ISO that perform market monitoring and mitigation services for the ISO and the employees of the External Market Monitor that perform market monitoring and mitigation services for the ISO shall execute and shall comply with the terms of the ISO New England Inc. Code of Conduct, as amended from time to time and available on the ISO's website. Consistent with the ISO New England Inc. Code of Conduct, at a minimum each such monitoring unit and its employees: (a) must have no material affiliation with any Market Participant or Affiliate, (b) must have no material financial interest in any Market Participant or Affiliate with potential exceptions for mutual funds and non-directed investments, (c) must not engage in any market transactions other than the performance of their duties hereunder, (d) may not accept anything of value from a Market Participant in excess of a *de minimis* amount, and (e) must advise a supervisor in the event they seek employment with a Market Participant, and must disqualify themselves from participating in any matter that would have an effect on the financial interest of the Market Participant.

#### **III.A.18.2. Additional Ethical Conduct Standards.**

The employees of the ISO that perform market monitoring and mitigation services for the ISO and the employees of the External Market Monitor that perform market monitoring and mitigation services for the

ISO shall also comply with the following additional ethical conduct standards. In the event of a conflict between one or more standards set forth below and one or more standards contained in the ISO New England Inc. Code of Conduct, the more stringent standard(s) shall control.

**III.A.18.2.1. Prohibition on Employment with a Market Participant.**

No such employee shall serve as an officer, director, employee or partner of a Market Participant.

**III.A.18.2.2. Prohibition on Compensation for Services.**

No such employee shall be compensated, other than by the ISO or, in the case of employees of the External Market Monitor, by the External Market Monitor, for any expert witness testimony or other commercial services, either to the ISO or to any other party, in connection with any legal or regulatory proceeding or commercial transaction relating to the ISO or the New England Markets.

**III.A.18.2.3. Additional Standards Applicable to External Market Monitor.**

In addition to the standards referenced in the remainder of this Section 18 of *Appendix A*, the employees of the External Market Monitor that perform market monitoring and mitigation services for the ISO are subject to conduct standards set forth in the External Market Monitor Services Agreement entered into between the External Market Monitor and the ISO, as amended from time-to-time. In the event of a conflict between one or more standards set forth in the External Market Monitor Services Agreement and one or more standards set forth above or in the ISO New England Inc. Code of Conduct, the more stringent standard(s) shall control.

**III.A.19. Protocols on Referral to the Commission of Suspected Violations.**

(A) The Internal Market Monitor or External Market Monitor is to make a non-public referral to the Commission in all instances where the Internal Market Monitor or External Market Monitor has reason to believe that a Market Violation has occurred. While the Internal Market Monitor or External Market Monitor need not be able to prove that a Market Violation has occurred, the Internal Market Monitor or External Market Monitor is to provide sufficient credible information to warrant further investigation by the Commission. Once the Internal Market Monitor or External Market Monitor has obtained sufficient credible information to warrant referral to the Commission, the Internal Market Monitor or External Market Monitor is to immediately refer the matter to the Commission and desist from independent action related to the alleged Market Violation. This does

not preclude the Internal Market Monitor or External Market Monitor from continuing to monitor for any repeated instances of the activity by the same or other entities, which would constitute new Market Violations. The Internal Market Monitor or External Market Monitor is to respond to requests from the Commission for any additional information in connection with the alleged Market Violation it has referred.

