

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

ISO New England Inc.

Docket No. ER22-1528

MOTION AND ANSWER OF CLEAN ENERGY AND CONSUMER ADVOCATES

Pursuant to Rules 212 and 213 of the Federal Energy Regulatory Commission’s (“Commission”) Rules of Practice and Procedure, Clean Energy and Consumer Advocates¹ submit this motion to answer and answer Independent System Operator (“ISO”) New England’s (“ISO-NE”) May 10, 2022, Motion for Leave to Answer and Answer (“ISO-NE Answer”); New England Power Generators Association, Inc.’s (“NEPGA”) May 6, 2022, Motion for Leave to Answer and Answer (“NEPGA Answer”); the New England Power Pool’s (“NEPOOL”) May 6, 2022, Motion for Leave to Answer and Answer (“NEPOOL Answer”); and Calpine Corporation, Cogentrix Energy Power Management, LLC, and Vistra Corp.’s (together, “Merchant Generators”) May 5, 2022, Motion for Leave to Answer and Answer (“Merchant Generators Answer”).

Although the Commission’s procedural rules generally do not allow for answers to answers,² the Commission has accepted answers that facilitate the decisional process or aid in the explication of issues, and has explained that it will accept answers that “assist[] in our decision-making process.”³ Clean Energy and Consumer Advocates believe that their rebuttal to

¹ The Clean Energy and Consumer Advocates consist of RENEW Northeast, Natural Resources Defense Council, Sierra Club, Conservation Law Foundation, Acadia Center, the Environmental Defense Fund, Sustainable FERC Project, Massachusetts Climate Action Network, PowerOptions, E2 (Environmental Entrepreneurs), and American Clean Power Association (“ACP”). Regarding ACP, we also note that the views and opinions expressed in this filing do not necessarily reflect the official position of each of ACP’s individual members.

² 18 C.F.R. §§ 385.213(a)(2), 385.713(d)(1).

³ *Columbia Gas Transmission, LLC*, 146 FERC ¶ 61,116, at P 1 n.3 (Feb. 20, 2014), *pet. for review denied*, *Gunpowder Riverkeeper v. FERC*, 807 F.3d 267 (D.C. Cir. 2015); *see also Algonquin Gas Transmission Co.*, 83

the claims in the ISO-NE, NEPOOL, NEPGA, and Merchant Generators’ answers will aid the Commission in its decision-making process for this proceeding and respectfully request that the Commission accept this answer.

ISO-NE and other supporters of ISO and NEPOOL’s March 31, 2022 filing⁴ have failed to establish—in either their original filings or subsequent answers—a reliability rationale for delaying implementation of necessary buyer-side market power review and mitigation reforms until ISO-NE’s 19th Forward Capacity Auction (“FCA”) in 2025 (the “Delay Proposal”) and have failed to show that such a delay is just and reasonable. To the contrary, the Delay Proposal would extend a tariff that is currently unjust, unreasonable, and unduly discriminatory for another two years based on false and unsubstantiated theories that the Minimum Offer Price Rule (“MOPR”) is necessary for reliability and that other market reforms such as resource capacity accreditation must precede reform of the region’s demonstrably unjust and unreasonable MOPR.

Collectively, New England states have indicated that their view is that “MOPR reforms should be enacted as soon as possible in a manner that supports system reliability.”⁵ The Commonwealth of Massachusetts, which represents approximately half of the region’s load⁶ and has adopted the most ambitious climate and clean energy laws in the region, including for offshore wind,⁷ has expressed concern with the ISO’s Delay Proposal and the continued

FERC ¶ 61,200, 61,893 n.2 (May 27, 1998) (accepting an answer in order to ensure “a complete and accurate record”), *order amending certificate*, 94 FERC ¶ 61,183 (2001); *Transwestern Pipeline Co.*, 50 FERC ¶ 61,211, 61,672 n.5 (Feb. 23, 1990) (citing *Buckeye Pipe Line Co.*, 45 FERC ¶ 61,046 (1988), accepting answer “where consideration of matters sought [will be] addressed in the answer will facilitate the decisional process or aid in the explication of issues.”).

⁴ Revisions to ISO Transmission, Mkts. and Servs. Tariff of Buyer-Side Market Power Review and Mitigation Reforms (Mar. 31, 2022) (“ISO-NE Filing”), Accession No. 20220331-5296.

⁵ Except for New Hampshire, which opposes MOPR elimination. Comments of the New England States Comm. on Elec. at 2 (Apr. 21, 2022), Accession No. 20220421-5263.

⁶ See ISO-NE, 2022 Forecast Itemization (Apr. 28, 2022), https://www.iso-ne.com/static-assets/documents/2022/04/1f2022_itemized.xlsx.

⁷ ISO-NE Filing at 12–21.

application of the MOPR to state policy resources in FCA 17 and FCA 18, stating that it “opposes an approach to elimination that prolongs the effects of the MOPR any longer than necessary.”⁸ The State of Connecticut “strongly objects” to ISO-NE’s characterization of reliability risk, would prefer “ISO-NE to end its application of MOPR immediately,” and states, “[w]e do not *support* the ISO-NE’s transition proposal, which would allow this misapplication of the MOPR to continue until FCA 19.”⁹ Other parties have also provided extensive comments arguing that the Delay Proposal would not mitigate ISO-NE’s purported reliability risks.¹⁰

Most of the support for the Delay Proposal comes from incumbent generators who benefit financially from having the MOPR in place and have every incentive to delay the increased competition that will come with its elimination.¹¹ Consumers, however, would pay the price: the Delay Proposal would unjustly and unreasonably increase consumer costs while failing to ensure corresponding reliability benefits because it incents the exit of resources that ISO-NE

⁸ Comments of Massachusetts Exec. Office of Energy and Env’t Aff., at 1 (Apr. 21, 2022), Accession No. 20220421-5188.

⁹ Comments of Connecticut Dep’t of Energy and Env’t Prot., at 3 (Apr. 21, 2022) (emphasis in original), Accession No. 20220421-5264. Collectively, Massachusetts and Connecticut represent approximately 70 percent of the region’s energy load and demand. *See* ISO-NE, 2022 Forecast Itemization (Apr. 28, 2022), https://www.iso-ne.com/static-assets/documents/2022/04/1f2022_itemized.xlsx.

¹⁰ Comments of Advanced Energy Economy, at 14–23 (Apr. 21, 2022), Accession No. 20220421-5262.

