March 17, 2010

VIA HAND DELIVERY

Honorable Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

Re: ISO New England Inc. and New England Power Pool,
Docket No. ER10-___-000; FCM Competitive Import Requirements

Dear Secretary Bose and Deputy Secretary Davis:

Pursuant to Section 205 of the Federal Power Act,[1] ISO New England Inc. (the "ISO") and the New England Power Pool ("NEPOOL") Participants Committee (together, the "Filing Parties") hereby jointly submit an original and five copies of this transmittal letter and revised tariff sheets implementing changes to Market Rule 1[2] to require capacity importers to submit energy offers at competitive prices and to subject capacity importers to penalties for failing to comply with certain Forward Capacity Market ("FCM") participation requirements (referred to collectively herein as the "FCM Competitive Import Requirements"). In support of the revisions, this filing also includes the joint testimony of Robert G. Ethier, Vice President of Market Development, and Andrew G. Gillespie, Principal Analyst in Market Development ("Joint Testimony"), which is sponsored solely by the ISO.

The Filing Parties request that the FCM Competitive Import Requirements become effective June 1, 2010 to coincide with the commencement of the first FCM Capacity Commitment Period.

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[1] 16 U.S.C. § 824d (2006 and Supp. II 2009).

[2] Capitalized terms used but not defined in this filing are intended to have the meaning given to such terms in the ISO New England Inc. Transmission, Markets and Services Tariff, FERC Electric Tariff No. 3 ("ISO Tariff"), the Second Restated New England Power Pool Agreement, and the Participants Agreement. Market Rule 1 is Section III of the ISO Tariff.

I. DESCRIPTION OF THE FILING PARTIES; COMMUNICATIONS

The ISO is the private, non-profit entity that serves as the regional transmission organization ("RTO") for New England. The ISO operates the New England bulk power system and administers New England's organized wholesale electricity market pursuant to the ISO Tariff and the Transmission Operating Agreement with the New England transmission owners. In its capacity as an RTO, the ISO also has the objective to assure that the bulk power supply system within the New England Control Area conforms to proper standards of reliability as established by the Northeast Power Coordinating Council and the North American Electric Reliability Corporation.

NEPOOL is a voluntary association organized in 1971 pursuant to the New England Power Pool Agreement, and it has grown to include more than 410 members. The Participants include all of the electric utilities rendering or receiving services under the ISO Tariff, as well as independent power generators, marketers, load aggregators, brokers, consumer-owned utility systems, demand response providers, developers, end users and a merchant transmission provider. Pursuant to revised governance provisions accepted by the Commission in *ISO New England Inc. et al.*, 109 FERC ¶ 61,147 (2004), the Participants act through the NEPOOL Participants Committee. The Participants Committee is authorized by Section 6.1 of the Second Restated NEPOOL Agreement and Section 8.1.3(c) of the Participants Agreement to represent NEPOOL in proceedings before the Commission. Pursuant to Section 2.2 of the Participants Agreement, "NEPOOL provide[s] the sole Participant Process for advisory voting on ISO matters and the selection of ISO Board members, except for input from state regulatory authorities and as otherwise may be provided in the [ISO] Tariff, [Transmission Operating Agreement] and the Market Participant Services Agreement included in the [ISO] Tariff."

All correspondence and communications in this proceeding should be addressed to the undersigned for the ISO and NEPOOL as follows:

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II. STANDARD OF REVIEW

The instant revisions are submitted pursuant to Section 205 of the Federal Power Act, which "gives a utility the right to file rates and terms for services rendered with its assets."[4] Under Section 205, the Commission "plays 'an essentially passive and reactive' role"[5] whereby it "can reject [a filing] only if it finds that the changes proposed by the public utility are not 'just and reasonable.'"[6] The Commission limits this inquiry "into whether the rates proposed by a utility are reasonable -- and [this inquiry does not] extend to determining whether a proposed rate schedule is more or less reasonable than alternative rate designs."[7] The revision "need not be the only reasonable methodology, or even the most accurate."[8] As a result, even if an intervenor or the Commission develops an alternative proposal, the Commission must accept this Section 205 filing if it is just and reasonable.[9]

III. BACKGROUND: REQUIREMENTS UNDER CURRENT ICAP TRANSITION PERIOD

When the Installed Capacity ("ICAP") transition period ("ICAP Transition Period") began, Market Rule 1 did not include a requirement for Market Participants to submit energy

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[3] Due to the joint nature of this filing, the Filing Parties respectfully request a waiver of Section 385.203 of the Commission's regulations to allow the inclusion of more than two persons on the service list in this proceeding.

[4] *Atlantic City Elec. Co. v. FERC*, 295 F.3d 1, 9 (D.C. Cir. 2002).

[5] *Id.* at 10 (*quoting City of Winnfield v. FERC*, 744 F.2d 871, 876 (D.C. Cir. 1984).

[6] *Id.*

[7] *City of Bethany v. FERC*, 727 F.2d 1131, 1136 (D.C. Cir. 1984).

[8] *Oxy USA, Inc. v. FERC*, 64 F.3d 679, 692 (D.C. Cir. 1995).

[9] *Cf. Southern California Edison Co., et al.*, 73 FERC ¶ 61,219 at 61,608 n.73 (1995) ("Having found the Plan to be just and reasonable, there is no need to consider in any detail the alternative plans proposed by the Joint Protesters." (*citing City of Bethany*, 727 F.2d at 1136)).

offers associated with the capacity imports at competitive prices. The Filing Parties submitted competitive offer requirements for the ICAP Transition Period on March 20, 2009 in Docket No. ER09-873 and the Commission accepted the filing,[10] effective July 1, 2009. The ICAP competitive offer requirements were designed to provide proper incentives to Market Participants importing capacity into New England by:

- creating a requirement that Market Participants submit energy offers associated with ICAP Import Contracts at prices that are competitive;[11]

- establishing an objective methodology to calculate competitive offer levels for energy transactions associated with ICAP Import Contracts consisting of an ex-ante daily value based on historic data and an hourly value based on hourly market outcomes;[12] and

- subjecting ICAP importers to performance penalties during the ICAP Transition Period based on the percent of hours that full delivery of requested energy is provided relative to the hours that energy was requested (except for energy transactions associated with ICAP Import Contracts with the New York Control Area in the hours that the Real-Time Energy Market price at the source location is higher than the Real-Time LMP at the associated New England Control Area external node).[13]

These requirements for the ICAP Transition Period have allowed the ISO to determine whether offers are competitive through an objective and reasonable methodology, and have presented capacity importers with a meaningful risk of being penalized for failing to perform when dispatched.

IV. DESCRIPTION OF THE FCM COMPETITIVE IMPORT REQUIREMENTS

On June 1, 2010, the ICAP Transition Period will end, and the FCM will begin. Under the FCM, capacity obligations and supply will be governed by the FCM rules in Section III.13 of Market Rule 1. As a result, new FCM-specific rules in Section III.13 of Market Rule 1 are needed to continue to impose enforceable obligations on capacity importers to submit corresponding energy offers at competitive prices and to meet their energy delivery

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[10] *ISO New England Inc.*, 127 FERC ¶ 61,235 (2009) (accepting the rules, but suspending them to examine further whether the penalty exemption for situations in which the energy prices are higher in New York than in New England is just and reasonable). The Commission subsequently accepted the compliance filing regarding this penalty exemption. *ISO New England Inc.*, 129 FERC ¶ 61,101 (2009).

[11] *See* currently effective version of Market Rule 1 § III.8.3.7.2.2(i).

[12] *Id.*

[13] *See* currently effective version of Market Rule 1 § III.8.3.7.3.1.1.

requirements.[14] The FCM Competitive Import Requirements extend the same concepts incorporated into the ICAP Transition Period rules to the FCM construct in a manner that recognizes the differences between the two programs. The ultimate goal is to ensure that Market Participants with Import Capacity Resources face energy offer and delivery obligations comparable to those faced by Market Participants with resources located inside the New England Control Area, while recognizing the differences between the two.

A. Distinguishing the ICAP Transition Period from FCM

Although both the ICAP Transition Period framework and the FCM rules provide certain capacity obligations, the two constructs differ in at least one material aspect: the time period length used for evaluating capacity resource performance. In the FCM structure, the performance of each capacity resource is evaluated hourly, rather than monthly, making the prior incentive mechanisms inappropriate for continued use. Other than recognizing this key difference, the FCM Competitive Import Requirements will establish offer and energy delivery requirements for capacity imports under the FCM that are similar to the requirements currently in effect for the ICAP Transition Period.[15]

B. Contrasting Internal Capacity Resources with Import Capacity Resources

Under the FCM, energy offers from inside the New England Control Area are linked to specific resources. The FCM rules already include competitive offer requirements for internal capacity resources. Specifically, if the offer price of an internal resource violates established resource-specific reference prices, the Internal Market Monitor may mitigate the offer price.

This approach, however, would not work for an Import Capacity Resource, which is essentially an offer to supply energy from a neighboring control area. Even where the Import Capacity Resource is backed by a specific External Resource, it is not the equivalent of having a dispatchable physical capacity resource located inside the New England Control Area because the ISO has neither direct control/dispatch authority nor market monitoring authority over external physical resources (unlike physical resources located inside New England). A Market Participant with an Import Capacity Resource is required simply to submit an offer to bring energy into New England from a neighboring control area (*i.e.*, an External Transaction). As a result, the offer price for energy under an External Transaction is not linked to a specific resource.[16]

Furthermore, External Transactions differ from internal transactions in terms of the type of offer parameters. Energy offers supporting capacity resources located inside the New England

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[14] *See* Joint Testimony at 3.

[15] *See id.* at 4-6.

[16] *See* Joint Testimony at 4-6.

Control Area are subject to a cost-based reference price. Because it is more complex to develop a comparable cost-based reference price for energy from a neighboring control area, and the ISO does not have market monitoring authority over any physical resources backing Import Capacity Resources, the FCM Competitive Import Requirements impose a threshold price and a penalty structure to substitute for the reference price and energy offer price mitigation mechanism used for internal capacity resources.[17]

C. Discussion of the FCM Competitive Import Requirements

The FCM Competitive Import Requirements contain the following four key aspects:

1. Price: a requirement (subject to penalty) that capacity importers submit energy offers associated with their capacity obligations at prices equal to or less than a threshold price;[18]

2. Quantity: a requirement (subject to penalty) that all energy offers associated with Import Capacity Resources cover a combined energy quantity equal to the resource's Capacity Supply Obligation;[19]

3. Performance: a requirement (subject to penalty) that capacity importers provide energy when requested;[20] and

4. Exemption: an exemption from these requirements for Existing Import Capacity Resources associated with specific long-term contracts, along with a change to the determination of qualified capacity for these specific contracts.[21]

Each of these four aspects is discussed in more detail below.

1. Requirement to Offer Energy Below the Threshold Price

Under the FCM Competitive Import Requirements, energy import transactions associated with capacity obligations must be offered at prices equal to or less than a threshold price.[22] Market Participants that submit energy offers above the threshold price will be subject to a penalty equal to the product of the Import Capacity Resource's Capacity Supply Obligation and

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[17] *See id.* at 6-7.