- (B) All referrals to the Commission of alleged Market Violations are to be in writing, whether transmitted electronically, by fax, mail or courier. The Internal Market Monitor or External Market Monitor may alert the Commission orally in advance of the written referral.
- (C) The referral is to be addressed to the Commission's Director of the Office of Enforcement, with a copy also directed to both the Director of the Office of Energy Market Regulation and the General Counsel.
- (D) The referral is to include, but need not be limited to, the following information
  - (1) The name(s) of and, if possible, the contact information for, the entity(ies) that allegedly took the action(s) that constituted the alleged Market Violation(s);
  - (2) The date(s) or time period during which the alleged Market Violation(s) occurred and whether the alleged wrongful conduct is ongoing;
  - (3) The specific rule or regulation, and/or tariff provision, that was allegedly violated, or the nature of any inappropriate dispatch that may have occurred;
  - (4) The specific act(s) or conduct that allegedly constituted the Market Violation;
  - (5) The consequences to the market resulting from the acts or conduct, including, if known, an estimate of economic impact on the market;
  - (6) If the Internal Market Monitor or External Market Monitor believes that the act(s) or conduct constituted a violation of the anti-manipulation rule of Part 1c of the Commission's Rules and Regulations, 18 C.F.R. Part 1c, a description of the alleged manipulative effect on market prices, market conditions, or market rules;
  - (7) Any other information the Internal Market Monitor or External Market Monitor believes is relevant and may be helpful to the Commission.
- (E) Following a referral to the Commission, the Internal Market Monitor or External Market Monitor is to continue to notify and inform the Commission of any information that the Internal Market Monitor or External Market Monitor learns of that may be related to the referral, but the Internal Market Monitor or External Market Monitor is not to undertake any investigative steps regarding the referral except at the express direction of the Commission or Commission staff.

**III.A.20. Protocol on Referrals to the Commission of Perceived Market Design Flaws and Recommended Tariff Changes.**

- (A) The Internal Market Monitor or External Market Monitor is to make a referral to the Commission in all instances where the Internal Market Monitor or External Market Monitor has reason to believe market design flaws exist that it believes could effectively be remedied by rule or tariff changes. The Internal Market Monitor or External Market Monitor must limit distribution of its identifications and recommendations to the ISO and to the Commission in the event it believes broader dissemination could lead to exploitation, with an explanation of why further dissemination should be avoided at that time.
- (B) All referrals to the Commission relating to perceived market design flaws and recommended tariff changes are to be in writing, whether transmitted electronically, by fax, mail, or courier. The Internal Market Monitor or External Market Monitor may alert the Commission orally in advance of the written referral.
- (C) The referral should be addressed to the Commission's Director of the Office of Energy Market Regulation, with copies directed to both the Director of the Office of Enforcement and the General Counsel.
- (D) The referral is to include, but need not be limited to, the following information.
  - (1) A detailed narrative describing the perceived market design flaw(s);
  - (2) The consequences of the perceived market design flaw(s), including, if known, an estimate of economic impact on the market;
  - (3) The rule or tariff change(s) that the Internal Market Monitor or External Market Monitor believes could remedy the perceived market design flaw;
  - (4) Any other information the Internal Market Monitor or External Market Monitor believes is relevant and may be helpful to the Commission.
- (E) Following a referral to the Commission, the Internal Market Monitor or External Market Monitor is to continue to notify and inform the Commission of any additional information regarding the perceived market design flaw, its effects on the market, any additional or modified observations concerning the rule or tariff changes that could remedy the perceived design flaw, any recommendations made by the Internal Market Monitor or External Market Monitor to the regional transmission organization or independent system operator, stakeholders, market participants or state commissions regarding the perceived design flaw, and any actions taken by the regional transmission organization or independent system operator regarding the perceived design flaw.

### **III.A.21. Review of Offers from New Resources in the Forward Capacity Market.**

The Internal Market Monitor shall review offers from certain New Capacity Resources in the Forward Capacity Auction as described in this Section III.A.21. The provisions of Sections III.A.21.1 and III.A.21.2 are not applicable to offers from New Import Capacity Resources that are subject to the pivotal supplier test in Section III.A.23.

#### **III.A.21.1. Applicability of Buyer-Side Market Power Review.**

The Internal Market Monitor will not conduct a buyer-side market power review of New Capacity Resources that meet the criteria described in this Section III.A.21.1.

##### **III.A.21.1.1. Resources with Capacity Not Exceeding 5 MW.**

A New Capacity Resource will not be subject to the Internal Market Monitor's buyer-side market power review if the project's expected auction capacity (in MW) at the time of the qualification process for the Forward Capacity Auction does not exceed 5 MW.