¹¹ We also note that NEPGA inaccurately characterizes Shell Energy North America, LP’s (“Shell Energy”) role as an offshore wind generator. Shell Energy is only a part owner in one of the offshore wind projects that has been contracted in New England. The Mayflower Wind project is owned jointly by Shell Energy and Ocean Winds. Ocean Winds is a joint venture of EDP Renewables (“EDPR”) and ENGIE, both of whom opposed the ISO’s proposed delay in the NEPOOL Participants Committee vote. NEPOOL Participants Comm., Suppl. Notice of March 3, 2022 NEPOOL Participants Comm. Teleconference Meeting, at PDF pp. 23–24 (Feb. 24, 2022) (ENGIE Energy Marketing NA, Inc., voted against the Delay Proposal amendment and the final Delay Proposal. Marble River, LLC, which is EDPR’s voting representative at NEPOOL, voted against the Delay Proposal amendment and abstained on the final Delay Proposal vote after that amendment had been incorporated), https://nepool.com/wp-content/uploads/2022/02/NPC_20220303_Composite4.pdf. Nor is the Mayflower Wind project Shell Energy’s only generation interest in the region. Shell Energy is also the lead market participant of the RISEP generator, an existing 625 MW natural gas-only combined cycle plant in Johnston, Rhode Island. ISO-NE, 2022 CELT Report: 2022–2031 Forecast Report of Capacity, Energy, Loads, and Transmission, at Tab 2.1 Generator List (May 1, 2021), https://www.iso-ne.com/static-assets/documents/2022/04/2022_celt_report.xlsx. Notably, New England for Offshore Wind, a broad coalition of associations, businesses, environmental and justice organizations, academic and research institutions, and labor unions involved in achieving the region’s offshore wind development, also opposes ISO-NE’s Delay Proposal and has urged the Commission to direct ISO-NE to implement MOPR reforms “immediately.” Comments of New England for Offshore Wind Coalition, at 1 (Apr. 19, 2022), Accession No. 20220420-5082.

claims are needed for winter reliability. ISO-NE claims the delay is necessary to enable adoption of other market reforms yet provides no firm commitment on when it will adopt such reforms.¹² The result is a Delay Proposal that would prevent state policy resources that provide reliability benefits from being recognized in the Forward Capacity Market (“FCM”) for at least another two years, resulting in undue discrimination, and unjust and unreasonable consumer costs as the result of artificially inflated FCM prices and procurement of unnecessary and duplicative fossil capacity.

ISO-NE, NEPOOL, NEPGA, and Merchant Generators’ answers do not present any new information or facts upon which the Commission could find that the Delay Proposal is just and reasonable and not unduly discriminatory. In our April 21, 2022 protest,¹³ Clean Energy and Consumer Advocates have already addressed and rebutted the unsupported and inaccurate reliability claims contained in those answers and outlined the FCM scheduled changes needed to implement a replacement tariff by FCA 17.¹⁴ Therefore, we will not repeat our arguments here. We seek leave to file this answer, however, to correct several mischaracterizations in ISO-NE, NEPOOL, NEPGA, and Merchant Generators’ answers and to ensure that the Commission has an accurate record upon which to reach its decision. Specifically, we address below:

1. ISO-NE and Merchant Generators’ misleading quoting from Clean Energy and

Consumer Advocates’ April 21 protest in an attempt to suggest that our lower bound

¹² Test. of Vasmi Chadalavada on Behalf of ISO-NE Regarding the Need for a Transition to the MOPR’s Elimination, at 46:14–15 (Mar. 30, 2022) (“It is simply not possible to guarantee to the region that those market design enhancements will be completed for FCA 19”) (“Chadalavada Direct”), Accession No. 20220331-5296.

¹³ Protest of Clean Energy and Consumer Advocates (Apr. 21, 2022) (“Clean Energy and Consumer Advocates Protest”), Accession No. 20220421-5277.

¹⁴ We note that while various events have transpired since ISO-NE filed its application, we believe that it is still reasonable for ISO-NE to open a new retirement bid window. *See* ISO-NE Answer at 49 (“Should the Commission reject this filing on May 27, 2022 and issue an order that raises the possibility that the BSMR Reforms and Net CONE, CONE, and PPR adjustments may be implemented for FCA 17, the ISO will need permission from the Commission to open a new retirement and permanent de-list bid window for resources to provide contingent bids pending the outcome of any Section 206 proceeding, and the IMM will have to begin its review period anew.”).

estimate of potential offshore wind entry (800 MW) in FCA 17 and FCA 18 is an upper bound, and that the impacts of the Delay Proposal on state policy resource entry and on consumers would be negligible;

2. ISO-NE's attempt to minimize the potential impact of its proposed elimination of Competitive Auctions with Sponsored Policy Resources' ("CASPR") test price on FCM clearing prices, which is directly contradicted by Merchant Generators, whose arguments reinforce Clean Energy and Consumer Advocates' observation that the Delay Proposal is internally inconsistent and could actually exacerbate ISO-NE's stated reliability concerns by incentivizing retirements in FCA 17 and FCA 18;
3. ISO-NE and NEPGA's disingenuous arguments regarding Clean Energy and Consumer Advocates' estimates of the potential costs of the Delay Proposal—which we reinforce with supplemental expert testimony from Michael Goggin, included with this answer as Exhibit A¹⁵—and the failure of either party to consider such consumer costs or to proffer alternative cost estimates;
4. ISO-NE's attempt to justify its Delay Proposal by citing results from its 2018 Operational Fuel Security Analysis ("OFSA") that, according to ISO-NE's worst-case scenario for MOPR elimination, are both unrealistic and irrelevant;
5. ISO-NE's misunderstanding of our argument that its existing Tariff provides ISO-NE with authority to scrutinize a project's critical path schedule and make qualification determinations accordingly as part of the FCM's new resource qualification process; and

¹⁵ Suppl. Aff. of Michael Goggin (May 16, 2022) (attached hereto as Ex. A) ("Goggin Suppl. Aff.").

6. ISO-NE, NEPOOL, NEPGA, and Merchant Generators’ inaccurate characterizations of Clean Energy and Consumer Advocates’ request for relief, the Commission’s Section 206 authority, and standard of approval under Section 205.

I. NOTWITHSTANDING THE RENEWABLE TECHNOLOGY RESOURCE EXEMPTION, THE DELAY PROPOSAL RENDERS ISO-NE’S WHOLESALE RATES UNJUST AND UNREASONABLE

Both ISO-NE and Merchant Generators selectively quote from and mischaracterize Clean Energy and Consumer Advocates’ protest and Abigail Krich’s testimony regarding the levels of offshore wind that could seek to enter the FCM in FCA 17 and FCA 18 and the levels of these resources that could be excluded from the market under the ISO-NE’s Delay Proposal. Ms. Krich did *not* testify, as ISO-NE and Merchant Generators suggest, that only up to 800 MW of offshore wind is at stake.¹⁶ What Ms. Krich actually testified is that there are six offshore wind projects that have been selected for contracts and could come online during FCA 17 and FCA 18, though the contracted schedule for two of these projects is not yet public information so it is uncertain at this time whether they would submit offers in those years.¹⁷ If these two projects did not submit offers in those years, Ms. Krich averred that “[w]ithout them” 800 MW of summer capacity could qualify.¹⁸ Ultimately, however, Ms. Krich estimated that the “upper bound” range of offshore wind summer capacity that could seek to enter over the next two FCAs is 1,300 MW,

¹⁶ ISO-NE Answer at 16–17 (“Ms. Krich estimates that ‘four offshore wind projects with approved power purchase agreements and contracted CODs that are prior to the start of the FCA 17 or FCA 18 commitment periods would be able to qualify for approximately 800 MW of summer capacity, which could be offered into the FCA’ ... Thus, protestors concerns lie with the application of a 700 MW cap to somewhere around 680 MW to 800 MW of qualified capacity for state-sponsored offshore wind that may seek to participate in FCA 17 or FCA 18.”); Merchant Generators Answer at 6 (“Based on CECA’s projections, ‘the upper limit on new offshore wind capacity that could qualify for FCA 17 or FCA 18 [is estimated] to be about 800 MW of summer capacity.’”).