[18] *See id.* at 8.

[19] *See id.*

[20] *See id.*

[21] *See id.*

[22] *See* proposed amendments to Market Rule 1 § III.13.6.1.2.1.

the corresponding interface Capacity Clearing Price (as adjusted in Section III.13.2.7.3(b) of Market Rule 1), divided by the number of days in the month.[23]

The FCM Competitive Import Requirements compare import offers to the threshold prices for the corresponding and prior Operating Days. Every hour, offers from priced External Transactions associated with Import Capacity Resources will be compared to the higher of the threshold price for the Operating Day or the threshold price for the prior Operating Day. There will be only one threshold price per Operating Day, which will apply to all interfaces. Priced External Transactions from the New York Control Area will also be compared to the corresponding hourly day-ahead NYISO Location-Based Marginal Price, if the day-ahead price that hour is greater than the Operating Day's threshold price.[24]

A single threshold price will be determined for each Operating Day for all interfaces and will apply to all hours of the Operating Day. The daily threshold price will be equal to the product of the then-current Forward Reserve Heat Rate and the fuel cost ($/MMBTU) of the PER Proxy Unit, which is the lower of either the ultra low-sulfur No. 2 oil price measured at New York Harbor (including a seven percent markup for transportation), or the Algonquin City Gate daily gas index price. For the first three Capacity Commitment Periods, however, the daily threshold price will be calculated using the same fuel cost but instead of the Forward Reserve Heat Rate the PER Proxy Unit heat rate (22,000 BTU/kWh) will be used.[25]

Due to the timing of the fuel markets and the submittal deadline of the ISO's Day-Ahead Energy Market, the threshold price for an Operating Day cannot be precisely determined before the corresponding Day-Ahead Energy Market deadline has passed. However, the threshold price for the ongoing Operating Day would be available before the Day-Ahead Energy Market closes for the next Operating Day. Presuming the latest threshold price may be the only indicative price available to some importers before the energy market closes, the ISO will also use it to evaluate energy import transactions submitted for the next Operating Day. Alternatively, if a capacity importer has some knowledge of the fuel index price before the energy market closes, it may be able to anticipate the threshold price and adjust its offer for the next Operating Day.[26]

The ISO believes that the threshold price methodology described herein is an improvement over the methodology currently used during the ICAP Transition Period, which is calculated and equal to the 99th percentile of fuel-adjusted energy prices during the peak hours when New England was a net importer of energy at that interface over the previous 30 days. The threshold prices during the ICAP Transition Period have not correlated as well with peak daily

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[23] *See* proposed amendments to Market Rule 1 § III.13.7.2.7.2.1(a).

[24] *See* Joint Testimony at 10-16.

[25] *See id.*

[26] *See id.*

energy prices as hoped due to short-term price fluctuations. The daily fuel price of the index described herein for the FCM should correlate more closely with the peak daily energy price.[27]

As is currently the case,[28] the FCM Competitive Import Requirements will not penalize a Market Participant for failing to provide energy to New England when the corresponding real-time New York energy price is greater than the real-time New England price, unless the ISO has implemented the actions of Operating Procedure No. 4, "Action during A Capacity Deficiency."[29] Hence, the only time a capacity importer *might* have to sell energy to New England when prices are higher in New York is when New England is experiencing a capacity deficiency.[30]

2. Requirement to Offer an Energy Quantity Equal to the Capacity Supply Obligation

Under these revisions, the total quantity offered in the Day-Ahead Energy Market and Real-Time Energy Market by a capacity importer must be equal to the importer's total Capacity Supply Obligation for every hour. For any hour this does not occur, the Market Participant will be assessed a penalty equal to the product of the corresponding interface Capacity Clearing Price and the difference between the Capacity Supply Obligation and the total amount offered, divided by the number of hours in the month.[31]

Capacity importers are exempt from the energy offer requirement when they are using their allocated maintenance hours.[32] Although an External Transaction associated with an Import Capacity Resource is simply an offer to deliver energy from a neighboring control area, an Import Capacity Resource must be backed by one or more External Resources to ensure that the Import Capacity Resource is not also providing capacity for the neighboring control area (i.e., to avoid capacity double-counting). Resources qualifying for and clearing in the Forward Capacity Auction using a single External Resource are allotted a specified number of annual maintenance hours similar to internal resources. This allotment of maintenance hours allows a Market Participant to conduct planned maintenance outages without being subject to a Shortage Event penalty should a Shortage Event occur while a resource is unavailable. Therefore, to be

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[27] *See id.*

[28] *See* currently effective version of Market Rule 1 § III.8.3.7.3.1.2(b).

[29] *See* proposed edits to Market Rue 1 § III.13.7.2.7.2.2(b).

[30] *See* Joint Testimony at 10-16.

[31] *See id.* at 16-17.

[32] *See* proposed edits to Market Rue 1 § III.13.6.1.2.1.

consistent with the intent of this exemption during a Shortage Event, the FCM Competitive Import Requirements provide a similar exemption on the offer quantity requirement.[33]

3. Requirement to Provide Energy When Requested

Under these revisions, for every hour that energy provided from an External Transaction associated with an Import Capacity Resource is less than the amount requested by the ISO, the Market Participant will be assessed a penalty equal to the product of the corresponding interface Capacity Clearing Price and the difference between the amount requested and the amount provided, divided by the number of hours in the month.[34] The requested amount is the offer quantity of an External Transaction that is economic during the check-out process.[35] No penalty will be assessed for not providing energy when the corresponding real-time New York price is greater than the real-time New England price, unless the ISO has implemented the actions of Operating Procedure No. 4, "Action during A Capacity Deficiency."[36] Furthermore, no penalty will be assessed if the relevant external interface is already operating at its full import capability into New England.[37]

4. Exemption for Existing Import Capacity Resources Associated with Specific Long-Term Contracts

Existing Import Capacity Resources associated with the VJO and NYPA contracts listed in Section III.13.1.3.3(c) of Market Rule 1 will be exempt from the penalty provisions of the FCM Competitive Import Requirements, provided that the associated transactions are self-scheduled and perform according to their contract terms.[38] Because these contracts were in effect before the development and implementation of New England's Standard Market Design, specific provisions have been made when appropriate to accommodate these existing contracts.[39]

Going forward, the Qualified Capacity of these specific Existing Import Capacity Resources in the Forward Capacity Auction will be the lesser of the stated amount in Section III.13.1.3.3(c) or the median amount of energy actually provided during the peak hour in each of the five previous Capability Years.[40] The median methodology implemented herein is similar to

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[33] *See* Joint Testimony at 16-17.

[34] *See id.* at 17-19.

[35] *See* proposed edits to Market Rue 1 § III.13.7.2.7.2.1(c).

[36] *See* proposed edits to Market Rue 1 § III.13.7.2.7.2.2(b).

[37] *See* proposed edits to Market Rue 1 § III.13.7.2.7.2.2(a).

[38] *See* proposed edits to Market Rue 1 § III.13.6.1.2.1.

[39] *See* Joint Testimony at 19-21.

[40] *See* proposed edits to Market Rue 1 § III.13.1.3.2.

the methodology used to determine the Qualified Capacity of Existing Generating Capacity Resources.[41]

V. STAKEHOLDER PROCESS

The NEPOOL Markets Committee, at its January 12-13, 2010 meeting, voted to recommend NEPOOL Participants Committee support for these changes with 86.41% in favor and 17 abstentions. At the February 5, 2010 Participants Committee meeting, a motion by a Market Participant to amend these changes to make permanent the daily threshold price methodology proposed for the first three Capacity Commitment Periods (*i.e.*, using PER Proxy Unit heat rate) failed with a vote of 51% in favor. The Participants Committee then voted to support the FCM Competitive Requirement Rules with two oppositions and 22 abstentions among the Generation, Supplier and AR Sectors, resulting in a vote of more than 96% in favor. A tabulation of the Participants Committee vote is included as Attachment 4 hereto.[42]

VI. REQUESTED EFFECTIVE DATE AND ORDER ISSUANCE

The Filing Parties request an effective date of June 1, 2010 for the FCM Competitive Import Requirements.

VII. ADDITIONAL SUPPORTING INFORMATION

Section 35.13 of the Commission's regulations generally requires public utilities to file certain cost and other information related to an examination of traditional cost-of-service rates.[43] However, the FCM Competitive Import Requirements are not traditional "rates," and the Filing Parties are not traditional investor-owned utilities. In light of these circumstances, the Filing Parties submit the following additional information in substantial compliance with relevant provisions of Section 35.13, and request a waiver of Section 35.13 of the Commission's regulations to the extent the content or form deviates from the specific technical requirements of the regulations.

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[41] *See* Joint Testimony at 19-21.

[42] Oppositions were registered by Dynegy and PSEG Energy Resources & Trade LLC; abstentions by BP Energy Company; Brookfield Energy Marketing and Cross-Sound Cable; Caithness New England Services Company; Consolidated Edison Energy; Constellation Energy Commodities Group;; Dominion Energy Marketing; EnerNOC; Entergy Nuclear Power Marketing; GDF SUEZ Energy Marketing; Generation Sector Provisional Member Group; H.Q. Energy Services (U.S.); Granite Ridge Energy; International Power America; Long Island Lighting Company; Millennium Power Partners; Mirant Energy Trading; NAEA Energy Massachusetts; NextEra Energy Resources; NRG Power Marketing; Pepco Energy Services; and the Small Renewable Generation Group.

[43] 18 C.F.R. § 35.13 (2010).

35.13(b)(1) - Materials included herewith are as follows:

- This transmittal letter;
- Blacklined Tariff Sheets reflecting the FCM Competitive Import Requirements (Attachment 1);
- Clean Revised Tariff Sheets reflecting the FCM Competitive Import Requirements (Attachment 2);
- Joint Testimony of Robert G. Ethier, Vice President of Market Development, and Andrew G. Gillespie, Principal Analyst, Market Development, sponsored solely by the ISO (Attachment 3);
- Tabulation of the Participants Committee vote regarding the FCM Competitive Import Requirements (Attachment 4); and
- List of governors, utility regulatory agencies in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont, and other entities, to which a copy of this filing has been sent (Attachment 5).

35.13(b)(2) - The Filing Parties request that the revisions become effective June 1, 2010.

35.13(b)(3) - Pursuant to Section 17.11(e) of the Participants Agreement, Governance Participants are being served electronically rather than by paper copy. The names and addresses of the Governance Participants are posted on the ISO's website at http://www.iso-ne.com/regulatory/ferc/nepool/gov_prtcpnts_eserved.pdf. A copy of this transmittal letter and the accompanying materials have also been sent to the governors and electric utility regulatory agencies for the six New England states that comprise the New England Control Area, the New England Conference of Public Utility Commissioners, Inc., and to the New England States Committee on Electricity. Their names and addresses are shown in Attachment 4. In accordance with Commission rules and practice, there is no need for the Governance Participants or the entities identified on Attachment 4 to be included on the Commission's official service list in the captioned proceeding unless such entities become intervenors in this proceeding.

