UNITED STATES OF AMERICA

BEFORE THE

FEDERAL ENERGY REGULATORY COMMISSION

New England Winter Reliability Gas-Electric Forum	)	Docket No. AD22-9-000

COMMENTS OF THE PUBLIC INTEREST ORGANIZATIONS

Sierra Club, Earthjustice, Acadia Center, Natural Resources Defense Council, Sustainable FERC Project, Conservation Law Foundation, Slingshot, and Environmental Defense Fund ("Public Interest Organizations") respectfully submit these comments in response to the Commission's September 21, 2022 Notice of Request for Comments addressing the New England Winter Gas-Electric Forum held on September 8, 2022 in Burlington, Vermont. We appreciate the opportunity to comment, as well as the Commission's efforts to convene cross-jurisdictional discussion on these important topics.

I. Comment Summary

In these comments, we propose that a comprehensive, detailed study of the energy adequacy problem is essential to the region's ability to move forward in a way that has broad buy-in and to avoid foisting excessive costs on consumers for phantom and speculative reliability benefits. Such a study should have robust stakeholder involvement and should be designed in a way that properly illuminates the "when," "where," and "why" of the region's winter energy

adequacy circumstances. To maintain momentum, we suggest that FERC schedule at least one further technical conference or regional forum to discuss the results of a study.

We also strongly support renewed attention to the value of demand-side resources such as energy efficiency, conservation, and demand response, which can serve as short- and long-term solutions to winter reliability challenges and are being woefully under used in New England. In our comments, we provide ways in which ISO New England can better incorporate such resources into its markets and leverage them as a solution to address winter reliability issues.

These comments also recommend market reforms that level the playing field and accurately reflect the contributions of all resources to support long-term reliability. These include the overdue termination of the Minimum Offer Price Rule ("MOPR") and reforms to the capacity accreditation methodology, which should be paired with other capacity market reforms including a seasonal resource adequacy program and revisions to the Pay for Performance mechanism. Finally, we urge the Commission to ensure that ISO New England's Inventoried Energy Program ("IEP") compliance filing offers reliability benefits to New England consumers, consistent with a recent court decision that such programs should not compensate suppliers for doing something they would do without a new incentive.

II. Introduction

ISO New England must work together with its stakeholders, member states, neighboring RTOs, and FERC to better understand and address the winter reliability problem. The discussion at the forum vividly confirmed that the root of the region's winter reliability is overreliance on gas.[1] As Chairman Glick noted in his opening statement at the September open Commission

[1] 1093rd Commission Meeting Official Transcript, ("September Open Meeting Transcript"), (Sept. 22, 2022) at 23: 16-19, available at https://www.ferc.gov/media/commission-meeting-transcript-september-2022. *See also* New England Winter Gas-Electric Forum Transcript ("Winter Forum Transcript"), AD22-9-000 (Sept. 8, 2022), at 18:

meeting, reliance on liquified natural gas ("LNG") imports in ISO New England is "just not sustainable."[2] Accordingly, to mitigate the risks caused by overreliance on gas, Commissioner Clements has suggested that the approaches to solving the problem boil down to (1) reducing reliance on gas for electric generation; (2) adding more gas supply capability; (3) reducing electric demand during those times; and (4) reducing gas demand during those times.[3]

All of these options, except for adding gas supply capability, should be actively pursued. Any consideration of a new gas pipeline would result in excessive stranded costs, and would likely be untimely in any event, assuming it were feasible at all, which is unlikely. The bottom line is that ISO New England's use of gas requires imports into the region, either through pipelines or LNG terminals, and that expanding this infrastructure would be as logistically difficult and costly as it is unnecessary given the availability of clean alternatives.[4] Increasing gas supply to the region is inconsistent with multiple state policies across the region that seek to dramatically reduce emissions from the electric sector,[5] as well as policies that are working to reduce the use of gas in buildings.

18-22 (where Stephen George, Director of Operation Performance, Training and Integration at ISO New England, described a number of "close calls" caused "primarily as a result of the region's constrained natural gas system, its reliance on imported fuels, and vulnerability to correlated contingencies"), available at https://www.ferc.gov/media/transcript-docket-no-ad22-9-000.; Winter Forum Transcript at 47: 10-14 (where Rebecca Tepper, Chief of Energy and Environment Bureau at the Massachusetts AG Office, noted that the "underlying problem is that we're overly dependent on a single fuel… and the entire region is at risk any time that we have some kind of disruption on that system").

[2] September Open Meeting Transcript at 13: 12-16.

[3] Commissioner Clements' Statement on Next Steps After the New England Winter Gas-Electric Forum, ("Clements' Separate Statement"), AD22-9 (Sept. 22, 2022), available at https://www.ferc.gov/news-events/news/commissioner-clements-statement-next-steps-after-new-england-winter-gas-electric.