¹⁷ We note that on April 28, 2022, it was disclosed to the public that contracts for the two projects at issue (i.e., Commonwealth Wind and Mayflower Wind) had been executed. *See* Massachusetts Clean Energy, 83 CIII, <https://macleanenergy.com/83c-iii/>.

¹⁸ Clean Energy and Consumer Advocates Protest, Ex. A, Test. of Abigail Krich, at 7 (Apr. 21, 2022) (“Krich Direct”), Accession No. 20220421-5277.

with between 1,650–2,460 MW of winter capacity, which substantially exceeds ISO-NE’s proposed Renewable Technology Resource (“RTR”) exemption for FCA 17 and FCA 18.¹⁹ It is simply inaccurate therefore for ISO-NE and Merchant Generators to claim that Clean Energy and Consumer Advocates are only concerned about the possibility that 100 MW of state policy resources might not be able to enter the market via the up to 700 MW that the Delay Proposal’s RTR exemption might permit.

Second, ISO-NE and Merchant Generators fail to consider that the FCA 17 Offer Review Trigger Price (“ORTP”) values for solar, onshore wind, and battery storage do not foreclose the possibility that these resources may receive different values for FCA 18 that could preclude them from clearing. ISO-NE argues that potential increases in these ORTP values for FCA 18 are “speculative.”²⁰ However, under the Tariff the Internal Market Monitor (“IMM”) must annually update these values and nothing in ISO-NE’s proposal would prevent such increases from happening. As Ms. Krich explained in her testimony, potential adjustments to capital cost assumptions, which are annually updated according to the Levelized Cost of Energy as reported by Bloomberg; decreases in fuel prices; decreases in Renewable Energy Credit prices; and the prescribed Investment Tax Credit stepdown for solar could lead to higher ORTP values for solar, onshore wind, and/or battery storage resources in FCA 18, potentially putting those resources at risk of price mitigation and FCM exclusion under the MOPR.²¹ This is not idle speculation: as Michael Goggin testifies, new capacity resources are experiencing rapid cost increases due to recent supply chain and labor market issues.²² Past experience also shows that a resource’s ORTP value can fluctuate widely year to year as part of the annual update process. The onshore

¹⁹ *Id.* at 7–8.

²⁰ ISO-NE Answer at 15 n.38.

²¹ Krich Direct at 35–36.

²² Goggin Suppl. Aff. at 5–6.

wind ORTP, for example, was calculated at \$11.025/kW-month in FCA 12, and then lowered to \$8.472/kW-month, increased to \$13.099/kW-month, and lowered to \$0.00/kW-month in successive interim updates for FCA 13, FCA 14, and FCA 15, respectively.²³

Further, as averred in Michael Goggin’s supplemental testimony, keeping the MOPR in place and continuing to ignore the resource adequacy contributions of state policy resources under the Delay Proposal is conservatively estimated to saddle New England consumers with \$36 million to \$654 million in excess capacity costs over the next two capacity auctions.²⁴

II. ISO-NE’S ELIMINATION OF THE TEST PRICE UNDERMINES ITS RELIABILITY RATIONALE

ISO-NE incorrectly asserts that, in our comments regarding the proposed elimination of CASPR’s test price, Clean Energy and Consumer Advocates ignore that the Delay Proposal’s purpose is to “provide predictability about impacts on primary auction clearing prices”²⁵ and that the “clearance of unmitigated offers in the substitution auction should not adversely impact primary auction clearing prices.”²⁶ This was no oversight; rather, as Clean Energy and Consumer Advocates explained, the Delay Proposal’s elimination of the test price is in direct conflict with and undermines ISO-NE’s purported reliability purpose. By eliminating the test price, ISO-NE would enable and encourage uncompetitive incumbent generators to submit low bids in the FCM’s primary auctions—thus leading to lower primary auction clearing prices—in order to be eligible to receive a severance payment in the substitution auctions in FCA 17 and FCA 18. Further, any potential reliability implications that ISO-NE claims might occur if state policy resources were able to replace uneconomic incumbent resources in an FCM without a MOPR

²³ ISO-NE Transmittal Letter, at 51, Docket No. ER21-1637 (Apr. 7, 2021), Accession No. 20210407-5305.

²⁴ Goggin Suppl. Aff. at 3–5.

²⁵ ISO-NE Answer at 26.

²⁶ *Id.*

would also occur if these same state policy resources replaced these same uneconomic incumbent resources under the Delay Proposal’s substitution auction without a test price. Thus, as Ms. Krich testified, removing the test price would not have a “different effect from the immediate elimination of the MOPR;”²⁷ the only difference between the Delay Proposal and immediately removing the MOPR is that only the former would require a transfer payment from the entering sponsored policy resource to the retiring resource,²⁸ causing an unnecessary double payment for consumers.

ISO-NE’s claim that eliminating the Delay Proposal’s test price would not lead to “bid shading” and therefore would not impact primary auction clearing prices is directly contradicted by Merchant Generators. Merchant Generators support ISO-NE’s proposal because “[e]liminating the test price is intended” to improve participation in CASPR “by removing a barrier that may prevent existing resources” from participating in the substitution auction.²⁹ Of course, the barrier that Merchant Generators reference is the current test price rule that prevents existing resources from submitting uncompetitively low bids in the primary FCM auction (i.e., bid shading). It follows that, with removal of the test price, uncompetitively low bids could lower the FCM’s primary auction clearing price, despite ISO-NE’s broad claim arguing otherwise.

III. EVEN WITH THE REVISIONS THAT ISO-NE AND NEPGA ARGUE ARE NECESSARY, CLEAN ENERGY AND CONSUMER ADVOCATES’ COST ESTIMATES DEMONSTRATE THAT THE DELAY PROPOSAL WILL HARM CONSUMERS

In addition to their failure to establish its necessity for reliability, proponents of the Delay Proposal also continue to ignore its costs to consumers. While the answers provided by ISO-NE and NEPGA attempt to distract from this fundamental flaw by challenging the potential range of

²⁷ Krich Direct at 37.

²⁸ *Id.*

²⁹ Merchant Generator Comments, at 16 (Apr. 21, 2022), Accession No. 20220421-5279.

estimated costs offered by Clean Energy and Consumer Advocates,³⁰ these attacks do nothing to remediate ISO-NE’s failure to demonstrate that its Tariff proposal results in just and reasonable rates. As part of its Section 205 burden, it is ISO-NE’s duty—not that of protestors—to conduct a reasoned analysis of the impacts to consumers (quantitative or otherwise) from their proposal, a duty that is not satisfied by solely trying to mischaracterize or discredit the analyses of others.