35.13(b)(4) - A description of the materials submitted pursuant to this filing is contained in Section VI of this transmittal letter.

35.13(b)(5) - The reasons for this filing are discussed in Section IV of this transmittal letter.

35.13(b)(6) - The ISO's approval of the revision is evidenced by this filing. With respect to NEPOOL's approval, as noted in Section V of this transmittal letter, these changes reflect the support of the Participant Processes required by the Participants Agreement, having been approved by the Participants Committee, with oppositions and abstentions noted.

35.13(b)(7) – The Filing Parties do not have knowledge of any relevant expenses or costs of service that have been alleged or judged in any administrative or judicial proceeding to be illegal, duplicative, or unnecessary costs that are demonstrably the product of discriminatory employment practices.

VIII. CONCLUSION

For the reasons stated herein, the Filing Parties respectfully request that the Commission accept the FCM Competitive Import Requirements as filed, without condition, suspension, or hearing, to be effective June 1, 2010.

Please acknowledge receipt of the foregoing by date-stamping the enclosed extra copies of this filing and returning them to the courier delivering this filing.

Respectfully submitted,

ISO NEW ENGLAND INC.

By: _____

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Attachment 1

2006 shall be treated as an Existing Import Capacity Resource.

III.13.1.3.2. Qualified Capacity for Existing Import Capacity Resources. The summer Qualified Capacity and winter Qualified Capacity of an Existing Import Capacity Resource shall be based on the data provided to the ISO during the qualification process, subject to ISO review and verification.

The qualified capacity for the Existing Import Capacity Resources associated with the VJO and NYPA contracts listed in Section III.13.1.3.3(c) as of the Capacity Commitment Period beginning June 1, 2014 shall be equal to the lesser of the stated amount in Section III.13.1.3.3(c) or the median amount of the energy delivered from the Existing Import Capacity Resource during the New England system coincident peak over the previous five Capability Years at the time of qualification.

III.13.1.3.3. Qualification Process for Existing Import Capacity Resources. Existing Import Capacity Resources shall be subject to the same qualification process as Existing Generating Capacity Resources, as described in Section III.13.1.2.3, except as follows:

(a) No later than 10 Business Days prior to the Existing Capacity Qualification Deadline, the Market Participant submitting each Existing Import Capacity Resource must also submit to the ISO: (i) documentation of a multi-year contract entered into before the Existing Capacity Qualification Deadline to provide capacity in the New England Control Area from outside the New England Control Area for a period including the whole Capacity Commitment Period, including documentation of the MW value of the contract; or (ii) proof of ownership or direct control over one or more External Resources that will be used to back the Existing Import Capacity Resource during the Capacity Commitment Period, together with information to establish the summer and winter ratings of the resource(s) backing the import. In either case, the Market Participant must specify the interface over which the capacity will be imported.

(b) The rationing election described in Section III.13.1.2.3.1 shall not apply. An Existing Import Capacity Resource may not elect whether to be rationed. As described in Section III.13.2.6, Existing Import Capacity Resources are always subject to rationing, except where such rationing would violate any applicable physical minimum flow requirements on the associated interface.

(c) The Existing Import Capacity Resources associated with contracts listed in the table below may qualify to receive the treatment described in Section III.13.2.7.3 for the duration of the contracts as listed. For each Forward Capacity Auction after the first Forward Capacity Auction, in order for an Existing Import Capacity Resource associated with a contract listed below to qualify for the treatment described in Section III.13.2.7.3, no later than 10 Business Days prior to the Existing Capacity Qualification Deadline, the Market Participant submitting the Existing Import Capacity Resource must also submit to the ISO documentation verifying that the contract will remain in effect throughout the Capacity Commitment Period and that it has not been amended. For the first Forward Capacity Auction, Existing Import Capacity Resources associated with contracts listed in the table below are qualified to receive the treatment described in Section III.13.2.7.3.

Contract Description	MW	Contract End Date
NYPA: NY ─ NE: CMEEC	13.2	8/31/2025
NYPA: NY ─ NE: MMWEC	53.3	8/31/2025
NYPA: NY ─ NE: Pascoag	2.3	8/31/2025
NYPA: NY─ NE: VELCO	15.3	8/31/2025
	84.1	
VJO: Highgate ─ NE	Up to 225	10/31/2016~~2020~~
VJO: Highgate ─ NE (extension) (beginning 11/01/2016)	Up to 6	October 2020
VJO: Phase I/II ─ NE	Up to 110	10/31/2016

III.13.6.1.1.5. Additional Requirements for Generating Capacity Resources. Generating Capacity Resources having a Capacity Supply Obligation are subject to the following additional requirements:

(a) auditing and rating requirements as detailed in the ISO New England Manuals and ISO New England Operating Procedures;

(b) operating data collection requirements as detailed in the ISO New England Manuals and this Market Rule;

(c) outage requirements in accordance with the ISO New England Manuals and ISO New England Operating Procedures, provided, however, that the portion of a resource having no Capacity Supply Obligation is not subject to the forced re-scheduling provisions for outages in accordance with the ISO New England Manuals and ISO New England Operating Procedures.

III.13.6.1.2. Import Capacity Resources.

III.13.6.1.2.1. Energy Market Offer Requirements. A Market Participant must offer energy associated with a~~A~~n Import Capacity Resource with a Capacity Supply Obligation ~~shall be offered~~ into the Day-Ahead Energy Market and Real-Time Energy Market as one or more External Transactions for every hour of each Operating Day at the same external interface~~day in the month and every hour within the day~~ totaling an amount (MW) equal to the Capacity Supply Obligation unless the Import Capacity Resource is associated with an External Resource that is on an outage. In all cases the Import Capacity Resource is subject to the provisions in Section III.13.7 for the entire Capacity Supply Obligation of the Import Capacity Resource. A Market Participant with an Import Capacity Resource that fails to comply with this requirement may be subject to sanctions pursuant to Appendix B, in addition to any applicable availability penalties pursuant to Section III.13.7.2.7.2 for failing to deliver the

External Transaction or External Transactions in the energy market as described in the ISO New England System Rules.

The offer requirements of Section III.13.6.1.2.1 will not apply to External Transactions associated with the VJO and NYPA Import Capacity Resources specified in Section III.13.1.3.3(c) for the duration of the contract provided the transactions are self-scheduled in both the Day-Ahead Energy Market and Real-Time Energy Market. If the energy associated with these contracts is not self-scheduled, the offer requirements and provisions of this section will apply to the applicable contract.

(a) All priced External Transactions associated with an Import Capacity Resource with a Capacity Supply Obligation must be offered each hour at or below the greater of either: (1) the offer threshold specified in Section III.13.6.1.2.1(b) for the Operating Day; (2) the offer threshold determined for the prior Operating Day; and (3) for any priced External Transactions from the New York Control Area the corresponding hourly day-ahead energy price (NYISO Location-Based Marginal Price) at the source interface.

(b) A daily offer threshold will be determined for each Operating Day and will apply to each hour of the Operating Day. From June 1, 2010 to May 31, 2013 the daily offer threshold is equal to the product of the PER Proxy Unit heat rate and the fuel cost of the PER Proxy Unit as described in Section III.13.7.2.7.1.1.1. After May 31, 2013 the daily offer threshold is equal to the product of the applicable Forward Reserve Heat Rate as described in Section III.9.6.2 and the fuel cost of the PER Proxy Unit as described in Section III.13.7.2.7.1.1.1.

~~**III.13.6.1.2.2. Additional Requirements for Import Capacity Resources**. Import Capacity Resources are subject to the following additional requirements:~~

~~(a) information submittal requirements for External Transactions associated with resource or Control Area backed~~

III.13.6.1.2.2. Additional Requirements for Import Capacity Resources. Import Capacity Resources are subject to the following additional requirements:

(a) information submittal requirements for External Transactions associated with resource or Control Area backed Import Capacity Resources as detailed in the ISO New England Manuals;

(b) resource backed Import Capacity Resources shall be subject to the outage requirements as detailed in the ISO New England Manuals and ISO New England Operating Procedures. Control Area backed Import Capacity Resources are not subject to such outage requirements;

(c) resource backed Import Capacity Resources are subject to the voluntary and mandatory re-scheduling of maintenance procedures outlined in the ISO New England Operating Procedures and ISO New England Manuals.

III.13.6.1.3. Intermittent Power Resources.

III.13.6.1.3.1. Energy Market Offer Requirements. Intermittent Power Resources may submit offers into the Day-Ahead Energy Market. Such resources are required to submit offers for use in the Real-Time Energy Market consistent with the characteristics of the resource. Day Ahead projections of output shall be submitted as detailed in the ISO New England Manuals. For purposes of calculating Real-Time NCPC Charges, Intermittent Power Resources shall have a generation deviation of zero.

(a) Where the corresponding External Transactions ~~have been offered in accordance with the provisions of Section III.13.6.1.2 and~~ are delivering energy in accordance with ISO dispatch instructions, the resource's available MW in the hour shall be equal to the MW associated with the External Transactions, as submitted by the Market Participant.

(b) Where the corresponding External Transactions have been offered in accordance with the provisions of Section III.13.6.1.2 and is not delivering energy during the hour because the ISO has not requested dispatch of the transaction, the resource's available MW in the hour shall be equal to the MW associated with the External Transactions, as submitted by the Market Participant.

(c) Where the corresponding External Transactions have not been offered in accordance with the provisions of Section III.13.6.1.2 or have been offered in accordance with the provisions of Section III.13.6.1.2 and are not delivering energy during the hour despite ISO requested dispatch of the transaction, the resource's available MW in the hour shall be zero.

the respective hours on a Capacity Zone basis as follows: For each Obligation Month, the penalties assessed for the Shortage Events during the month will be credited to those resources identified above that were available, in whole or in part, during the Shortage Events, pro-rata by hourly available MW in the relevant Capacity Zones. Self-Supplied FCA Resources shall be eligible to receive their pro rata share of availability penalties paid by other capacity resources.

III.13.7.2.7.2. Import Capacity. In addition to the adjustment in this section, Import Capacity Resources shall also be subject to the same adjustments as Generating Capacity Resources as described in Section III.13.7.2.7.1.

III.13.7.2.7.2.1. External Transaction Offer and Delivery Performance Adjustments. In the event that the conditions in Section III.13.6.1.2.1 are not met in any hour of an Operating Day, the Import Capacity Resource will be subject to the following:

(a) If in any hour of an Operating Day a priced External Transaction associated with an Import Capacity Resource with a Capacity Supply Obligation is offered above both the offer threshold for the Operating Day and the offer threshold of the prior Operating Day, and for any priced External Transactions from the New York Control Area also is offered above the corresponding hourly day-ahead energy price (NYISO Location-Based Marginal Price) at the source interface, the Market Participant with the Import Capacity Resource will pay a penalty equal to the product of the Import Capacity Resource's Capacity Supply Obligation and the corresponding interface Capacity Clearing Price as adjusted in Section III.13.2.7.3(b), divided by the number of days in the month.