If a New Capacity Resource's expected auction capacity exceeds 5 MW at the time of the qualification process for the Forward Capacity Auction, but the final FCA Qualified Capacity for the New Capacity Resource does not exceed 5 MW, an offer from the New Capacity Resource will not be mitigated pursuant to Section III.A.21.2.3, notwithstanding any buyer-side market power review that may have been conducted at the time of the qualification process.

##### **III.A.21.1.2. Passive Demand Response Resources.**

New Demand Capacity Resources that consist solely of On-Peak Demand Resources or Seasonal Peak Demand Resources will not be subject to the Internal Market Monitor's buyer-side market power review.

##### **III.A.21.1.3. Resources Supported by a Qualifying Load-Side Relationship Certification.**

New Capacity Resources will not be subject to the Internal Market Monitor's buyer-side market power review if the Project Sponsor submits a Load-Side Relationship Certification, as described in this Section III.A.21.1.3, demonstrating one of the following qualifying circumstances:

- (a) the Project Sponsor and its Affiliates or partners, if any, are not load serving entities and are neither receiving nor expecting to receive any revenues from a load serving entity, state, or political subdivision of a state that relate to the development, operation, control, or output of

the New Capacity Resource (excepting any revenues earned through an ISO-administered market); or

(b) the New Capacity Resource is a Sponsored Policy Resource.

For the purpose of this Section III.A.21, a load serving entity is any entity that has or is the type of entity that could acquire a Capacity Load Obligation in the Forward Capacity Market.

To demonstrate such circumstances, the Project Sponsor must include as part of the Load-Side Relationship Certification a sworn affidavit from an officer or principal for the Project Sponsor that includes factual detail sufficient to explain the qualifying circumstances. The Project Sponsor must submit the Load-Side Relationship Certification with the New Capacity Qualification Package, described in Section III.13.1.1.2.2, the New Demand Capacity Resource Qualification Package, described in Section III.13.1.4.1.1.2, or the New Distributed Energy Capacity Resource Qualification Package, described in Section III.13.1.4A.1.1.2. If the ISO is unable to determine from the Load-Side Relationship Certification that one of the qualifying circumstances exists, the New Capacity Resource's offer shall be subject to buyer-side market power review pursuant to Section III.A.21.2.

#### **III.A.21.2. Review for the Exercise of Buyer-Side Market Power.**

With the exception of New Capacity Resources that meet the criteria described in Section III.A.21.1, the Internal Market Monitor shall review requested lowest offer prices from New Capacity Resources, as described in Sections III.13.1.1.2.2.3(a), III.13.1.4.1.1.2.8(a), and III.13.1.4A.1.1.2.6(a), for the potential exercise of buyer-side market power following the process described in this Section III.A.21.2.

##### **III.A.21.2.1. Conduct Test.**

The Internal Market Monitor will perform a conduct test by reviewing the information described in Sections III.13.1.1.2.2.3(a), III.13.1.4.1.1.2.8(a), and III.13.1.4A.1.1.2.6(a) and determining a New Resource Offer Floor Price, as described in Section III.A.21.3, for the New Capacity Resource. A requested lowest offer price from a New Capacity Resource fails the conduct test if the Internal Market Monitor determines that the New Resource Offer Floor Price exceeds the requested lowest offer price.