As pointed out by the Commission as recently as last week, the “basic purpose of the capacity market [is] ensuring resource adequacy at just and reasonable rates”—and this basic purpose can be frustrated by the harms resulting from an overly broad MOPR.³¹ Like the buyer-side mitigation policy of NYISO, ISO-NE acknowledges that by keeping out state policy resources, its current MOPR rules will result in excess procurement of resources “not actually needed to maintain resource adequacy.”³² As the Commission points out, consumers “will also pay higher capacity prices to procure” these mandated, but unnecessary resources.³³ Along with the resulting over procurement, these higher prices in turn can undermine the ability of the FCM “to send accurate signals about supply and demand fundamentals ... which are needed to guide efficient entry and exit.”³⁴ Like NYISO, ISO-NE acknowledges its MOPR presents these problems, yet proposes to extend them another two years based solely on unsupported assertions

³⁰ See, e.g., ISO-NE Answer at 20–24; NEPGA Answer at 8.

³¹ *New York ISO* (“NYISO”), 179 FERC ¶ 61,102, at P 41 (May 10, 2022).

³² *Id.* at P 39; ISO-NE Filing at 31–32 (“If the current buyer-side mitigation construct remains in place, the evidence is clear that consumers will be forced to pay for a substantial quantity of capacity twice—once ‘in market’ to achieve the region’s resource adequacy objectives, and a second time ‘out of market’ for *additional* resources developed to meet state decarbonization policies. Given that the latter set of resources are capable of serving both objectives, it is the definition of market inefficiency to sustain a market construct that administratively precludes them from doing so.”) (emphasis in original; internal citations omitted).

³³ *NYISO*, 179 FERC ¶ 61,102, at P 39.

³⁴ *Id.* at 41.

regarding reliability and without conducting *any* reasoned analysis as to the likely effects on consumers.³⁵

Clean Energy and Consumer Advocates are the only ones who have even attempted to quantify the range of potential costs to consumers from the Delay Proposal. Mr. Goggin's analysis has always been intended to support the general proposition that the Delay Proposal will impose significant costs to consumers, and to provide the Commission with a rough idea of what the floor and ceiling of those costs might be. By its terms, Mr. Goggin's analysis has never purported to provide an exact estimate. Rather than engage constructively on this general proposition, ISO-NE and NEPGA attempt to discredit Mr. Goggin, by making much ado about whether the range of assumptions used is sufficiently accurate and realistic. What they do *not* do is follow up with their own analysis using their own preferred set of assumptions, which they could just as easily have done. Instead, as explained above and in Mr. Goggin's attached supplemental analysis,³⁶ the ISO asserts that it is not required to provide quantitative analyses and relies on its criticisms of Mr. Goggin's assumptions and its own gross mischaracterization of the potential amounts of state policy resources that could fail to clear in FCA 17 and FCA 18 to incorrectly and unrealistically assert that, at worst, consumers would only procure an excess of 100 MW of capacity, the potential costs of which ISO-NE deems too insignificant to estimate.³⁷

³⁵ See, e.g., ISO-NE Filing at 29 (“A market that precludes entry of capacity that nonetheless contributes to the resource adequacy objectives of the region can lead to substantial inefficiencies, as the market will fail to send accurate price signals about the need for new capacity and the need to maintain existing capacity. This, in turn, forces consumers to pay the cost for unneeded capacity as the region continues to meet its resource adequacy needs solely with ‘in-market’ resources, ignoring entirely the reliability contribution of resources that are excluded from market participation. This inefficiency, and the resulting costs to consumers, can threaten to overwhelm any benefit that is obtained from the de facto preclusion of higher-cost state-sponsored resources from the market. The ISO has referred to this in the past as the ‘inefficient overbuild’ problem.”) (internal citations omitted).

³⁶ Goggin Suppl. Aff.; see also ISO-NE Answer at 20–24.

³⁷ ISO-NE Answer at 18 (“Indeed, it strains credulity to believe that the at-most 100 MW of offshore wind capacity in dispute here tips the scales so far as to result in unjust and unreasonable consumer impacts.”).

However, as explained by Mr. Goggin, even when adjusting his estimate to incorporate ISO-NE's and NEPGA's critiques regarding pricing assumptions, the Delay Proposal still entails significant cost impacts to consumers—ranging from \$36 million to \$654 million.³⁸ As Mr. Goggin points out, because these costs are spent to procure resources that are unnecessary for resource adequacy and since, as the Commission also notes, not only would consumers be paying for unneeded capacity but “they will also pay higher capacity prices to procure it,”³⁹ *every one of these dollars represents an economic waste.*⁴⁰ In order for a tariff to be just and reasonable, consumers must get something of benefit in the bargain. Because the Delay Proposal ultimately represents a one-sided transfer of wealth from consumers to incumbent investors for an unneeded product at artificially inflated prices, it fails to meet the fundamental purpose of a capacity market: resource adequacy *at just and reasonable rates.*

IV. ISO-NE IS WRONG ABOUT ITS OWN 2018 OPERATIONAL FUEL SECURITY ANALYSIS AND SEEKS TO RELY ON SCENARIOS FROM THAT ANALYSIS THAT ITS DELAY PROPOSAL FILING MAKES CLEAR ARE BOTH UNREALISTIC AND IRRELEVANT TO THE QUESTION OF MOPR REFORM

In its May 10 answer, ISO-NE further misreads and mischaracterizes Clean Energy and Consumer Advocates' April 21 protest, which explained that ISO-NE's own 2018 Operational Fuel Security Analysis found that renewable energy growth would *improve* regional reliability.

ISO-NE's responses on the OFSA are incorrect and misleading. As Abigail Krich correctly testified, “[a]mong the four scenarios [in the OFSA] that did not result in any load shedding, the common factor was an increase in the amount of supply that was not dependent on gas pipelines—i.e., either new renewables, new imports, more LNG, or some combination of

³⁸ Goggin Suppl. Aff. at 3–5.

³⁹ *NYISO*, 179 FERC ¶ 61,102, at P 39.

⁴⁰ Goggin Suppl. Aff. at 2.

these.”⁴¹ ISO-NE claims that in these four scenarios, the level of retirements was held constant, and thus the scenarios do not speak to ISO-NE’s concern that additional conventional resources might retire, potentially compromising reliability, if MOPR reforms are implemented too soon.⁴² This is incorrect. The four OFSA scenarios cited by Ms. Krich assumed significant additional retirements of coal- and oil-fired generators in the region. Three of these scenarios included 1,500 MW of additional retirements (the same level as in the OFSA’s reference case) while the fourth assumed a significantly higher level—4,000 MW—of retirements.⁴³ In each of these scenarios, entry of new non-pipeline resources, including new renewable energy resources, contributed to a grid that balanced supply and demand and did not result in load shedding.⁴⁴

ISO-NE further criticizes Clean Energy and Consumer Advocates for not considering two other OFSA scenarios in which ISO-NE assumed retirements of existing resources would greatly exceed new entry, resulting in load shedding.⁴⁵ Clean Energy and Consumer Advocates concede that a significant reduction in supply without provision of alternative supply could imbalance the grid, but we fail to see how ISO-NE’s cited scenarios are relevant to the issues at hand. In one of the two scenarios cited by ISO-NE, the OFSA considered a situation in which 4.5 GW of existing resources were assumed to retire—3 GW more than in the OFSA’s reference case—with *no* increases in LNG, imports, or renewables compared to the reference case to take their place.⁴⁶

⁴¹ Krich Direct at 25:7–10.