~~III.13.7.2.7.3. **Intermittent Power Resources**. Monthly capacity payments to Intermittent Power Resources are subject to PER adjustments but are not subject to any additional availability penalties.~~

(b) For every hour of an Operating Day that the total amount offered from all External Transactions associated with an Import Capacity Resource is less than the Import Capacity Resource's Capacity Supply Obligation, the Market Participant with the Import Capacity Resource will pay a penalty equal to the product of the difference between the Capacity Supply Obligation and the total amount of energy offered for that hour and the corresponding interface Capacity Clearing Price as adjusted in Section III.13.2.7.3(b), divided by the number of hours in the month. For each Operating Day only the greater of the total penalties in either the Day-Ahead Energy Market or Real-Time Energy Market will be assessed. For the purposes of this section the total energy offered will be adjusted in accordance with Section III.13.7.1.1.4(b) for any amount that was unavailable due to an outage approved in the ISO's annual maintenance scheduling process.

(c) Except as specified in Section III.13.7.2.7.2.2, for every hour the total energy from an External Transaction associated with an Import Capacity Resource delivered in real-time to the New England Control Area is less than the energy requested, the Market Participant with the Import Capacity Resource will pay a penalty equal to the product of the difference between the quantity requested and the quantity delivered and the corresponding interface Capacity Clearing Price as adjusted in Section III.13.2.7.3(b), divided by the number of hours in the month. Any External Transaction associated with an Import Capacity Resource that is determined to be in economic merit during the next-hour scheduling process will be considered a requested transaction and the ISO may request all or a portion of each transaction.

A Market Participant's total penalty amount for a single Operating Day for each Import Capacity Resource shall be no more than the product of the Import Capacity Resource's Capacity Supply Obligation and the corresponding interface Capacity Clearing Price as adjusted in Section III.13.2.7.3(b), divided by the number of days in the month.

Each Obligation Month the penalty amounts from all Market Participants with Import Capacity Resources will be allocated to all Market Participants based on their pro-rata share of Capacity Load Obligation within each Capacity Zone in the Obligation Month, with each Capacity Zone allocated an amount based on the pro-rata share of total capacity credits within each Capacity Zone.

III.13.7.2.7.2.2. Exceptions.

a) No penalty will be assessed if the applicable external interface is fully loaded and the energy from an External Transaction that would otherwise be requested cannot flow. If the transfer capability of the applicable external interface is zero in the import direction it will be considered fully loaded for the purpose of this section.

b) No penalty will be assessed if the delivered energy from a priced External Transaction associated with the New York Control Area is less than requested when the Real-Time Energy Market price at the source location (NYISO Location-Based Marginal Price) is higher than the Real-Time LMP at the associated External Node, provided that Operating Procedure No. 4 has not been declared due to a system-wide capacity deficiency.

c) No penalty will be assessed during periods when the ISO has taken action to reduce import transactions due to a Minimum Generation Emergency condition or due to ramping constraints.

d) No penalty will be assessed on the affected External Interface during periods when minimum-flow or directional-flow constraints have occurred, when the ISO was unable to utilize the automated check-out processes for the external interface, or when in-hour curtailments have occurred.

III.13.7.2.7.3. Intermittent Power Resources. Monthly capacity payments to Intermittent Power Resources are subject to PER adjustments but are not subject to any additional availability penalties.

III.13.7.2.7.4. Settlement Only Resources.

III.13.7.2.7.4.1. Non-Intermittent Settlement Only Resources. Non-Intermittent Settlement Only Resources are subject to the same PER adjustments and availability penalties as Generating Capacity Resources as described in Section III.13.7.2.7.1.

III.13.7.2.7.4.2. Intermittent Settlement Only Resources. Monthly capacity payments to Intermittent Power Resources are subject to PER adjustments but are not subject to any additional availability penalties.

III.13.7.2.7.5. Demand Resources.

III.13.7.2.7.5.1. Calculation of Monthly Capacity Variances. For each month, the Monthly Capacity Variance of a Demand Resource shall be calculated by subtracting the Demand Resource's Capacity Supply Obligation for the month from the Demand Resource's monthly Capacity Value. If a Demand Resource's Monthly Capacity Variance is zero, the Demand Resource will not be subject to Demand Resource Performance Penalties or Incentives.

Attachment 2

2006 shall be treated as an Existing Import Capacity Resource.

III.13.1.3.2. Qualified Capacity for Existing Import Capacity Resources. The summer Qualified Capacity and winter Qualified Capacity of an Existing Import Capacity Resource shall be based on the data provided to the ISO during the qualification process, subject to ISO review and verification.

The qualified capacity for the Existing Import Capacity Resources associated with the VJO and NYPA contracts listed in Section III.13.1.3.3(c) as of the Capacity Commitment Period beginning June 1, 2014 shall be equal to the lesser of the stated amount in Section III.13.1.3.3(c) or the median amount of the energy delivered from the Existing Import Capacity Resource during the New England system coincident peak over the previous five Capability Years at the time of qualification.

III.13.1.3.3. Qualification Process for Existing Import Capacity Resources. Existing Import Capacity Resources shall be subject to the same qualification process as Existing Generating Capacity Resources, as described in Section III.13.1.2.3, except as follows:

(a) No later than 10 Business Days prior to the Existing Capacity Qualification Deadline, the Market Participant submitting each Existing Import Capacity Resource must also submit to the ISO: (i) documentation of a multi-year contract entered into before the Existing Capacity Qualification Deadline to provide capacity in the New England Control Area from outside the New England Control Area for a period including the whole Capacity Commitment Period, including documentation of the MW value of the contract; or (ii) proof of ownership or direct control over one or more External Resources that will be used to back the Existing Import Capacity Resource during the Capacity Commitment Period, together with information to establish the summer and winter ratings of the resource(s) backing the import. In either case, the Market Participant must specify the interface over which the capacity will be imported.

(b) The rationing election described in Section III.13.1.2.3.1 shall not apply. An Existing Import Capacity Resource may not elect whether to be rationed. As described in Section III.13.2.6, Existing Import Capacity Resources are always subject to rationing, except where such rationing would violate any applicable physical minimum flow requirements on the associated interface.

(c) The Existing Import Capacity Resources associated with contracts listed in the table below may qualify to receive the treatment described in Section III.13.2.7.3 for the duration of the contracts as listed. For each Forward Capacity Auction after the first Forward Capacity Auction, in order for an Existing Import Capacity Resource associated with a contract listed below to qualify for the treatment described in Section III.13.2.7.3, no later than 10 Business Days prior to the Existing Capacity Qualification Deadline, the Market Participant submitting the Existing Import Capacity Resource must also submit to the ISO documentation verifying that the contract will remain in effect throughout the Capacity Commitment Period and that it has not been amended. For the first Forward Capacity Auction, Existing Import Capacity Resources associated with contracts listed in the table below are qualified to receive the treatment described in Section III.13.2.7.3.

Contract Description	MW	Contract End Date
NYPA: NY ─ NE: CMEEC	13.2	8/31/2025
NYPA: NY ─ NE: MMWEC	53.3	8/31/2025
NYPA: NY ─ NE: Pascoag	2.3	8/31/2025
NYPA: NY─ NE: VELCO	15.3	8/31/2025
	84.1	
VJO: Highgate ─ NE	Up to 225	10/31/2016
VJO: Highgate ─ NE (extension) (beginning 11/01/2016)	Up to 6	October 2020
VJO: Phase I/II ─ NE	Up to 110	10/31/2016

III.13.6.1.1.5. Additional Requirements for Generating Capacity Resources. Generating Capacity Resources having a Capacity Supply Obligation are subject to the following additional requirements:

(a) auditing and rating requirements as detailed in the ISO New England Manuals and ISO New England Operating Procedures;

(b) operating data collection requirements as detailed in the ISO New England Manuals and this Market Rule;

(c) outage requirements in accordance with the ISO New England Manuals and ISO New England Operating Procedures, provided, however, that the portion of a resource having no Capacity Supply Obligation is not subject to the forced re-scheduling provisions for outages in accordance with the ISO New England Manuals and ISO New England Operating Procedures.

III.13.6.1.2. Import Capacity Resources.

III.13.6.1.2.1. Energy Market Offer Requirements. A Market Participant must offer energy associated with an Import Capacity Resource with a Capacity Supply Obligation into the Day-Ahead Energy Market and Real-Time Energy Market as one or more External Transactions for every hour of each Operating Day at the same external interface totaling an amount (MW) equal to the Capacity Supply Obligation unless the Import Capacity Resource is associated with an External Resource that is on an outage. In all cases the Import Capacity Resource is subject to the provisions in Section III.13.7 for the entire Capacity Supply Obligation of the Import Capacity Resource. A Market Participant with an Import Capacity Resource that fails to comply with this requirement may be subject to sanctions pursuant to Appendix B, in addition to any applicable availability penalties pursuant to Section III.13.7.2.7.2 for failing to deliver the

External Transaction or External Transactions in the energy market as described in the ISO New England System Rules.

The offer requirements of Section III.13.6.1.2.1 will not apply to External Transactions associated with the VJO and NYPA Import Capacity Resources specified in Section III.13.1.3.3(c) for the duration of the contract provided the transactions are self-scheduled in both the Day-Ahead Energy Market and Real-Time Energy Market. If the energy associated with these contracts is not self-scheduled, the offer requirements and provisions of this section will apply to the applicable contract.

(a) All priced External Transactions associated with an Import Capacity Resource with a Capacity Supply Obligation must be offered each hour at or below the greater of either: (1) the offer threshold specified in Section III.13.6.1.2.1(b) for the Operating Day; (2) the offer threshold determined for the prior Operating Day; and (3) for any priced External Transactions from the New York Control Area the corresponding hourly day-ahead energy price (NYISO Location-Based Marginal Price) at the source interface.

(b) A daily offer threshold will be determined for each Operating Day and will apply to each hour of the Operating Day. From June 1, 2010 to May 31, 2013 the daily offer threshold is equal to the product of the PER Proxy Unit heat rate and the fuel cost of the PER Proxy Unit as described in Section III.13.7.2.7.1.1.1. After May 31, 2013 the daily offer threshold is equal to the product of the applicable Forward Reserve Heat Rate as described in Section III.9.6.2 and the fuel cost of the PER Proxy Unit as described in Section III.13.7.2.7.1.1.1.

III.13.6.1.2.2. Additional Requirements for Import Capacity Resources. Import Capacity Resources are subject to the following additional requirements:

(a) information submittal requirements for External Transactions associated with resource or Control Area backed Import Capacity Resources as detailed in the ISO New England Manuals;

(b) resource backed Import Capacity Resources shall be subject to the outage requirements as detailed in the ISO New England Manuals and ISO New England Operating Procedures. Control Area backed Import Capacity Resources are not subject to such outage requirements;

(c) resource backed Import Capacity Resources are subject to the voluntary and mandatory re-scheduling of maintenance procedures outlined in the ISO New England Operating Procedures and ISO New England Manuals.