##### **III.A.21.2.2. Demonstration of Lack of Incentive to Exercise Buyer-Side Market Power.**

If the Project Sponsor does not submit a Load-Side Relationship Certification (or the ISO rejects the Project Sponsor's Load-Side Relationship Certification) because the Project Sponsor is or is affiliated with a load serving entity or because the Project Sponsor receives or expects to receive revenues outside of ISO-administered markets from a load serving entity, the Project Sponsor is entitled to submit documentation and information as part of the New Capacity Qualification Package, the New Demand Capacity Resource Qualification Package, or New Distributed Energy Capacity Resource Qualification Package to demonstrate that, notwithstanding such a relationship with a load serving entity with regard to the New Capacity Resource, such load serving entity would be unlikely to realize a material, net financial benefit from any reduction in Forward Capacity Auction clearing prices resulting from entry of the New Capacity Resource in the Forward Capacity Market. If, after consideration of such documentation and information, the Internal Market Monitor determines that a load serving entity as described in this Section III.A.21.2.2 would be unlikely to realize a material, net financial benefit from any reduction in Forward Capacity Auction clearing prices resulting from entry of the New Capacity Resource in the Forward Capacity Market, then the Internal Market Monitor will not subject the requested lowest offer price to the mitigation described in Section III.A.21.2.3. For the avoidance of doubt, a Project Sponsor may not utilize the provisions of this Section III.A.21.2.2 if it receives or expects to receive any revenues from a state, or from a political subdivision of a state that is not also a load serving entity, that relate to the development, operation, control, or output of the New Capacity Resource.

As part of the documentation and information the Project Sponsor submits pursuant to this Section III.A.21.2.2, the Project Sponsor must include in its documentation and information a disclosure of any and all direct or indirect relationships or arrangements with a load serving entity regarding the New Capacity Resource and any other information necessary for the Internal Market Monitor to make the determination described in this Section III.A.21.2.2.

**III.A.21.2.3. Consequence of Failing the Conduct Test and Failing to Rebut Presumed Incentive.**

If a requested lowest offer price from a New Capacity Resource fails the conduct test and the Internal Market Monitor does not determine the lack of a material, net financial benefit to a load serving entity, as described in Section III.A.21.2.2, the New Resource Offer Floor Price calculated as part of the conduct test shall be used in the Forward Capacity Auction, as described in Section III.13.2.3.2.

As described in Section III.A.21.1.1, the mitigation described in this Section III.A.21.2.3 will not apply to a New Capacity Resource with an FCA Qualified Capacity that does not exceed the capacity threshold set forth in Section III.A.21.1.1, notwithstanding the results of any buyer-side market power review.

### **III.A.21.3. New Resource Offer Floor Prices.**

For any New Capacity Resource for which the Internal Market Monitor is required to calculate a New Resource Offer Floor Price, the Internal Market Monitor shall use the calculation methodology described in this Section III.A.21.3.

A resource having a New Resource Offer Floor Price determined pursuant to this Section III.A.21.3 that is higher than the Forward Capacity Auction Starting Price shall not be included in the Forward Capacity Auction.

(a) When calculating a New Resource Offer Floor Price for any New Capacity Resource, the Internal Market Monitor shall enter all relevant resource capital and operating costs and non-capacity revenue data, as well as assumptions regarding depreciation, taxes, and discount rate into a capital budgeting model and shall calculate the break-even contribution required from the Forward Capacity Market to yield a discounted cash flow with a net present value of zero for the project. The default model looks at 20 years of real-dollar cash flows discounted at a rate (Weighted Average Cost of Capital) consistent with that expected of a project whose output is under contract (i.e., a contract negotiated at arm's length between two unrelated parties). The model horizon shall be longer or shorter than 20 years for a resource's New Resource Offer Floor Price calculation, if sufficiently documented in the offer information submitted pursuant to Sections III.13.1.1.2.2.3, III.13.1.4.1.1.2.8, or III.13.1.4A.1.1.2.6. Adjustments to the model and calculation methodology will be made for certain types of New Demand Capacity Resources and New Distributed Energy Capacity Resources as described below in this subsection (a):

- (i) For Demand Response Assets or Distributed Energy Resources with demand reduction capability, the Internal Market Monitor will model discounted cash flows over the contract life.
- (ii) For Demand Response Assets or Distributed Energy Resources with demand reduction capability that are large commercial or industrial customers that use pre-existing equipment or strategies, the Internal Market Monitor will include new equipment costs and annual



operating costs, such as customer incentives and sales representative commissions, as incremental costs.

(iii) For Demand Response Assets or Distributed Energy Resources with demand reduction capability that are residential or small commercial customers that do not use pre-existing equipment or strategies, the Internal Market Monitor will include equipment costs, customer incentives, marketing, sales, and recruitment costs, operations and maintenance costs, and software and network infrastructure costs as incremental costs.