⁴² ISO-NE Answer at 30–31 (“What this demonstrates is that, holding the number of retirements constant, the addition of more capacity not dependent on gas pipelines—including, but not limited to, increased capacity from intermittent resources—increases reliability. That does not address the ISO’s concern about increases in retirements, however.”).

⁴³ See ISO-NE, Operational Fuel Security Analysis: Discussion with Stakeholders, at A16 (rows 1, 2, and 3), A17 (row 13), 16, and 42 (Jan. 24, 2018), https://www.iso-ne.com/static-assets/documents/2018/01/a02_operation_fuel_security_analysis_presentation.pdf.

⁴⁴ *Id.*

⁴⁵ ISO-NE Answer at 31–32.

⁴⁶ *Id.* at 31; ISO-NE, Operational Fuel-Security Analysis, at 40 and A16, line 10 (the “More Retirements” single-variable case) (Jan. 17, 2018), https://www.iso-ne.com/static-assets/documents/2018/01/20180117_operational_fuel_security_analysis.pdf.

In ISO-NE's other cited scenario, 5.4 GW of existing resources were assumed to retire—3.9 GW more than in the reference case—offset by only 2 GW in additional new capacity entry, in the form of 1,000 MW in imports and approximately 1,041 MW in new renewable energy capacity.⁴⁷ In both scenarios, ISO-NE assumed a dramatic imbalance between capacity retirements and new capacity entry. Neither scenario is relevant to MOPR reform and ISO-NE's Delay Proposal. Even in the worst-case scenario outlined in ISO-NE's March 31 filing—in which all six of New England's contracted-for offshore wind farms, representing 1,269 MW of qualified capacity, clear in FCA 17, leading to a corresponding level of retirements of incumbent resources, and then these offshore wind farms are all delayed—ISO-NE concluded that the region faced a potential supply gap in the FCM of only 104 MW.⁴⁸ In contrast, the two OFSA scenarios that ISO-NE cites assume that retirements exceed new renewable energy entry by 1.8 GW to 3 GW—i.e., by hundreds to thousands of more megawatts than in ISO-NE's own worst-cast MOPR reform scenario. In other words, the scenarios that ISO-NE says Clean Energy and

⁴⁷ ISO-NE Answer at 31. This scenario included nearly 2,900 MW (nameplate) of additional renewable resources (1,970 MW of offshore wind and 900 MW of solar PV) above the reference case, which would translate to approximately 1,041 MW of qualified capacity using ISO-NE's current capacity accreditation approach (i.e., solar PV accredited at 50%, resulting in 450 MW of qualified capacity, and offshore wind accredited at 30%, resulting in 591 MW of qualified capacity, for a total of 1,040 MW). See ISO-NE, Operational Fuel Security Analysis: Discussion with Stakeholders, at 32 (Jan. 24, 2018), https://www.iso-ne.com/static-assets/documents/2018/01/a02_operation_fuel_security_analysis_presentation.pdf. Notably, in this scenario, ISO-NE purported to evaluate “max retirements” and “max renewables” growth in the region; however, ISO-NE included less onshore wind than exists in the region today (1,442 MW), less than half of the offshore wind than has been contracted for (4,700 MW), and less solar photovoltaic (“PV”) than ISO-NE forecasts will be installed in the region by the end of this year (5,548 MW). See *id.* (1,200 MW of onshore wind, 2,000 MW of offshore wind, and 5,330 MW of solar PV in the ISO's “max renewables” OFSA scenario); ISO-NE, 2022 CELT Report: 2022–2031 Forecast Report of Capacity, Energy, Loads, and Transmission, at Tab 2.1 Generator List (May 1, 2021) (1,442 MW of onshore wind operating as of April 1, 2022), https://www.iso-ne.com/static-assets/documents/2022/04/2022_celt_report.xlsx; Chadalavada Direct at 35:8–13 (4,700 MW of offshore wind with long-term contracts); ISO-NE, 2022 Final PV Forecast, at 32 (Apr. 28, 2022) (5,548 MW solar PV forecasted by end 2022), https://www.iso-ne.com/static-assets/documents/2022/04/final_2022_pv_forecast.pdf. If this OFSA scenario were updated to include more accurate renewable energy growth, ISO-NE's model would likely produce different reliability results than were included in the 2018 study.

⁴⁸ Chadalavada Direct at 35–36.

Consumer Advocates should “grapple with”⁴⁹ are scenarios that even ISO-NE has concluded are unrealistic outcomes from MOPR reform.

V. ISO-NE APPEARS TO MISUNDERSTAND—AND FAILS TO REBUT—CLEAN ENERGY AND CONSUMER ADVOCATES’ ARGUMENT THAT ITS EXISTING TARIFF ALREADY PROVIDES ISO-NE WITH AUTHORITY TO ADDRESS POTENTIAL PROJECT DELAYS THROUGH THE FCM QUALIFICATION PROCESS

ISO-NE’s response on critical path schedule monitoring further misleads or misunderstands Clean Energy and Consumer Advocates’ protest.⁵⁰ Clean Energy and Consumer Advocates are *not* arguing as ISO-NE suggests that the critical path schedule monitoring process enables ISO-NE to claw back retired resources if a new resource is delayed.⁵¹ Rather, we noted in our April 21 protest that ISO-NE already has authority under the existing Tariff to carefully scrutinize and evaluate the critical path schedules that new resources—including new state policy resources—submit as part of the FCM’s new resource qualification process and to address the potential for development delays through that process.⁵²

If ISO-NE does not believe that a new resource will be operational in time for a relevant FCA commitment period, then it should not approve the critical path schedule submitted by that resource and should not qualify the resource to participate in that FCA.⁵³ ISO-NE has the ability to do this *now*. Once ISO-NE has qualified a resource, it is possible that further delays could occur, but as ISO-NE acknowledges, these risks apply to *all* resource types.⁵⁴ Targeting only

⁴⁹ ISO-NE Answer at 31–32.

⁵⁰ *Id.* at 35–36.

⁵¹ *Id.*

⁵² Krich Direct at 22.

⁵³ ISO-NE’s concern about the potential unavailability of Jones Act vessels to support offshore wind construction, and how this might affect critical path schedules for new offshore wind resources, is likewise something that ISO-NE could consider and evaluate under its existing Tariff provisions as it assesses new resource qualifications. *See* ISO-NE Answer at 32–33.

⁵⁴ Chadalavada Direct at 6 (“We have seen an unmistakable trend in New England toward opposition to the development of new energy infrastructure, whether they are large renewable resources, combined-cycle resources, or transmission projects.”).

renewable energy resources through the blunt instrument of delaying MOPR reforms would be both ineffective and unduly discriminatory in addressing the problem of project delays.