III.13.6.1.3. Intermittent Power Resources.

III.13.6.1.3.1. Energy Market Offer Requirements. Intermittent Power Resources may submit offers into the Day-Ahead Energy Market. Such resources are required to submit offers for use in the Real-Time Energy Market consistent with the characteristics of the resource. Day Ahead projections of output shall be submitted as detailed in the ISO New England Manuals. For purposes of calculating Real-Time NCPC Charges, Intermittent Power Resources shall have a generation deviation of zero.

(a) Where the corresponding External Transactions are delivering energy in accordance with ISO dispatch instructions, the resource's available MW in the hour shall be equal to the MW associated with the External Transactions, as submitted by the Market Participant.

(b) Where the corresponding External Transactions have been offered in accordance with the provisions of Section III.13.6.1.2 and is not delivering energy during the hour because the ISO has not requested dispatch of the transaction, the resource's available MW in the hour shall be equal to the MW associated with the External Transactions, as submitted by the Market Participant.

(c) Where the corresponding External Transactions have not been offered in accordance with the provisions of Section III.13.6.1.2 or have been offered in accordance with the provisions of Section III.13.6.1.2 and are not delivering energy during the hour despite ISO requested dispatch of the transaction, the resource's available MW in the hour shall be zero.

the respective hours on a Capacity Zone basis as follows: For each Obligation Month, the penalties assessed for the Shortage Events during the month will be credited to those resources identified above that were available, in whole or in part, during the Shortage Events, pro-rata by hourly available MW in the relevant Capacity Zones. Self-Supplied FCA Resources shall be eligible to receive their pro rata share of availability penalties paid by other capacity resources.

III.13.7.2.7.2. Import Capacity. In addition to the adjustment in this section, Import Capacity Resources shall also be subject to the same adjustments as Generating Capacity Resources as described in Section III.13.7.2.7.1.

III.13.7.2.7.2.1. External Transaction Offer and Delivery Performance Adjustments. In the event that the conditions in Section III.13.6.1.2.1 are not met in any hour of an Operating Day, the Import Capacity Resource will be subject to the following:

(a) If in any hour of an Operating Day a priced External Transaction associated with an Import Capacity Resource with a Capacity Supply Obligation is offered above both the offer threshold for the Operating Day and the offer threshold of the prior Operating Day, and for any priced External Transactions from the New York Control Area also is offered above the corresponding hourly day-ahead energy price (NYISO Location-Based Marginal Price) at the source interface, the Market Participant with the Import Capacity Resource will pay a penalty equal to the product of the Import Capacity Resource's Capacity Supply Obligation and the corresponding interface Capacity Clearing Price as adjusted in Section III.13.2.7.3(b), divided by the number of days in the month.

(b) For every hour of an Operating Day that the total amount offered from all External Transactions associated with an Import Capacity Resource is less than the Import Capacity Resource's Capacity Supply Obligation, the Market Participant with the Import Capacity Resource will pay a penalty equal to the product of the difference between the Capacity Supply Obligation and the total amount of energy offered for that hour and the corresponding interface Capacity Clearing Price as adjusted in Section III.13.2.7.3(b), divided by the number of hours in the month. For each Operating Day only the greater of the total penalties in either the Day-Ahead Energy Market or Real-Time Energy Market will be assessed. For the purposes of this section the total energy offered will be adjusted in accordance with Section III.13.7.1.1.4(b) for any amount that was unavailable due to an outage approved in the ISO's annual maintenance scheduling process.(c) Except as specified in Section III.13.7.2.7.2.2, for every hour the total energy from an External Transaction associated with an Import Capacity Resource delivered in real-time to the New England Control Area is less than the energy requested, the Market Participant with the Import Capacity Resource will pay a penalty equal to the product of the difference between the quantity requested and the quantity delivered and the corresponding interface Capacity Clearing Price as adjusted in Section III.13.2.7.3(b), divided by the number of hours in the month. Any External Transaction associated with an Import Capacity Resource that is determined to be in economic merit during the next-hour scheduling process will be considered a requested transaction and the ISO may request all or a portion of each transaction.

A Market Participant's total penalty amount for a single Operating Day for each Import Capacity Resource shall be no more than the product of the Import Capacity Resource's Capacity Supply Obligation and the corresponding interface Capacity Clearing Price as adjusted in Section III.13.2.7.3(b), divided by the number of days in the month.

Each Obligation Month the penalty amounts from all Market Participants with Import Capacity Resources will be allocated to all Market Participants based on their pro-rata share of Capacity Load Obligation within each Capacity Zone in the Obligation Month, with each Capacity Zone allocated an amount based on the pro-rata share of total capacity credits within each Capacity Zone.

III.13.7.2.7.2.2. Exceptions.

a) No penalty will be assessed if the applicable external interface is fully loaded and the energy from an External Transaction that would otherwise be requested cannot flow. If the transfer capability of the applicable external interface is zero in the import direction it will be considered fully loaded for the purpose of this section.

b) No penalty will be assessed if the delivered energy from a priced External Transaction associated with the New York Control Area is less than requested when the Real-Time Energy Market price at the source location (NYISO Location-Based Marginal Price) is higher than the Real-Time LMP at the associated External Node, provided that Operating Procedure No. 4 has not been declared due to a system-wide capacity deficiency.

c) No penalty will be assessed during periods when the ISO has taken action to reduce import transactions due to a Minimum Generation Emergency condition or due to ramping constraints.

d) No penalty will be assessed on the affected External Interface during periods when minimum-flow or directional-flow constraints have occurred, when the ISO was unable to utilize the automated check-out processes for the external interface, or when in-hour curtailments have occurred.

III.13.7.2.7.3. Intermittent Power Resources. Monthly capacity payments to Intermittent Power Resources are subject to PER adjustments but are not subject to any additional availability penalties.

III.13.7.2.7.4. Settlement Only Resources.

III.13.7.2.7.4.1. Non-Intermittent Settlement Only Resources. Non-Intermittent Settlement Only Resources are subject to the same PER adjustments and availability penalties as Generating Capacity Resources as described in Section III.13.7.2.7.1.

III.13.7.2.7.4.2. Intermittent Settlement Only Resources. Monthly capacity payments to Intermittent Power Resources are subject to PER adjustments but are not subject to any additional availability penalties.

III.13.7.2.7.5. Demand Resources.

III.13.7.2.7.5.1. Calculation of Monthly Capacity Variances. For each month, the Monthly Capacity Variance of a Demand Resource shall be calculated by subtracting the Demand Resource's Capacity Supply Obligation for the month from the Demand Resource's monthly Capacity Value. If a Demand Resource's Monthly Capacity Variance is zero, the Demand Resource will not be subject to Demand Resource Performance Penalties or Incentives.

Attachment 3

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

ISO New England Inc. and	**)**	**Docket No. ER10-___-000**
NEPOOL Participants Committee	**)**	
	)	

JOINT TESTIMONY OF
DR. ROBERT G. ETHIER AND ANDREW G. GILLESPIE

I. INTRODUCTION

Q: PLEASE STATE YOUR NAME, TITLE AND BUSINESS ADDRESS.

A. *Dr. Ethier:* My name is Robert G. Ethier. I am Vice President of Market Development for ISO New England Inc. (the "ISO"), One Sullivan Road, Holyoke, Massachusetts 01040.

Mr. Gillespie: My name is Andrew G. Gillespie. I am a Principal Analyst in Market Development with ISO New England Inc. (the "ISO"). My business address is One Sullivan Road, Holyoke, Massachusetts 01040.

Q: PLEASE DESCRIBE YOUR WORK EXPERIENCE AND EDUCATIONAL BACKGROUND.

Dr. Ethier: I have a Bachelor of Arts degree in Economics from Yale University, a Masters in Resource Economics from Cornell University, and a Ph.D. in Resource Economics from Cornell University. I have more than ten years of experience in the energy and utility industry. Prior to 2000, I was a Senior Associate at Stratus Consulting with the responsibility of energy market modeling. Since 2000, I have worked with the ISO in various roles. I was

responsible for Market Monitoring for nearly four years and Resource Adequacy for more than two years prior to becoming Vice President of Market Development in July 2008.

Mr. Gillespie: I have a Bachelor of Science degree in Mechanical Engineering from Northeastern University and a Masters of Business Administration degree from Emory University. I have twenty years of energy industry experience in power plant engineering and performance monitoring, asset management, as well as emissions and energy trading. I joined the ISO's market monitoring group in 2005 and in addition to the normal monitoring and mitigation activities I developed the market monitoring provisions for the Forward Capacity Market.[1] In 2008, I joined the ISO's Market Development department as a Principal Market Analyst, with responsibilities for developing design improvements in New England's electricity markets, including drafting appropriate market rules and manuals to implement those improvements. During this time, I have participated in various design solutions, including coordination with other ISO departments and stakeholders in New England's competitive wholesale electricity market.

II. PURPOSE, SCOPE, AND SUMMARY OF TESTIMONY

Q: WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of this testimony is to describe the proposed changes to Market Rule 1 involving modifications to the requirements and penalties associated with the delivery of energy from capacity imports to New England under the Forward

[1] Capitalized terms used but not defined in this affidavit have the meaning given to such terms in the ISO New England Inc. Transmission, Markets and Services Tariff, FERC Electric Tariff No. 3 ("ISO Tariff").

Capacity Market.

Q: WHY IS THE ISO PROPOSING THESE CHANGES?

A. The proposed changes will establish offer and energy delivery requirements for capacity imports under the Forward Capacity Market that are similar to the offer and energy delivery requirements that are currently applied during the ICAP Transition Period.

On June 11, 2009, the Commission accepted market rule changes that modified the requirements and incentives for Market Participants with ICAP Import Contracts. In summary, these changes specified a methodology for calculating competitive offer price levels, imposed a new requirement that Market Participants submit energy offers at or below these price levels, and modified the penalty for not providing energy from an import contract when requested. However, ICAP Import Contracts will be replaced by Import Capacity Resources as the means to import capacity when the first Capacity Commitment Period under the Forward Capacity Market begins on June 1, 2010. Consequently, updated rules applicable to Import Capacity Resources are being proposed to continue the principle that the energy from capacity imported to New England be offered at or below a specified price and that energy be delivered when requested by the ISO.

Q: WHAT IS AN IMPORT CAPACITY RESOURCE?

A. An Import Capacity Resource is a resource type in the Forward Capacity Market and the means by which a Market Participant may import energy over the external ties from an adjacent control area (*e.g.*, New York) when the importer has taken

on a Capacity Supply Obligation. During a Capacity Commitment Period, the capacity of each Import Capacity Resource is to be offered for delivery into the New England Control Area by submitting a corresponding energy import transaction (called an External Transaction) to the ISO.

Q: HOW IS AN IMPORT CAPACITY RESOURCE DIFFERENT FROM THE OTHER RESOURCE TYPES PARTICIPATING IN THE FORWARD CAPACITY MARKET?