[4] Melissa Birchard and Casey Roberts, *New England's Winter Electricity Challenges Call for a Clean Energy Solution* ("Clean Energy Solution Report") (2022) at 3-4, available at https://www.sierraclub.org/sites/default/files/2563%20NE%20Winter%20Reliability%20WP%2003_web.pdf.

[5] *See generally,* Samuel A. Newell, Kathleen Spees, John Higham, *Capacity Resource Accreditation for New England's Clean Energy Transition, Report 1: Foundation of Resource Accreditation* (Brattle Clean Energy Transition Report 1) (June 2, 2022) at 7-9.

If these factors weren't enough, climate change makes reducing gas reliance equally urgent and imperative. Producing, transporting, and burning gas exacerbates the extreme weather events that are now the primary threat to grid reliability.[6] As Commissioner Phillips noted in his opening statement at the public Commission meeting in September, "it seems like almost every month we are having a one-in-one-hundred year event, extreme weather event that impacts reliability."[7] In addressing this threat, participants in the ISO New England winter reliability forum clearly outlined the need for both short- and long-term solutions. In the short and long term, power sector emissions in the United States will play an outsized role in determining the degree of climate change, and therefore in determining the frequency and magnitude of extreme weather events.[8] Trying to solve a problem with the same fuels that created the problem makes the problem cyclical and unsolvable.

Decreased reliance on gas is not only essential to reliability, but also to affordability, given the geopolitical and price realities of gas acknowledged frequently at the forum.[9] As the Commission is well aware, gas costs are skyrocketing for New England customers,[10] leading to

[6] *See, e.g.,* Annual Commissioner's Reliability Technical Conference, Opening Remarks by Chairman Rich Glick, AD21-11-000, (Sept. 30, 2021) (stating "If we fail to take serious action to mitigate climate change, we are signing up for ever-more serious reliability problems in the years ahead"), available at https://www.ferc.gov/news-events/news/opening-remarks-ferc-chairman-rich-glick-september-30-2021-reliability-technical; National Renewable Energy Laboratory, *Life Cycle Greenhouse Gas Emissions from Electricity Generation: Update* (September 2021) at 2-3, available at https://www.nrel.gov/docs/fy21osti/80580.pdf.

[7] September Open Meeting Transcript at 28: 15-17.

[8] U.S. Global Change Research Program, Fourth National Climate Assessment, Summary Findings (2018), https://nca2018.globalchange.gov/.

[9] *See, e.g.*, Winter Forum Transcript, Chairman Glick at 26: 11-19 (stating that the conflict in Europe has made it "hard to think" about pricing); Commissioner Philipps at 36: 9-12 (framing the Russian invasion as a "layer on top" of the global market for LNG and natural gas); Eversource Energy VP James Daly at 150: 19-22 (linking the war in Ukraine and LNG to overall power price); Massachusetts Dept. of Energy Resources Commissioner Patrick Woodcock at 154: 5-9 (stating that the war has made LNG "unavailable … at a price that can be reasonably secured).

[10] FERC, *Winter Energy Market and Reliability Assessment 2022-2023*, (Oct. 25, 2022) at 5-6, available at https://www.ferc.gov/media/report-2022-2023-winter-assessment.

jaw-dropping increases in costs for retail electric customers.[11] Adding the cost of new fossil fuel infrastructure to import this expensive gas, or to retain existing facilities like the Everett terminal, would only add to the burdens that consumers face. Commissioner Phillips correctly noted at the forum that reliability, affordability, and sustainability are intertwined, and if one suffers, they all do.[12]

The forum revealed that there is no silver bullet solution to New England's challenges, but the Commission has an important role in ensuring that ISO New England's markets support a technology-neutral suite of solutions. In the short term especially, demand-side actions like demand response and energy efficiency should be encouraged and embraced as critical solutions to reducing the use of scarce fuels in the winter. In the longer term, market reforms should ensure that supply side resources are accredited appropriately and that demand-side resources are incorporated fully into ISO-NE's markets, providing reliability at lower system costs for the region. To do so effectively – and steer clear of the decades of winter reliability concerns that Commissioner Clements acknowledged at the open meeting[13] – ISO New England must commit to a detailed, transparent, and collaborative study, and to working with stakeholders to implement technology-neutral and cost-effective solutions based on the results of the study.