ISO-NE's argument that some state policy resources' power purchase agreements ("PPAs") may allow for later delivery of those projects than originally contemplated further confuses the issues.⁵⁵ First, ISO-NE has the ability to account for such PPA provisions when it reviews a new resource's critical path schedule. Second, the relevant data point in the FCM is the FCA year for which a resource seeks to qualify, not the aspired-to in-service date in its PPA. If a resource that has not yet cleared in an FCA is delayed, there is no impact on resource adequacy.

VI. REQUESTED RELIEF

A. The Commission Is Not Required To Hold A Hearing Before It Can Find That ISO-NE's Proposed Rate Is Unjust And Unreasonable And Before It Can Use Its Section 206 Authority To Direct ISO-NE To File A Replacement Tariff Rate

In their answers, supporters of ISO-NE's Delay Proposal argue that rejecting ISO-NE's unjust and unreasonable proposal under Section 205 and requiring ISO-NE to adopt a just and reasonable replacement rate instead would be overly burdensome. As Clean Energy and Consumer Advocates explained in our protest, the Commission has substantially more flexibility to determine the appropriate process under Section 206 than these parties suggest. Furthermore, faced with the unjust and unreasonable Delay Proposal and ISO-NE's existing unjust and unreasonable MOPR, the Commission's authority and indeed obligation to require ISO-NE to implement instead a just, reasonable, and not unduly discriminatory replacement rate is clear.

Merchant Generators, for example, argue that the Commission cannot exercise its Section 206 authority unless it conducts two hearings, one to determine that the existing Tariff is unjust and unreasonable and another to determine the replacement rate.⁵⁶ This procedural requirement

⁵⁵ ISO-NE Answer at 33–35.

⁵⁶ Merchant Generators Answer at 10–11.

is not only inaccurate but also administratively burdensome and overly prescriptive.⁵⁷ When the Commission acts under Section 206—whether on its own motion or in response to a complaint—it has the discretion to identify the necessary procedural steps to meet its evidentiary burden.⁵⁸ In particular, the Commission’s options include holding a hearing, directing briefing,⁵⁹ issuing a show cause order,⁶⁰ or suggesting a replacement rate based on the record in the proceeding.

Further, as articulated in Sections I and V of Clean Energy and Consumer Advocates’ protest, to implement a replacement rate under the circumstances in the instant proceeding, the Commission must address the following three prongs by finding that (1) the proposed rate under Section 205 is determined to be unjust and unreasonable; (2) the existing rate is unjust and unreasonable; and (3) the replacement rate is just, reasonable, and supported by substantial evidence and reasoned decision-making.⁶¹

The Commission has substantial evidence on the record for this proceeding to meet all three prongs. First, with respect to ISO-NE’s proposed rate, Clean Energy and Consumer Advocates’ protest and three witness testimonies along with the comments of other parties demonstrate that the proposed rate, namely the Delay Proposal, is unjust, unreasonable, and unduly discriminatory. Second, ISO-NE also seeks to replace its existing rate governing buyer-side market power mitigations rules, particularly provisions that apply the MOPR to state policy resources. Most if not all parties in this proceeding support removing the MOPR as applied to

⁵⁷ 16 U.S.C. § 824e(a) (“If, after review of any motion or complaint and answer, the Commission shall decide to hold a hearing, it shall fix by order the time and place of such hearing and shall specify the issues to be adjudicated.”).

⁵⁸ *Id.* See also *W. Res., Inc. v. FERC*, 9 F.3d 1568, 1579 (D.C. Cir. 1993).

⁵⁹ *IMM*, 174 FERC ¶ 61,212, at P 72 (Mar. 18, 2021); *Necec Transmission LLC & Avangrid, Inc.*, 176 FERC ¶ 61,148, at P 17 (Sept. 7, 2021).

⁶⁰ *Necec Transmission LLC & Avangrid, Inc.*, 176 FERC ¶ 61,148, at P 23; *Tri-State Generation & Transmission Ass’n, Inc.*, 175 FERC ¶ 61,229, at 15 (June 17, 2021); *ISO-NE*, 164 FERC ¶ 61,003, at P 3 (July 2, 2018).

⁶¹ *W. Res., Inc.*, 9 F.3d at 1579–80.

these resources. Clean Energy Advocates and other parties filed extensive record evidence that the existing MOPR is unjust, unreasonable, and unduly discriminatory.

Third, ISO-NE's eight-month long stakeholder process produced Tariff provisions that can be filed as a replacement rate.⁶² In fact, as discussed in detail below, the replacement rate is less complex than ISO-NE's Delay Proposal.

B. The Commission's Obligation Under Section 205 Prevents It From Making Decisions Based On Whether A Party Will Petition For Appeal

Section 205 obligates the Commission to ensure that public utility rates are just, reasonable, and not unduly discriminatory or preferential. Merchant Generators suggest, however, that the Commission should bias how it exercises this responsibility in order to avoid defending its decisions, noting that after the:

lengthy Section 206 and judicial appeal processes . . . [even if] the Commission's order eliminating the MOPR were to be upheld, the market and policy outcome would be essentially the same as if the Commission had just accepted ISO-NE's Filing now....⁶³

While the Commission should always ensure that its orders are supported by substantial evidence and otherwise consistent with substantive and procedural legal requirements, Merchant Generators' suggestion that the risk of future litigation should otherwise drive the Commission's assessment of the Section 205 proceeding before it is deeply cynical and would only serve the interests of parties that can afford to aggressively litigate matters.

Furthermore, we disagree that the market and policy outcomes would be the same. With the Delay Proposal, the FCM will continue to discourage competition and retain generation resources that are unnecessary for reliability and inconsistent with broad state and consumer preferences. More insidiously, the Commission would set a poor precedent that it will accept

⁶² See Clean Energy and Consumer Advocates Protest, Ex. D; ISO-NE Filing at 75.

⁶³ Merchant Generators Answer at 12.

approaches like the Delay Proposal, which lack the requisite evidentiary support and fail to protect consumers against excessive rates. Contrary to ISO-NE's claim that it is not required to demonstrate that the Transition Mechanism is supported by quantitative analysis,⁶⁴ Commission precedent dictates that some form of evidentiary support and analysis, such as a power flow analysis, impact analysis, and/or probabilistic modeling, is required to demonstrate that a transition mechanism is just and reasonable.⁶⁵

Moreover, implementing ISO-NE's buyer-side market power mitigation reforms without delay (the Markets Committee Proposal)⁶⁶ was supported by 74.4 percent of NEPOOL participants when they were given the option between immediately reforming MOPR and the Delay Proposal.⁶⁷ Based on the thoughtful eight-month long stakeholder process that culminated in the 74 percent approval from NEPOOL members to implement ISO-NE's buyer-side mitigation reforms by FCA 17, we urge the Commission to direct ISO-NE to file the Tariff provisions from that process to replace its unjust, unreasonable, and unduly discriminatory Delay Proposal.⁶⁸

VII. CONCLUSION

Clean Energy and Consumer Advocates respectfully request that the Commission accept this answer. Moreover, for the reasons stated above and those contained in our April 21, 2022, protest, we urge the Commission to (1) reject ISO-NE's Delay Proposal, which is unjust and unreasonable and in violation of Section 205 of the Federal Power Act; (2) find, *sua sponte*,

⁶⁴ ISO-NE Answer at 37.