A: Unlike other resources, Import Capacity Resources are not located in the New England Control Area. Even where the Import Capacity Resource is backed by a specific External Resource, it is not the equivalent of having a dispatchable physical capacity resource located inside the New England Control Area because the ISO has neither direct control/dispatch authority nor market monitoring authority over external physical resources (unlike physical resources located inside New England). For example, a Market Participant with a generating resource in New England with a Capacity Supply Obligation is required to submit to the ISO an energy supply offer for that resource, and report the availability status of that resource. If the ISO determines that the generating resource should be dispatched for economic or reliability reasons, the ISO issues a dispatch instruction directly to the resource operator. In contrast, a Market Participant with an Import Capacity Resource is required to submit to the ISO an External Transaction, which is an offer to bring energy into New England from a neighboring control area. Consequently, the Market Participant must also submit a corresponding energy export transaction in the neighboring control area, and

link that export transaction to a capacity resource. It is not a requirement that the energy export transaction in the neighboring control area be linked to any specific resource, but only that the External Resource or resources used cannot also be counted as capacity in that control area. If the ISO selects an External Transaction, the ISO confirms the energy delivery with the corresponding control area operator; it does not issue a dispatch instruction to the External Resource operator. Hence, Import Capacity Resources are essentially offers to supply energy from neighboring control areas, and are not the equivalent of a physical capacity resource like a generator that happens to be located outside the New England Control Area.

Q: HOW DOES THE ISO SELECT WHICH EXTERNAL TRANSACTIONS ARE TO BE DELIVERED IN REAL-TIME?

A: The ISO uses the Enhanced Energy Scheduler algorithm to select those New England energy imports that are priced at or below the external interface's forecasted Locational Marginal Price.

Q: HOW ARE SELECTED EXTERNAL TRANSACTIONS BETWEEN NEW ENGLAND AND THE NEIGHBORING CONTROL AREAS CONFIRMED FOR DELIVERY?

A: For each hour a checkout process is conducted between control areas to determine if both control areas are expected to flow the same amount of energy according to each set of corresponding transactions. For example, an energy import transaction selected by the ISO would be checked against the corresponding energy export transaction in the neighboring control area. If both control areas

have selected and are expecting to flow the two corresponding sides of the energy transfer, the ISO would confirm the External Transaction and schedule the energy for delivery.

Q. DO THE OPERATING CHARACTERISTICS OF EXTERNAL RESOURCES BACKING AN IMPORT CAPACITY RESOURCE AFFECT THE NEXT-HOUR REVIEW OF REAL-TIME EXTERNAL TRANSACTIONS ASSOCIATED WITH SUCH CONTRACTS?

A: No, the selection of External Transactions associated with capacity imports in the scheduling process is, like the selection of all other External Transactions, not dependent on the operating characteristics of the resource in the neighboring control area.

Q: DO THESE NEW PROPOSED RULES FOR ENERGY DELIVERIES FROM IMPORT CAPACITY RESOURCES PROVIDE COMPARABLE TREATMENT BETWEEN INTERNAL AND EXTERNAL RESOURCES?

A: Yes, the new rules treat Import Capacity Resources on a comparable basis with internal resources, while also recognizing the different nature between the two. New Generating Capacity Resources and Existing Generating Capacity Resources are subject to energy offer price mitigation, and Market Participants must inform the ISO when and why a resource is unavailable to produce energy. If the offer price of a generator violates established resource-specific reference prices, the Internal Market Monitor may mitigate the offer price. However, as stated previously, the energy import transaction associated with an Import Capacity Resource is an offer to deliver energy from the neighboring control area; it is not

an offer from an External Resource. Therefore, because of the difficulties involved in attempting to determine a comparable reference price for energy from a neighboring control area, a threshold price and a penalty structure is being proposed as a substitute for the reference price and energy offer price mitigation function that applies to resources located in New England.

To simulate the incentives created by the availability reporting requirement, penalties for not meeting the offer requirements or failing to provide energy when requested are proposed. The ISO's outage coordination procedures are designed to provide the ISO with timely information regarding resource outages so that system operators can plan accordingly and reduce any adverse impact on the region's reliability. An off-line generator in New England, for example, is required to report to the ISO the status of the generator as either off-line-available or off-line-unavailable, and the Internal Market Monitor may recommend to the Commission that a Market Participant be sanctioned for not complying with this requirement. However, there is no comparable off-line status for Import Capacity Resources. As previously discussed, Import Capacity Resources are offers to deliver energy from the neighboring control areas; they are not offers from a physical resource. The system operator of the neighboring control area is responsible for the dispatch of the External Resource, and for administering the neighboring control area's outage coordination procedures. Hence, with respect to outage coordination, the availability of the External Resource supporting the Import Capacity Resource is beyond the ISO's control and responsibility. To provide comparable participation incentives between resource types in the

Forward Capacity Market, Market Participants with Import Capacity Resources will be assessed a penalty if the offer requirements are not satisfied or if energy is not provided when requested. Without these penalties, capacity importers would not have the same incentive to routinely participate in the energy market (except perhaps when a Shortage Event is anticipated).

III. DESCRIPTION OF PROPOSED MARKET RULE CHANGES

Q: PLEASE SUMMARIZE THE PROPOSED MARKET RULE CHANGES.

A. The proposed market rule changes specify for Market Participants with Import Capacity Resources: (1) a requirement that any associated priced energy import transactions be offered at prices equal to or less than a threshold price and a penalty for not meeting this requirement; (2) a penalty for not meeting the requirement that all energy import transactions associated with a capacity import offer a combined energy quantity equal to the resource's Capacity Supply Obligation; (3) a requirement that capacity importers provide energy when requested and a penalty for not meeting this requirement, and; (4) an exemption from these requirements for Existing Import Capacity Resources associated with specific long-term contracts and a change to the determination of qualified capacity for these specific contracts.

Q: WHY ARE THESE MARKET RULE CHANGES NEEDED?

A. These proposed market rule changes continue the principle that capacity importers offer the energy associated with imported capacity at or below a specified price and deliver that energy when requested by the ISO. In the Forward Capacity Market, all capacity suppliers assume not only an obligation to provide capacity in the form of energy when it is needed during a Shortage Event, but also an

obligation to participate and offer into the energy markets in accordance with the requirements specific to each resource type. Unlike Shortage Event penalties that are assessed only when a resource fails to perform during a Shortage Event, these proposed penalties would be assessed whenever Import Capacity Resources fail to participate as required.

Q: IS THERE A LIMIT TO THE PROPOSED PENALTIES?

A. Yes. Each Operating Day the total penalties associated with the requirement to offer and to provide energy when requested shall not be more than an amount equal to the product of the Import Capacity Resource's Capacity Supply Obligation and the corresponding interface's Capacity Clearing Price in the Forward Capacity Market, divided by the number of days of the month.

Q: HOW ARE THESE PENALTIES ALLOCATED?

A. The proposed penalties are credited to the Market Participants paying for and expecting the required participation of these resources.

Q: WOULD THE PROPOSED PENALTIES ALSO APPLY DURING A SHORTAGE EVENT?

A. Yes. The proposed penalties are designed to ensure that the offer requirements are met, whether or not there is a Shortage Event. For example, it is possible that an Import Capacity Resource could fail the threshold price requirement, yet still deliver energy pursuant to a Capacity Supply Obligation during a Shortage Event if energy prices were greater than the non-compliant offer price. In that case, the capacity importer would not be assessed a Shortage Event penalty, but would still face the threshold offer penalty.

Requirement – Offer Energy at a Price Equal to or Less Than the Threshold Price

Q: PLEASE EXPLAIN THE PENALTY FOR OFFERING ABOVE THE THRESHOLD PRICE.

A. If, in any hour, any priced External Transaction associated with an Import Capacity Resource is offered above certain price thresholds, the Market Participant will be assessed a penalty equal to the product of the Import Capacity Resource's Capacity Supply Obligation and the corresponding interface Capacity Clearing Price, divided by the number of days of the month.

Q: WHAT ARE THE PRICE THRESHOLDS?

A. Every hour, offers from priced External Transactions associated with Import Capacity Resources will be compared to the higher of the threshold price for the Operating Day or the threshold price for the prior Operating Day. There will be only one threshold price per Operating Day, and this threshold price will apply to all interfaces. Priced External Transactions from the New York Control Area will also be compared to the corresponding hourly day-ahead NYISO Location-Based Marginal Price, if the day-ahead price that hour is greater than the Operating Day's threshold price.

Q: HOW IS THE OPERATING DAY'S THRESHOLD PRICE DETERMINED?

A. Unlike the current threshold price methodology, a single threshold price will be determined for each Operating Day for all interfaces and will apply to all hours of the Operating Day. The daily threshold price will be equal to the product of the

then-current Forward Reserve Heat Rate and the fuel cost ($/MMBTU) of the PER Proxy Unit, which is the lower of either the ultra low-sulfur No. 2 oil price measured at New York Harbor (including a seven percent markup for transportation) or the Algonquin City Gate daily gas index price. For the first three Capacity Commitment Periods, however, the daily threshold price will be calculated using the same fuel cost but, instead of the Forward Reserve Heat Rate, the PER Proxy Unit heat rate (22,000 BTU/kWh) will be used.

Q: WHY IS THE THRESHOLD PRICE METHODOLOGY BEING CHANGED?

A. The threshold price methodology currently used during the ICAP Transition Period was intended and expected to reflect the cost of delivering energy to the New England border. For each interface, a daily threshold price is calculated and equal to the 99th percentile of fuel-adjusted energy prices during the peak hours when New England was a net importer of energy at that interface over the previous 30-days. However, due to short-term price fluctuations and their effect on the current methodology, the resultant threshold prices have not correlated very closely with peak daily energy prices. The daily fuel price of the index described herein for the FCM should correlate more closely with the peak daily energy price.

Q: WHY IS THERE ONE PRICE FOR ALL INTERFACES?

A. The prior methodology derived threshold prices for each interface based on the energy prices observed at those interfaces. However, as previously indicated, the ICAP Transition Period threshold prices have not correlated strongly with daily

energy prices. Consequently, the proposed methodology determines threshold prices based on daily fuel index prices and a single specified heat rate. The heat rate is a multiplier that converts the fuel price ($/MMBTU) into a corresponding energy price ($/MWh).

Q: WHY ARE OFFERS FROM NEW YORK ALSO COMPARED TO THE NEW YORK DAY-AHEAD PRICE?

A. The results of New York's day-ahead market are available before the close of New England's day-ahead market. Because the day-ahead price would be the cost of energy from New York if procured day-ahead, this price is also used to evaluate import offer prices.

Q: WHY IS THE FORWARD RESERVE HEAT RATE USED TO SET THE THRESHOLD PRICE?