(b) The Internal Market Monitor shall compare the requested lowest offer price to the capacity price estimate calculated pursuant to subsection (a), and the resource's New Resource Offer Floor Price shall be determined as follows:

(i) The Internal Market Monitor will exclude any out-of-market revenue sources from the cash flows used to evaluate the requested offer price. Out-of-market revenues are any revenues that are: (a) not tradable throughout the New England Control Area or that are restricted to resources within a particular state or other geographic sub-region; or (b) not available to all resources of the same physical type within the New England Control Area, regardless of the resource owner. Expected revenues associated with economic development incentives that are offered broadly by state or local government and that are not expressly intended to reduce prices in the Forward Capacity Market are not considered out-of-market revenues for this purpose. In submitting its requested offer price, the Project Sponsor shall indicate whether and which project cash flows are supported by a regulated rate, charge, or other regulated cost recovery mechanism. If the project is supported by a regulated rate, charge, or other regulated cost recovery mechanism, then that rate will be replaced with the Internal Market Monitor estimate of energy revenues. Where possible, the Internal Market Monitor will use like-unit historical production, revenue, and fuel cost data. Where such information is not available (e.g., there is no resource of that type in service), the Internal Market Monitor will use a forecast provided by a credible third party source. The Internal Market Monitor will review capital costs, discount rates, depreciation and tax treatment to ensure that it is consistent with overall market conditions. Any assumptions that are clearly inconsistent with prevailing market conditions will be adjusted.

(ii) For a New Demand Capacity Resource or New Distributed Energy Capacity Resource, the resource's costs shall include all expenses, including incentive payments, equipment costs, marketing and selling and administrative and general costs incurred to acquire and/or develop the Demand Capacity Resource or Distributed Energy Capacity Resource. Revenues shall include all non-capacity payments expected from the ISO-administered markets made for services delivered from the associated Demand Response Resource or Distributed Energy Resource Aggregation, and expected costs avoided by the associated end-use customer as a direct result of the installation or implementation of the associated Asset(s).

(iii) For a New Capacity Resource that has achieved commercial operation prior to the New Capacity Qualification Deadline for the Forward Capacity Auction in which it seeks to participate, the relevant capital costs to be entered into the capital budgeting model will be the undepreciated original capital costs adjusted for inflation. For any such resource, the prevailing market conditions will be those that were in place at the time of the decision to construct the resource.

(iv) Sufficient documentation and information must be included in the resource's qualification package (as described in Sections III.13.1.1.2.2.3(a), III.13.1.4.1.1.2.8(a), or III.13.1.4A.1.1.2.6(a)) to allow the Internal Market Monitor to make the determinations described in this Section III.A.21.3. If the supporting documentation and information is deficient, the Internal Market Monitor, at its sole discretion, may consult with the Project Sponsor to gather further information as necessary to complete its analysis. If after consultation, the Project Sponsor does not provide sufficient documentation and information for the Internal Market Monitor to complete its analysis, then the resource's New Resource Offer Floor Price shall be equal to the Forward Capacity Auction Starting Price.

(v) If the Internal Market Monitor determines that the requested offer price is consistent with the Internal Market Monitor's capacity price estimate, then the resource's New Resource Offer Floor Price shall be equal to the requested offer price.

(vi) If the Internal Market Monitor determines that the requested offer price is not consistent with the Internal Market Monitor's capacity price estimate, then the New Resource Offer Floor Price shall be set to a level that is consistent with the capacity price estimate, as determined by the

Internal Market Monitor. Any such determination will be explained in the resource's qualification determination notification and will be filed with the Commission as part of the filing described in Section III.13.8.1(c).

**III.A.21.4. Offer Prices for New Import Capacity Resources.**

(a) All New Import Capacity Resources (other than a New Import Capacity Resource that is backed by a single new External Resource and that is associated with an investment in transmission that increases New England's import capability or a New Import Capacity Resource that is associated with an Elective Transmission Upgrade) shall be subject to the pivotal supplier test in Section III.A.23.