⁶⁵ *NYISO*, 158 FERC ¶ 61,064, at P 55 (Jan. 27, 2017) (rejecting a transition mechanism because it “lacks analytical basis” and “is not based off of the same power flow analysis that NYISO argues is the best way of accounting for counter-flows”); *see also* Joint Comments and Partial Protest of Massachusetts Attorney General Maura Healey and Maine Office of the Public Advocate, at 14–17 (Apr. 21, 2022), Accession No. 20220421-5164.

⁶⁶ Clean Energy and Consumer Advocates Protest at 9–12, 89–102.

⁶⁷ *Id.* at 12 (citing NEPOOL Mkts. Comm., *January 11–12, 2022 Meeting Minutes*, at 9 (2022), https://www.isone.com/static-assets/documents/2022/02/a01a_mc_2022_02_08_minutes_jan_mc_draft_rev4.docx).

⁶⁸ *See id.*, Ex. D; ISO-NE Filing at 75.

under its Section 206 authority that ISO-NE’s Tariff is unjust and unreasonable due to the existing MOPR; and (3) direct ISO-NE under Section 206 to amend its Tariff consistent with the Markets Committee Proposal in time for FCA 17. While Clean Energy and Consumer Advocates believe such a Section 206 process could be conducted expeditiously based on the information already submitted in this docket,⁶⁹ we note that a modest extension to the FCA 17 schedule, if needed to give ISO-NE additional time to file a compliance filing, would be a more beneficial and defensible outcome than approving ISO-NE’s unjust and unreasonable Delay Proposal as filed.

Dated: May 17, 2022.

Respectfully submitted,

<p><u>/s/ Francis Pullaro</u> Francis Pullaro Executive Director RENEW Northeast, Inc. P.O. Box 383 Madison, CT 06443 646-734-8768 fpullaro@renew-ne.org</p>	<p><u>/s/ Bruce Ho</u> Bruce Ho Deputy Director, Eastern Region, Climate & Clean Energy Natural Resources Defense Council 40 W. 20th St. New York, NY 10011 212-727-4513 bho@nrdc.org</p>
<p><u>/s/ Casey A. Roberts</u> Casey A. Roberts Sierra Club 1536 Wynkoop Street, Suite 200 Denver, CO 80202 (303) 454-3355 casey.roberts@sierraclub.org</p> <p><u>/s/ Danielle Fidler</u> Danielle Fidler Senior Attorney, Clean Energy Program Earthjustice 1000 G Street, NW, Suite 1001 Washington, DC 20001 dfidler@earthjustice.org</p>	<p><u>/s/ Phelps Turner</u> Phelps Turner Senior Attorney Conservation Law Foundation 53 Exchange Street, Suite 200 Portland, ME 04101 207-210-6439 pturner@clf.org</p>

⁶⁹ Clean Energy and Consumer Advocates Protest at 99–102; Krich Direct at 40–45.

<p><u>/s/ Christine A. Powell</u> Christine A. Powell Deputy Managing Attorney, Clean Energy Program Earthjustice 50 California Street, Suite 500 San Francisco, CA 94111 cpowell@earthjustice.org</p> <p><i>Attorneys for Sierra Club</i></p>	
<p><u>/s/ Melissa E. Birchard</u> Melissa E. Birchard Director, Clean Energy & Grid Reform Acadia Center 198 Tremont Street, Suite 415 Boston, MA 02111 617-742-0054 x103 mbirchard@acadiacenter.org</p>	<p><u>/s/ Ted Kelly</u> Ted Kelly Senior Attorney, Energy Environmental Defense Fund 1875 Connecticut Ave. NW Suite 600 Washington, DC 20009 (202) 572-3317 tekelly@edf.org</p>
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Exhibit A

Suppl. Aff. of Michael Goggin (May 16, 2022)

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

ISO New England Inc.)	
)	
)	Docket No. ER22-1528
)	
)	

SUPPLEMENTAL AFFIDAVIT OF MICHAEL GOGGIN

I. INTRODUCTION AND QUALIFICATIONS

My name is Michael Goggin, and I am Vice President of Grid Strategies LLC.

I have been retained by RENEW Northeast, Natural Resources Defense Council, Sierra Club, Conservation Law Foundation, Acadia Center, the Environmental Defense Fund, Sustainable FERC Project, Massachusetts Climate Action Network, PowerOptions, E2 (Environmental Entrepreneurs), and American Clean Power Association (collectively “Clean Energy and Consumer Advocates”) to support the Clean Energy and Consumer Advocates’ protest regarding the Independent System Operator New England (“ISO-NE”) Tariff filing made in Docket ER22-1528 on March 31, 2022.¹ I submitted an affidavit that was included in Clean Energy and Consumer Advocates’ filing as Exhibit C in this proceeding on April 21, 2022.

The purpose of this supplemental affidavit is to respond to arguments regarding my affidavit made by New England Power Generators Association (“NEPGA”) and ISO-NE in their answers to Clean Energy and Consumer Advocates’ filing. The additional analysis provided in this affidavit demonstrates that even if one adopts the cost-minimizing assumptions suggested by NEPGA and ISO-NE, that does not change my initial conclusion that continuation of the

¹ Revisions to ISO Transmission, Mkts. and Servs. Tariff of Buyer-Side Market Power Review and Mitigation Reforms (Mar. 31, 2022), Accession No. 20220331-5296.

Minimum Offer Price Rule (“MOPR”)—including the proposed transition mechanism—will impose large costs on New England ratepayers. Further, as discussed in my initial affidavit, because the MOPR forces consumers to pay for unnecessary and redundant capacity at higher prices, every dollar paid by consumers as a result of the MOPR is economically wasteful.

II. COST OF MITIGATING STATE POLICY RESOURCES IN ISO-NE’S CAPACITY MARKETS

This section provides additional analysis for calculating the cost of MOPR under the four scenarios outlined in my initial affidavit, using the same general methodology outlined in my initial affidavit, but with the adjustments to the assumptions proposed in the answer testimony of ISO-NE and NEPGA. The specific changes to the assumptions include:

- In the two high estimate cases, assume that existing and future land-based wind, solar, and storage resources clear the market in Forward Capacity Auction (“FCA”) 17, as was already assumed for all years in the low estimate cases.
- In the two high estimate cases, assume that Rhode Island does not proceed with 600 MW of offshore wind procurement that is then subject to the MOPR, as was already assumed in the low estimate cases.
- In the two cases that evaluate costs over two years instead of five, with the assumption that proposed MOPR reforms including the Renewable Technology Resource (“RTR”) exemption are implemented, treat resources clearing via the 300 MW of RTR exemption in FCA 17 as existing resources that are no longer subject to the MOPR in FCA 18 as well.

- Assume the cost to consumers of excess capacity is either the net Cost of New Entry (“CONE”) of \$7.359/kW-month² or the recent high in capacity market prices of \$2.63/kW-month noted by NEPGA,³ rather than the gross CONE.