A. The Forward Reserve Heat Rate is an estimate of a point on the supply curve where resources offered above this point are typically only dispatched in response to a system contingency. In the Forward Reserve Market this point is used to set a lower bound of acceptable energy offer prices from forward reserve resources. By requiring Market Participants with forward reserve resources to offer above this price threshold, forward reserve resources are far more likely to remain available as a reserve resource instead of being dispatched for energy. Conversely, this point is a reasonable upper bound on energy offers from External Transactions supporting capacity imports. External Transactions offering at the threshold price would be expected to deliver energy at least as frequently as a peaking resource in New England is dispatched. The proposed market rule

changes require External Transactions associated with Import Capacity Resources be offered at or below this point (*i.e.,* the Forward Reserve Heat Rate). This requirement is intended to dissuade the submission of higher priced energy offers such that the transaction would very rarely be dispatched economically.

Q: WHY IS THE PER HEAT RATE USED FOR THE FIRST THREE CAPACITY COMMITMENT PERIODS?

A. Market Participants with Import Capacity Resources have already received a Capacity Supply Obligation for the first three Capacity Commitment Periods. Consequently, the bids for these resources in the corresponding Forward Capacity Auctions may not have included any bid component or adjustment for a threshold price below the PER Heat Rate. However, in subsequent Forward Capacity Auctions, Market Participants may adjust their capacity supply offers to account for a lower threshold price.

Q: HOW IS THE FORWARD RESERVE HEAT RATE DETERMINED?

A. The Forward Reserve Heat Rate is the 97.5 percentile of all implied heat rates observed since the implementation of locational marginal pricing in New England in March 2003. For each hour an implied heat rate is determined by dividing the New England real-time hub energy price by the lower of either the daily oil or daily natural gas index price. The implied heat rates are then ranked from lowest to highest and the heat rate at the 97.5 percentile is used to set the Forward Reserve Heat Rate. This calculation is done twice a year, for each Summer Capability Period and Winter Capability Period. The Forward Reserve Heat Rate for the winter 2010 period is 14,387 BTU/kWh.

Q: WHY IS THE OFFER COMPARED TO THE PRIOR OPERATING DAY'S THRESHOLD PRICE?

A. For each Operating Day a threshold price will be determined. The threshold price will be equal to the product of the applicable heat rate and the fuel index price for deliveries made that Operating Day. For example, if the fuel index price for delivery today was $5/MMBTU, today's Operating Day threshold price would be $110/MWh (using the PER Heat Rate of 22,000 BTU/kWh). Unfortunately, due to the timing of the fuel markets and the submittal deadline of the ISO's day-ahead energy market, the threshold price for an Operating Day cannot be precisely determined before the corresponding day-ahead energy market deadline has passed. However, using the example above, today's Operating Day threshold price would be available before tomorrow's day-ahead energy market closes. Presuming the latest threshold price may be the only indicative price available to some importers before the energy market closes, it is also used to evaluate energy import transactions submitted for the next Operating Day. Alternatively, if a capacity importer has some knowledge of the fuel index price before the energy market closes, it may be able to anticipate the threshold price and adjust its offer for the next Operating Day.

Q: COULD AN EXTERNAL TRANSACTION BE REQUIRED TO PROVIDE ENERGY IF THE REAL-TIME NEW YORK PRICE IS GREATER THAN THE THRESHOLD PRICE?

A. Similar to the current exemption, there will be no penalty for not providing energy to New England when the corresponding real-time New York energy price is

greater than the real-time New England price, unless the ISO has implemented the actions of Operating Procedure No. 4, "Action during A Capacity Deficiency." Consequently, while an External Transaction may be selected by the ISO based on its offer price, if the transaction does not provide energy because of the price difference between New York and New England and there is no capacity deficiency in New England, no penalty will be assessed.

Q: WILL A CAPACITY IMPORTER ALSO BE ASSESSED A SHORTAGE EVENT PENALTY IF THE EXTERNAL TRANSACTIONS ASSOCIATED WITH AN IMPORT CAPACITY RESOURCE DELIVER ENERGY TO NEW ENGLAND EQUAL IN AMOUNT TO THE CAPACITY SUPPLY OBLIGATION AND THE OFFER PRICE WAS ABOVE THE THRESHOLD PRICE?

A. No. Part of the proposed market rule changes removes the Forward Capacity Market requirement that External Transactions must have also been offered below the threshold price when delivering energy in accordance with ISO dispatch instructions during a Shortage Event to avoid Shortage Event penalties. Therefore, a capacity importer offering energy above the threshold price will be penalized according to this newly proposed rule. However, if the capacity importer delivers energy equal to the full Capacity Supply Obligation of its Import Capacity Resource during a Shortage Event it will not also receive a separate Shortage Event penalty. Conversely, if the capacity importer does not deliver energy during a Shortage Event, it will also receive a Shortage Event penalty under the existing Forward Capacity Market structure.

Q: WHY IS THE PENALTY PRORATED DAILY?

A. The penalty for offering above the threshold price is prorated daily to ensure that all hourly offers for energy from all priced External Transactions associated with Import Capacity Resources are submitted at or below the threshold price. This structure is intended to prevent an External Transaction from being offered at a price higher than the threshold price in an hour it might otherwise be requested (*i.e.*, economic), yet being offered at or just below the threshold price in other hours when it is less likely it would be requested.

Requirement – Offer a Quantity Equal to the Capacity Supply Obligation

Q: PLEASE EXPLAIN THE PENALTY FOR NOT OFFERING A QUANTITY IN THE ENERGY MARKETS EQUAL TO THE IMPORT CAPACITY RESOURCE'S CAPACITY SUPPLY OBLIGATION.

A. For every hour, the total quantity offered in the Day-Ahead Energy Market and Real-Time Energy Market by a capacity importer must be equal to the importer's total Capacity Supply Obligation. For any hour this does not occur, the Market Participant will be assessed a penalty equal to the product of the corresponding interface Capacity Clearing Price and the difference between the Capacity Supply Obligation and the total amount offered, divided by the number of hours in the month.

Q: ARE THERE ANY EXCEPTIONS TO THIS PENALTY?

A. Yes, there is an exception for Import Capacity Resources with allocated maintenance hours. Although an External Transaction associated with an Import Capacity Resource is simply an offer to deliver energy from a neighboring control

area, an Import Capacity Resource must be backed by one or more External Resources to ensure that the Import Capacity Resource is not also providing capacity for the neighboring control area (*i.e.*, to avoid capacity double-counting). Resources qualifying for and clearing in the Forward Capacity Auction using a single External Resource are allotted a specified number of annual maintenance hours similar to internal resources. This allotment of maintenance hours allows a Market Participant to conduct planned maintenance outages without being subject to a Shortage Event penalty should a Shortage Event occur while a resource is unavailable. Therefore, to be consistent with the intent of this exemption during a Shortage Event, the FCM Competitive Import Requirements provide a similar exemption on the offer quantity requirement. If a capacity importer has scheduled a planned maintenance outage associated with its Import Capacity Resource and elects to use the allotment hours for that outage, no penalty for failing to offer energy on the quantity exempted by the maintenance hours would be assessed.

Requirement - Provide Energy When Requested

Q: PLEASE EXPLAIN THE PENALTY FOR NOT PROVIDING ENERGY WHEN REQUESTED.

A. For every hour the energy provided from an External Transaction associated with an Import Capacity Resource is less than the amount requested the Market Participant will be assessed a penalty equal to the product of the corresponding interface Capacity Clearing Price and difference between the amount request and the amount provided, divided by the number of hours in the month.

Q: WHY IS A PENALTY NEEDED FOR FAILING TO PROVIDE ENERGY WHEN REQUESTED?

A. For Import Capacity Resources, the requirement to submit an offer into the Real-Time Energy Market has fundamentally two parts: a transaction must be submitted to the ISO as an energy import at the appropriate quantity and price, and a corresponding export transaction must be submitted in the external control area. When an energy import transaction is selected by the ISO, the energy actually delivered depends on the status of the corresponding export transaction in the external control area. If, for example, a Market Participant does not submit a corresponding export transaction in the external control area, anytime the ISO attempts to schedule the import transaction, the transaction would fail to "check-out" between the two control areas and no energy would be delivered. This penalty is intended to provide Market Participants with an Import Capacity Resource an incentive to submit appropriate corresponding export transactions in the external control area.

Q: WHAT IS THE REQUESTED AMOUNT OF AN EXTERNAL TRANSACTION?

A. For the purposes of this requirement, the offer quantity of an External Transaction that is economic during the check-out process will be the requested amount.

Q: ARE THERE ANY OTHER EXCEPTIONS TO THIS PENALTY?

A. Yes. No penalty will be assessed if the relevant external interface is already flowing at its full import capability into New England. This exception is consistent with a similar provision granted to Import Capacity Resources during a

Shortage Event. For example, if New England was counting on 100 MW of total cleared capacity over an interface, and the Import Capacity Resource did not deliver the 100 MW when the interface was full, but another energy transaction did deliver 100 MW, then New England's reliability needs were met by the most economic resource and there is no penalty. In addition, no penalties will be assessed when certain operational actions have been taken, such as those taken during a Minimum Generation Emergency, during ramping constraints, during minimum or directional flow constraints, or when in-hour curtailments are made. These exceptions are made because the actions affect the total amount of energy that can actually be imported, and are therefore similar in effect to the condition of the external interface flowing at its full capability. Moreover, they are a result of operator actions where the external resources are following dispatch instructions. Finally, if the automated check-out processes cannot be used, no penalties will be assessed when the next-hour checkout process is performed manually.

Exemption for Existing Import Capacity Resources Associated With Specific Long-Term Contracts and Changes to Qualification Amounts

Q: WHAT EXISTING IMPORT CAPACITY RESOURCES WITH LONG-TERM CONTRACTS ARE EXEMPTED FROM THESE PENALTIES?

A. The Existing Import Capacity Resources associated with the VJO and NYPA contracts listed in Section III.13.1.3.3(c) of Market Rule 1 are exempt from these penalties, provided they continue to self-schedule transactions and perform according to the terms of those contracts. These are long-term contracts that were

in effect prior to the formation of the existing markets, and contain provisions that limit the amount of energy that can be provided. Because these contracts were executed before the development and implementation of the markets, specific provisions have been made when appropriate to accommodate these existing contracts.

Q: PLEASE DESCRIBE THE EXEMPTION FOR THESE EXISTING IMPORT CAPACITY RESOURCES WITH LONG-TERM CONTRACTS.

A. Provided the transactions associated with these Existing Import Capacity Resources continue to be self-scheduled according to their contract terms, none of the proposed offer penalties described above would be assessed. Should this self-scheduling cease, this exemption would expire and the Existing Import Capacity Resource would be subject to all the proposed penalties going forward. Furthermore, this exemption expires completely as of the dates listed in Section III.13.1.3.3(c) of Market Rule 1.

Q: WHY IS THE EXEMPTION NEEDED FOR THESE EXISTING IMPORT CAPACITY RESOURCES?