The Commission's role in ensuring reliability in ISO New England is partly one of information sharing and facilitation, as demonstrated by the value of the discourse emerging from the forum. The Commission can continue to play a role in facilitating conversation across

[11] U.S. Energy Information Association, Short-Term Energy Outlook (Oct. 12, 2022) (forecasting that the U.S. residential price of electricity will increase in 2022 primarily to reflect increases in wholesale power prices, which are driven by higher natural gas prices. *See also,* Brendan Crowley, *Record High Energy Prices Expected for New England—Reliance on Imported Gas Seen as Key*, CT EXAMINER (Sept. 29, 2022); John Atwater, *Electric Bills Could Increase 65% This Winter In Massachusetts, NationalGrid Warns*, WCVB5 ABC (Sept. 21, 2022).
[12] Winter Forum Transcript at 37: 1-10.
[13] September Open Meeting Transcript at 21: 24-25.

jurisdictional lines, and in respecting state needs and policy requirements. The Commission will also have a significant role as the decisionmaker in several proceedings that will be cross-referenced in these comments,[14] as well as via its anticipated transmission and interconnection reforms.[15]

III. ISO New England Needs a Detailed Energy Adequacy Study, and the Process Must Be Truly Collaborative with Stakeholders.

We agree that a comprehensive, detailed study of the energy adequacy problem is essential to the region's ability to move forward in a way that has broad buy-in and to avoid foisting excessive costs on consumers for phantom and speculative reliability benefits. In our view, a major stumbling block to achieving any degree of consensus around the extent of the winter energy adequacy problem, and the optimal solutions and acceptable costs for mitigating it, has been the absence of such a study that reflects careful stakeholder engagement and provides adequate transparency. Commissioner Clements ably articulates the need for a study that will "adequately explain the 'when,' 'where,' and 'why' of New England's electric system risks such that the Commission, states, and stakeholders can objectively evaluate solutions spanning various timeframes and federal, state, and local jurisdictions."[16]

Too many times in recent years, ISO New England has brought forward proposals for out-of-market solutions to the region's winter energy adequacy concerns without an ability to

[14] *See, e.g.*, MOPR termination order (*ISO New England Inc.,* 179 FERC ¶ 61,139 at P 1 (2022)); F.P.A. Section 206 capacity accreditation complaint filed by the American Clean Power Association and RENEW Northeast (Docket No. EL22-42).

[15] As Liz Delaney at New Leaf Energy noted at the winter forum, "the faster we can get the newer resources on the grid, the better off we are," and transmission lines are likely to be easier to build in the region than gas pipelines. (Winter Forum Transcript at 135). And like many other markets, the queue in ISO New England is full of clean resources awaiting interconnection, including 60% wind, 21% battery storage, 15% solar, and just 3% natural gas. (New England Power Grid 2021-2022 Profile, https://www.iso-ne.com/static-assets/documents/2021/03/new_england_power_grid_regional_profile.pdf).

[16] Clements' Separate Statement, AD22-9-000.

articulate the extent to which the proposal would mitigate the problem. In its 2019 filing in support of the Inventoried Energy Program, for example, ISO New England could muster no more definitive description for the benefits of the program than that it was "directionally correct."[17] Without a better understanding of the problem at hand, it is impossible for stakeholders to understand whether a particular solution is worth the expense, and whether successive proposals from ISO New England address unique aspects of the winter energy adequacy problem or are in fact redundant. Perhaps most importantly, an imprecise understanding of the winter energy adequacy problem makes it impossible to compare the cost-effectiveness of alternative solutions. Stakeholders are instead at a severe information disadvantage to ISO New England. A transparent and comprehensive study would go a long way towards enabling agreement on solutions and reducing the risk of consumers paying for unnecessary or ineffective programs.

ISO New England has stated that it is working on a study of extreme weather risks with the Electric Power Research Institute ("EPRI"), which is to be concluded in 2023.[18] As the ISO describes the study, it will "begin by first identifying extreme weather events of interest, based on EPRI's repository of historical and projected climate data," which will inform "the development of numerous possible extreme weather scenarios, as well as hourly profiles of weather that can be used to develop profiles of consumer demand and renewable energy generation."[19] Based on "risk factors associated with different resources types[,] EPRI will

[17] ISO New England Inc., Docket No. ER19-1428-000; Inventoried Energy Program, at 7 (filed Mar. 25, 2017).
[18] ISO New England, Draft ISO/EDC/LDC Problem Statement and Call to Action on LNG and Energy Adequacy, AD22-9, (Sept. 8, 2022), available at https://isonewswire.com/wp-content/uploads/2022/08/DraftFERCTechConferenceEverettandEnergyAdequacyProblemStatement-8.29-final.pdf. at 3. Press Release, ISO-NE, ISO-NE Launches Effort to Quantify Energy Supply Risks Associated with Extreme Weather Events (March 14, 2022), available at https://isonewswire.com/2022/03/14/iso-ne-launches-effort-to-quantify-energy-supply-risks-associated-with-extreme-weather-events/.
[19] *Id*.