A. Scenarios And Results

- i. *ISO-NE Proposed Reforms And Two-Year Delay, Low Estimate: ISO-NE’s proposed RTR exemption and two-year delay in removing MOPR.*

It is assumed that the MOPR only excludes currently contracted offshore wind from clearing the capacity market, and that the Commonwealth and Mayflower residual offshore wind projects are not online until FCA 18. The resulting excess cost of MOPR to consumers is:

	Assuming \$2.63/kW-month recent market price	Assuming net CONE of \$7.359/kW-month
FCA 17	\$16,726,800	\$46,803,240
FCA 18	\$19,251,600	\$53,867,880
Total cost	\$35,978,400	\$100,671,120

- ii. *ISO-NE Proposed Reforms And Two-Year Delay, High Estimate: ISO-NE’s proposed RTR exemption and two-year delay in removing MOPR.*

The high estimate assumes the MOPR excludes all existing and future wind, solar, and battery resources from clearing the capacity market in FCA 18, but not in FCA 17 like my original analysis. The Commonwealth and Mayflower residual projects are online by FCA 17 instead of FCA 18. Unlike my original analysis, this revised analysis does not assume that Rhode Island passes legislation procuring an additional 600 MW of offshore wind by FCA 17. 1,200

² ISO-NE, Forward Capacity Market Parameters (May 13, 2022), https://www.iso-ne.com/static-assets/documents/2015/09/FCA_Parameters_Final_Table.xlsx.

³ It is unclear exactly where the \$2.63/kW-month figure cited by NEPGA comes from, although this value is similar to the recent “Rest of Pool” clearing price in FCA 16 of \$2.59/kW-month. I have used the NEPGA value in my lower-bound calculations, though note that in 2 of the last 3 FCAs, the Southeast New England zone has cleared at higher capacity prices than NEPGA’s value, including \$3.98/kW-month in FCA 15. See ISO-NE, Markets, <https://www.iso-ne.com/about/key-stats/markets#fcareresults>.

MW of import capacity moves forward and is subject to MOPR in FCA 17 and FCA 18. The resulting excess cost of MOPR to consumers is:

	Assuming \$2.63/kW-month recent market price	Assuming net CONE of \$7.359/kW-month
FCA 17	\$69,747,600	\$195,160,680
FCA 18	\$163,907,386	\$458,629,070
Total cost	\$233,654,986	\$653,789,750

iii. *MOPR continues through 2030–2031 (FCA 21) with no reforms, low estimate: MOPR continues for five years and ISO-NE’s proposed RTR exemption is not adopted.*

As in the other low estimate above, it is assumed that MOPR only excludes currently contracted offshore wind from clearing the capacity market, with the additional assumption that the Commonwealth and Mayflower residual offshore wind projects are not online until FCA 18.

The resulting excess cost of MOPR to consumers is:

	Assuming \$2.63/kW-month recent market price	Assuming net CONE of \$7.359/kW-month
FCA 17	\$26,194,800	\$73,295,640
FCA 18	\$41,343,600	\$115,683,480
FCA 19	\$41,343,600	\$115,683,480
FCA 20	\$41,343,600	\$115,683,480
FCA 21	\$41,343,600	\$115,683,480
Total cost	\$191,569,200	\$536,029,560

iv. *MOPR continues through 2030–2031 (FCA 21) with no reforms, high estimate: MOPR continues for five years and ISO-NE’s proposed RTR exemption is not adopted.*

As in the other high estimate above, it is assumed that MOPR excludes all existing and future wind, solar, and battery resources from clearing the capacity market, the Commonwealth and Mayflower residual offshore wind projects are online by FCA 17 instead of FCA 18, and 1,200 MW of import capacity moves forward and is subject to MOPR in all five auctions. Unlike

my original analysis, this revised analysis does not assume that Rhode Island passes legislation procuring an additional 600 MW of offshore wind by FCA 17.

	Assuming \$2.63/kW-month recent market price	Assuming net CONE of \$7.359/kW-month
FCA 17	\$79,215,600	\$221,653,080
FCA 18	\$185,999,386	\$520,444,670
FCA 19	\$190,564,891	\$533,219,403
FCA 20	\$195,130,395	\$545,994,137
FCA 21	\$199,695,900	\$558,768,870
Total cost	\$850,606,172	\$2,380,080,160

III. CONCLUSION

Even in a best-case scenario in which ISO-NE’s proposed RTR exemption and two-year delay are adopted, all resources except offshore wind are able to clear the capacity market, and other favorable assumptions proposed by ISO-NE and NEPGA are included, MOPR will impose excess costs of between \$36 million and \$100 million on New England ratepayers over two years. Under a less optimistic scenario that assumes all renewable and storage resources are unable to clear the capacity market starting in FCA 18 due to MOPR, consumer costs will total between \$230 million and \$650 million across FCA 17 and 18, even if ISO-NE’s proposed RTR exemption and two-year delay are accepted. If the application of MOPR to state policy resources is not eliminated and MOPR continues unabated through 2030–2031, consumer costs could reach \$2.4 billion, or an average of nearly \$500 million per year.

The assumed cost of excess capacity has the largest impact on the estimated consumer cost, and is the most uncertain out of all the changes in assumptions discussed above. Many factors are likely to increase the cost of capacity above recent capacity market prices and possibly even above the current net CONE, including a trend towards an amortization life for new gas resources that is

shorter than the current assumption of 20 years as carbon policy shortens the lives of these assets,⁴ rapid increases in costs for new capacity resources due to recent supply chain and labor market issues as well as a decrease in bonus depreciation due to changes in tax law,⁵ and potentially an increase in capacity market prices caused by MOPR preventing such a large amount of capacity from clearing the market. As a result, MOPR's cost to consumers may be higher than estimated above under the optimistic assumptions put forward by ISO-NE and NEPGA.

This concludes my testimony.

⁴ For discussion of why amortization life may decrease in the future, *see* Mott Macdonald, ISO-NE CONE and ORTP Analysis, at 18 (Aug. 12, 2020), https://www.iso-ne.com/static-assets/documents/2020/08/a4_a_iii_cea_presentation_cone_and_ortp_analysis.pdf.

⁵ For example, see the large upward revision in PJM's net CONE due to these factors, discussed in The Brattle Group, *PJM CONE 2026/2027 Report*, at vi (Apr. 21, 2022), <https://www.pjm.com/-/media/library/reports-notices/special-reports/2022/20220422-brattle-final-cone-report.ashx>.

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

ISO New England Inc.

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Docket No. ER22-1528

VERIFICATION OF MICHAEL GOGGIN

Pursuant to 28 U.S.C. § 1746, I, Michael Goggin, declare under penalty of perjury under the laws of the United States of America that the statements contained in the foregoing Affidavit of Michael Goggin are true and correct to the best of my knowledge and belief.



Michael Goggin

Executed on
this 16th day of May 2022

CERTIFICATE OF SERVICE

I hereby certify that the foregoing has been served in accordance with 18 C.F.R. § 385.2010 upon each party designated on the official service lists in these proceedings listed above, by email.

Dated: May 17, 2022.

/s/ Gabriela Rojas-Luna
Gabriela Rojas-Luna, Sr. Litigation Assistant
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Washington, DC 20001
gluna@earthjustice.org