A. As previously discussed, the contract terms associated with these Existing Import Capacity Resources limit the total amount of energy that can be delivered – much like an energy-limited resource in New England. Consequently, these resources cannot meet the requirement to submit transactions that are equal in quantity to the resource's Capacity Supply Obligation in all hours of the Capacity Commitment Period. However, because these contracts were executed before the development and implementation of the existing markets, provisions have been

made to accommodate the parties to these contracts. In this particular case, the provision is a qualified exemption from the proposed penalties.

Q: PLEASE DESCRIBE THE CHANGES TO THE QUALIFIED CAPACITY OF THESE EXISTING IMPORT CAPACITY RESOURCES WITH LONG-TERM CONTRACTS.

A. Going forward, the Qualified Capacity of these specific Existing Import Capacity Resources in the Forward Capacity Auction will be the lesser of the stated amount in Section III.13.1.3.3(c) or the median amount of energy actually provided during the peak hour in each of the five previous Capability Years. The proposed median methodology is similar to the methodology used to determine the Qualified Capacity of Existing Generating Capacity Resources.

Q: WHY IS THE CHANGE TO THE QUALIFIED CAPACITY OF THESE EXISTING IMPORT CAPACITY RESOURCES BEING PROPOSED?

A: As previously mentioned, the contract terms limit the amount of energy these Resource can provide. The change in the Qualified Capacity determination takes into account this effect on any subsequent Capacity Supply Obligation these Resources might assume.

IV. CONCLUSION

Q: DOES THIS CONCLUDE YOUR TESTIMONY?

A: Yes.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 16, 2010

Robert G. Ethier

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 16, 2010

Andrew G. Gillespie

Attachment 4

NEPOOL PARTICIPANTS COMMITTEE
VOTES TAKEN AT FEBRUARY 5, 2010 MEETING
COMPETITIVE OFFER REQUIREMENTS FOR EXTERNAL CAPACITY RESOURCES

TOTAL

Participant Name	VOTE 1	VOTE 2
GENERATION	17.30	17.30
TRANSMISSION	2.47	17.30
SUPPLIER	11.98	13.46
ALTERNATIVE RESOURCES	1.95	13.50
PUBLICLY OWNED ENTITY	17.30	17.30
END USER	0.0	17.30
% IN FAVOR	51.00	96.16

GENERATION SECTOR

Participant Name	VOTE 1	VOTE 2
BG Dighton Power, LLC	A	F
Boston Generating, LLC	F	F
Caithness New England Services Co.	F	A
NAEA Energy Massachusetts, LLC	F	A
Dominion Energy Marketing, Inc.	A	A
Entergy Nuclear Power Marketing LLC	A	A
International Power America (ANP Funding I, LLC)	A	A
Millennium Power Partners	A	A
Mirant Energy Trading, LLC	F	A
NextEra Energy Resources, LLC	--	F
NRG Power Marketing, LLC	F	A
TransCanada Power Marketing Ltd.	A	F
Provisional Group Member	A	A
IN FAVOR (F)	5	4
OPPOSED (O)	0	0
TOTAL VOTES	5	4
ABSTENTIONS (A)	6	8

TRANSMISSION SECTOR

Participant Name	VOTE 1	VOTE 2
Bangor Hydro-Electric Company	O	F
Central Maine Power Company	O	F
New England Power Company	O	F
The United Illuminating Company	O	F
Northeast Utilities Service Company	O	F
NSTAR Electric Company	O	F
Vermont Electric Power Company, Inc.	F	F
IN FAVOR (F)	1	7
OPPOSED (O)	6	0
TOTAL VOTES	7	7
ABSTENTIONS (A)	0	0

SUPPLIER SECTOR

Participant Name	VOTE 1	VOTE 2
BP Energy Company	A	A
Brookfield Energy Marketing Inc./CSC		
Brookfield (split)	F	A
Cross-Sound Cable Co. (split)	F	A
Consolidated Edison Energy, Inc.	A	A
Constellation Energy Commodities Group	F	A
DC Energy, LLC	A	F
Dynegy Power Marketing, Inc.	F	O
Energy America, LLC	O	F
Exelon Generation, LLC	F	F
GDF SUEZ Energy Marketing/FirstLight	F	A
Granite Ridge/Merrill Lynch Commod./BoA	A	A
H.Q. Energy Services (U.S.) Inc.	F	A
Hess Corporation	O	F
Integrys Energy Services, Inc.	O	F
LIPA	F	A
Pepco Energy Services, Inc.	O	A
Pinpoint Power	F	F
PPL EnergyPlus, LLC	A	F
PSEG Energy Resources & Trade LLC	F	O
IN FAVOR (F)	9	7
OPPOSED (O)	4	2
TOTAL VOTES	13	9
ABSTENTIONS (A)	5	9

ALTERNATIVE RESOURCES SECTOR

Participant Name	VOTE 1	VOTE 2
Renewable Generation		
Gas Recovery Systems, Inc.	O	F
Small RG Group Member	F	A
Distributed Generation		
Small DG Group Member	O	F
Load Response		
Comverge, Inc.	A	F
Conservation Services Group	O	F
CPower, Inc.	A	F
EnerNOC, Inc.	A	A
Vermont Energy Investment Corporation	O	F
Small Load Response Group Member	O	F
IN FAVOR (F)	1	7
OPPOSED (O)	5	0
TOTAL VOTES	6	7
ABSTENTIONS (A)	3	2

Vote 1: HQ US Amendment to Competitive Offer Requirement for External Capacity Resources

Vote 2: Unamended Main Motion on Competitive Offer Requirement for External Capacity Resources

NEPOOL PARTICIPANTS COMMITTEE
VOTES TAKEN AT FEBRUARY 5, 2010 MEETING
COMPETITIVE OFFER REQUIREMENTS FOR EXTERNAL CAPACITY RESOURCES

PUBLICLY OWNED ENTITY SECTOR

Participant Name	VOTE 1	VOTE 2
Ashburnham Municipal Light Plant	A	F
Braintree Electric Light Department	A	F
Boylston Municipal Light Department	A	F
Chicopee Municipal Lighting Plant	A	F
Concord Municipal Light Plant	A	F
Conn. Municipal Electric Energy Coop.	F	F
Groton Electric Light Department	A	F
Hingham Municipal Lighting Plant	A	F
Holden Municipal Light Department	A	F
Holyoke Gas & Electric Department	A	F
Hudson Light and Power Department	A	F
Hull Municipal Lighting Plant	A	F
Ipswich Municipal Light Department	A	F
Littleton (NH) Water & Light Department	A	F
Mansfield Municipal Electric Dept.	A	F
Marblehead Municipal Light Department	A	F
Mass. Municipal Wholesale Electric Co.	A	F
Middleborough Gas and Electric Dept.	A	F
Middleton Municipal Electric Dept.	A	F
Pascoag Utility District	A	F
Paxton Municipal Light Department	A	F
Peabody Municipal Light Plant	A	F
Princeton Municipal Light Department	A	F
Rowley Municipal Lighting Plant	A	F
Shrewsbury's Electric & Cable Ops.	A	F
South Hadley Electric Light Department	A	F
Sterling Municipal Electric Light Dept	A	F
Taunton Municipal Lighting Plant	A	F
Templeton Municipal Lighting Plant	A	F
Vermont Electric Cooperative	F	F
Wakefield Municipal Gas & Light Dept.	A	F
West Boylston Municipal Lighting Plant	A	F
Westfield Gas & Electric Light Dept	A	F
IN FAVOR (F)	2	33
OPPOSED (O)	0	0
TOTAL VOTES	2	33
ABSTENTIONS (A)	31	0

END USER SECTOR

Participant Name	VOTE 1	VOTE 2
511 Plaza, LP	O	F
Connecticut Office of Consumer Counsel	O	F
Conservation Law Foundation	O	F
Corinth Wood Pellets, LLC	O	F
Dennis Beverage	O	F
Dragon Products Company	O	F
Elektrisola, Inc.	O	F
Fairchild Semiconductor Corporation	O	F
Food City, Inc.	O	F
Garland Manufacturing Company	O	F
Hammond Lumber Company	O	F
Hardwood Products Company	O	F
Harvard Dedicated Energy Limited	A	F
Industrial Energy Consumer Group	A	F
LaBree's Inc.	O	F
Lavalley Lumber Co.	O	F
Maine Skiing	A	F
Maine Woods Pellet Company	O	F
Marden's Inc.	O	F
Mass. Attorney General's Office	O	F
Mead Oxford	A	F
Merchants Plaza LLC	O	F
NH Office of Consumer Advocate	O	F
PalletOne of Maine	O	F
PowerOptions, Inc.	O	F
Quality Egg of New England	O	F
RJF – Morin Brick LLC	O	F
Robbins Lumber	O	F
St. Anselm College	O	F
St. Joseph Health Services of RI	O	F
The Energy Consortium	O	F
The Energy Council of Rhode Island	A	F
The Westerly Hospital	A	F
Union of Concerned Scientists	O	F
Whole Foods Market Group, Inc.	O	F
Z-TECH, LLC	O	F
IN FAVOR (F)	0	36
OPPOSED (O)	30	0
TOTAL VOTES	30	36
ABSTENTIONS (A)	6	0

Vote 1: HQ US Amendment toCompetitive Offer Requirement for External Capacity Resources

Vote 2: Unamended Main Motion on Competitive Offer Requirement for External Capacity Resources

Attachment 5

New England Governors
and Utility Regulatory
and Related Agencies

Connecticut

The Honorable M. Jodi Rell
State Capitol
210 Capitol Ave.
Hartford, CT 06106

Connecticut Department of Public Utility Control
10 Franklin Square
New Britain, CT 06051-2605

Maine

The Honorable John E. Baldacci
One State House Station
Rm. 236
Augusta, ME 04333-0001

Maine Public Utilities Commission
State House, Station 18
242 State Street
Augusta, ME 04333-0018

Massachusetts

The Honorable Deval Patrick
Office of the Governor
Rm. 360 State House
Boston, MA 02133

Massachusetts Department of Public Utilities
One South Station
Boston, MA 02110

New Hampshire

The Honorable John H. Lynch
State House
25 Capitol Street
Concord, NH 03301

New Hampshire Public Utilities Commission
21 South Fruit Street
Suite 10
Concord, NH 03301-2429

Rhode Island

The Honorable Donald L. Carcieri
State House Room 115
Providence, RI 02903

Rhode Island Public Utilities Commission
89 Jefferson Boulevard
Warwick, RI 02888

Vermont

The Honorable James H. Douglas
109 State Street, Pavilion
Montpelier, VT 05609

Vermont Public Service Board
112 State Street, Drawer 20
Montpelier, VT 05620-2701

New England Governors
and Utility Regulatory
and Related Agencies

Tim Woolf, President
New England Conference of
Public Utilities Commissioners, Inc.
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William M. Nugent
Executive Director
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Harvey L. Reiter, Esq.
Counsel for New England Conference
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Washington, DC 20036-3816

Power Planning Committee
New England Governors' Conference, Inc.
76 Summer Street, 2nd Floor
Boston, MA 02110-1226

Heather Hunt
Executive Director
New England States Committee on Electricity
HeatherHunt@NESCOE.com