(b) For any New Import Capacity Resource that is subject to the pivotal supplier test in Section III.A.23 that does not seek to specify a price below which it would not accept a Capacity Supply Obligation that is at or above the Dynamic De-List Bid Threshold, the resource's offer price shall be \$0.00/kW-month, subject to the provisions of Section III.13.2.3.2(a)(v).

(c) For any New Import Capacity Resource that is subject to the pivotal supplier test in Section III.A.23 and seeks to specify a price below which it would not accept a Capacity Supply Obligation that is at or above the Dynamic De-List Bid Threshold, the Internal Market Monitor shall calculate an Internal Market Monitor-determined offer price for the resource using the methodology for calculating New Resource Offer Floor Prices set forth in Section III.A.21.3. For any New Import Capacity Resource that is not subject to the pivotal supplier test in Section III.A.23, the Internal Market Monitor shall calculate a New Resource Offer Floor Price using the methodology set forth in Section III.A.21.3, if such a calculation is required for the resource under Section III.A.21.2 above.

(d) For any New Import Capacity Resource that is subject to the pivotal supplier test in Section III.A.23 and is found to be associated with a pivotal supplier, if the supplier elects to revise the requested offer prices pursuant to Section III.13.1.3.5.7, the resource's offer prices shall be reduced to equal the lower of (1) the prices determined by the Internal Market Monitor pursuant to subsection (c); or (2) the offer prices as revised pursuant to Section III.13.1.3.5.7. For any New Import Capacity Resource that is subject to the pivotal supplier test and is found not to be associated with a pivotal supplier, if the supplier elects to revise the requested offer prices pursuant to Section III.13.1.3.5.7, the resource's offer prices shall be reduced to the prices revised pursuant to Section III.13.1.3.5.7.

**III.A.22. [Reserved.]**

**III.A.23. Pivotal Supplier Test for Existing Capacity Resources and New Import Capacity Resources in the Forward Capacity Market.**

**III.A.23.1. Pivotal Supplier Test.**

The pivotal supplier test is performed prior to the commencement of the Forward Capacity Auction at the system level and for each import-constrained Capacity Zone.

An Existing Capacity Resource or New Import Capacity Resource is associated with a pivotal supplier if, after removing all the supplier's FCA Qualified Capacity, the ability to meet the relevant requirement is less than the requirement. Only those New Import Capacity Resources that are not (i) backed by a single new External Resource and associated with an investment in transmission that increases New England's import capability, or (ii) associated with an Elective Transmission Upgrade, are subject to the pivotal supplier test.

For the system level determination, the relevant requirement is the Installed Capacity Requirement (net of HQICCs). For each import-constrained Capacity Zone, the relevant requirement is the Local Sourcing Requirement for that import-constrained Capacity Zone.

At the system level, the ability to meet the relevant requirement is the sum of the following:

- (a) The total FCA Qualified Capacity from all Existing Generating Capacity Resources and Existing Demand Capacity Resources in the Rest-of-Pool Capacity Zone;
- (b) For each modeled import-constrained Capacity Zone, the greater of:
  - (1) the total FCA Qualified Capacity from all Existing Generating Capacity Resources and Existing Demand Capacity Resources within the import-constrained Capacity Zone plus, for each modeled external interface connected to the import-constrained Capacity Zone, the lesser of: (i) the capacity transfer limit of the interface (net of tie benefits), and; (ii) the total amount of FCA Qualified Capacity from Import Capacity Resources over the interface, and;
  - (2) the Local Sourcing Requirement of the import-constrained Capacity Zone;
- (c) For each modeled nested export-constrained Capacity Zone, the lesser of:

- (1) the total FCA Qualified Capacity from all Existing Generating Capacity Resources and Existing Demand Capacity Resources within the nested export-constrained Capacity Zone plus, for each external interface connected to the nested export-constrained Capacity Zone, the lesser of: (i) the capacity transfer limit of the interface (net of tie benefits), and; (ii) the total amount of FCA Qualified Capacity from Import Capacity Resources over the interface, and;
- (2) the Maximum Capacity Limit of the nested export-constrained Capacity Zone;
- (d) For each modeled export-constrained Capacity Zone that is not a nested export-constrained Capacity Zone, the lesser of:
  - (1) the total FCA Qualified Capacity from all Existing Generating Capacity Resources and Existing Demand Capacity Resources within the export-constrained Capacity Zone, excluding the total FCA Qualified Capacity from Existing Generating Capacity Resources and Existing Demand Capacity Resources within a nested export-constrained Capacity Zone, plus, for each external interface connected to the export-constrained Capacity Zone that is not included in any nested export-constrained Capacity Zone, the lesser of: (i) the capacity transfer limit of the interface (net of tie benefits), and; (ii) the total amount of FCA Qualified Capacity from Import Capacity Resources over the interface, excluding the contribution from any nested export-constrained Capacity Zone as determined pursuant to Section III.A.23.1(c), and;
  - (2) the Maximum Capacity Limit of the export-constrained Capacity Zone minus the contribution from any associated nested export-constrained Capacity Zone as determined pursuant to Section III.A.23.1(c), and;
- (e) For each modeled external interface connected to the Rest-of-Pool Capacity Zone, the lesser of:
  - (1) the capacity transfer limit of the interface (net of tie benefits), and;
  - (2) the total amount of FCA Qualified Capacity from Import Capacity Resources over the interface.

For each import-constrained Capacity Zone, the ability to meet the relevant requirement is the sum of the following:

- (1) The total FCA Qualified Capacity from all Existing Generating Capacity Resources and Existing Demand Capacity Resources located within the import-constrained Capacity Zone; and

- (2) For each modeled external interface connected to the import-constrained Capacity Zone, the lesser of: (1) the capacity transfer limit of the interface (net of tie benefits), and; (2) the total amount of FCA Qualified Capacity from Import Capacity Resources over the interface.

### **III.A.23.2. Conditions Under Which Capacity is Treated as Non-Pivotal.**

FCA Qualified Capacity of a supplier that is determined to be pivotal under Section III.A.23.1 is treated as non-pivotal under the following four conditions:

- (a) If the removal of a supplier's FCA Qualified Capacity in an export-constrained Capacity Zone or nested export-constrained Capacity Zone does not change the quantity calculated in Section III.A.23.1(c) for that export-constrained Capacity Zone or nested export-constrained Capacity Zone, then that capacity is treated as capacity of a non-pivotal supplier.
- (b) If the removal of a supplier's FCA Qualified Capacity in the form of Import Capacity Resources at an external interface does not change the quantity calculated in Section III.A.23.1(d) for that interface, then that capacity is treated as capacity of a non-pivotal supplier.
- (c) If the removal of a supplier's FCA Qualified Capacity in the form of Import Capacity Resources at an external interface connected to an import-constrained Capacity Zone does not change the quantity calculated in Section III.A.23.1(f) for that interface, then that capacity is treated as capacity of a non-pivotal supplier.
- (d) If a supplier whose only FCA Qualified Capacity is a single capacity resource with a bid that (i) is not subject to rationing under Section III.13.1.2.3.1 or III.13.2.6, and (ii) contains only one price-quantity pair for the entire FCA Qualified Capacity amount, then the capacity of that resource is treated as capacity of a non-pivotal supplier.

### **III.A.23.3. Pivotal Supplier Test Notification of Results.**

Results of the pivotal supplier test will be made available to suppliers no later than seven days prior to the start of the Forward Capacity Auction.

### **III.A.23.4. Qualified Capacity for Purposes of Pivotal Supplier Test.**

For purposes of the tests performed in Sections III.A.23.1 and III.A.23.2, the FCA Qualified Capacity of a supplier includes the capacity of Existing Generating Capacity Resources, Existing Demand Capacity

Resources, Existing Import Capacity Resources, and New Import Capacity Resources (other than (i) a New Import Capacity Resource that is backed by a single new External Resource and that is associated with an investment in transmission that increases New England’s import capability; and (ii) a New Import Capacity Resource associated with an Elective Transmission Upgrade) that is controlled by the supplier or its Affiliates.

For purposes of determining the ability to meet the relevant requirement under Section III.A.23.1, the FCA Qualified Capacity from New Import Capacity Resources does not include (i) any New Import Capacity Resource that is backed by a single new External Resource and that is associated with an investment in transmission that increases New England’s import capability; and (ii) any New Import Capacity Resource associated with an Elective Transmission Upgrade.

For purposes of determining the FCA Qualified Capacity of a supplier or its Affiliates under Section III.A.23.4, “control” or “controlled” means the possession, directly or indirectly, of the authority to direct the decision-making regarding how capacity is offered into the Forward Capacity Market, and includes control by contract with unaffiliated third parties. In complying with Section I.3.5 of the ISO Tariff, a supplier shall inform the ISO of all capacity that it and its Affiliates control under this Section III.A.23.4 and all capacity the control of which it has contracted to a third party.

**III.A.24. Retirement Portfolio Test for Existing Capacity Resources in the Forward Capacity Market.**

The retirement portfolio test is performed prior to the commencement of the Forward Capacity Auction for each Lead Market Participant submitting a Permanent De-List Bid or Retirement De-List Bid. The test will be performed as follows:

If

- i. The annual capacity revenue from the Lead Market Participant’s total FCA Qualified Capacity, not including the FCA Qualified Capacity associated with the Permanent De-List Bid or Retirement De-List Bid, is greater than
- ii. the annual capacity revenue from the Lead Market Participant’s total FCA Qualified Capacity, including the FCA Qualified Capacity associated with the Permanent De-List Bid or Retirement De-List Bid, then
- iii. the Lead Market Participant will be found to have a portfolio benefit pursuant to the

retirement portfolio test.

Where,

- iv. the Lead Market Participant's annual capacity revenue from the Lead Market Participant's total FCA Qualified Capacity not including the FCA Qualified Capacity associated with the Permanent De-List Bid or Retirement De-List Bid is calculated as the product of (a) the Lead Market Participant's total FCA Qualified Capacity not including the FCA Qualified Capacity associated with the Permanent De-List Bid or Retirement De-List Bid and (b) the Internal Market Monitor-estimated capacity clearing price not including the FCA Qualified Capacity associated with the Permanent De-List Bid or Retirement De-List Bid.
- v. The Lead Market Participant's annual capacity revenue from the Lead Market Participant's total FCA Qualified Capacity including the FCA Qualified Capacity associated with the Permanent De-List Bid or Retirement De-List Bid is calculated as the product of (a) the Lead Market Participant's total FCA Qualified Capacity including the FCA Qualified Capacity associated with the Permanent De-List Bid or Retirement De-List Bid and (b) the Internal Market Monitor-estimated capacity clearing price including the FCA Qualified Capacity associated with the Permanent De-List Bid or Retirement De-List Bid.
- vi. The Internal Market Monitor-estimated capacity clearing price, not to exceed the Forward Capacity Auction Starting Price, is based on the parameters of the System-Wide Capacity Demand Curve and Capacity Zone Demand Curves as specified in Section III.13.2.2.

For purposes of the test performed in this Section III.A.24, the FCA Qualified Capacity of a Lead Market Participant includes the capacity of Existing Capacity Resources that is controlled by the Lead Market Participant or its Affiliates.

For purposes of determining the FCA Qualified Capacity of a Lead Market Participant or its Affiliates under this Section III.A.24, "control" or "controlled" means the possession, directly or indirectly, of the authority to direct the decision-making regarding how capacity is offered into the Forward Capacity Market, and includes control by contract with unaffiliated third parties. In complying with Section I.3.5 of the ISO Tariff, a Lead Market Participant shall inform the ISO of all capacity that it and its Affiliates control under this Section III.A.4 and all capacity the control of which it has contracted to a third party.