develop models to quantitatively characterize the impacts of these risk factors on the resources, [and] develop scenarios that account for different variables, such as renewable energy output, consumer demand for electricity, and generator availability." The ISO will then use this work by EPRI within its "enhanced 21-day energy assessment tool to assess the power system impacts of these scenarios."[20]

While this study holds promise to be a very useful contribution to the ISO New England's and to the broader public's understanding of the effects of extreme weather, it is unclear whether it will fully explore the "'when,' 'where,' and 'why' of New England's electric system risks" in a manner that actually informs the near-term discussions. ISO New England has recently indicated that the study will focus on two particular years: 2027 and 2032.[21] Thus, the study will not illuminate the scope of the problem, or inform solution discussion, for the next several winters.

It is critical that ISO New England provide for adequate stakeholder involvement in order to produce a more accurate study that has broader support among regional stakeholders. ISO New England should learn lesson from its 2018 Operational Fuel Security Analysis ("OFSA"),[22] which was produced without involvement of stakeholders, as explained by authors from Synapse Energy Economics who were deeply engaged in the NEPOOL process:[23]

> [W]hen the ISO announced its intention to conduct a fuel-security analysis in late 2016, stakeholders asked to be involved in selecting the scenarios to be evaluated. The ISO assured stakeholders that there would be an opportunity to review the

[20] *Id.*
[21] ISO New England, NEPOOL Reliability Committee, Operational Impact of Extreme Weather Events presentation (Sept. 20, 2022), at slide 5, available at https://www.iso-ne.com/static-assets/documents/2022/09/a09_operational_impact_of_extreme_weather_events.pptx.
[22] ISO New England, Operational Fuel-Security Analysis (OFSA Report) (2018), available at https://www.iso-ne.com/staticassets/documents/2018/01/20180117_operational_fuel-security_analysis.pdf.
[23] Paul Peterson, Doug Hurley & Pat Knight, Synapse Energy Economics, *Understanding ISO New England's Operational Fuel Security Analysis* (May 3, 2018) at 3 n. 6, available at https://www.synapse-energy.com/sites/default/files/Understanding-ISO-NE-OFSA-18-028.pdf.

> ISO's study results before the results would be final. The ISO repeated those assurances throughout the 2017 study period. It was only after the ISO published its January draft of the OFSA that the ISO declared the study a final report and then submitted it to the Federal Energy Regulatory Commission (FERC) in March [2018] despite stakeholder objections."

Once the OFSA was released, stakeholders identified numerous serious problems with the assumptions that ISO New England had used, including outdated and elevated load forecasts, overstated gas distribution system demand, underestimated LNG import capability, and an assumption that New England state renewable portfolio standards would not be met.[24] When ISO New England re-ran the additional scenarios requested, a far less dire picture of the region's "fuel security" was revealed.[25] Despite this additional context, the Commission relied upon the OFSA to make a preliminary finding that ISO New England's rates were unjust and unreasonable,[26] a finding that ISO New England then cited as the basis for both new tariff provisions to enable it to enter into reliability must run agreements based on fuel security[27] and the subsequent Inventoried Energy Program. This pattern of shutting out stakeholders and seeking out-of-market programs based on scarcely examined assertions of need is highly detrimental to the region's ability to move forward productively, and must not be replicated with the EPRI study or any other analysis that ISO New England may undertake regarding winter energy adequacy. ISO New England appears to be keeping its members updated on the progress of the study through regular presentations at its Reliability Committee meetings[28]—this is an

[24] *Id.* at 2.
[25] *Id.*
[26] *See* Order Denying Waiver Request, Instituting Section 206 Proceeding, and Extending Deadlines, 164 FERC ¶ 61,003 (issued July 2, 2018).
[27] *See* ISO New England Inc. Compliance Filing to Establish a Fuel Security Reliability Standard, Short-Term Cost-of-Service Mechanism, and Related Cost Allocation for Out-of-Market Compensation, FERC Docket Nos. EL18-182-000 and ER18-2364-000.
[28] ISO New England, Operational Impacts of Extreme Weather Events Key Project, available at https://www.iso-ne.com/committees/key-projects/operational-impacts-of-extreme-weather-events/.

important step but does not assure that stakeholder input will actually be reflected in how the study is done.

ISO New England has indicated that it is currently working with EPRI to develop scenarios based on weather events of interest to study within the 21-day energy assessment tool.[29] ISO New England will then present preliminary results of the EPRI study in Q1 2023, and run additional scenarios based on stakeholder feedback.[30] To our knowledge, ISO New England has not indicated whether it will incorporate stakeholder feedback on assumptions other than the scenarios to be tested, nor provided a timeline to present the results of these stakeholder-provided scenarios.

Here, a transparent process would assist in ensuring that the study not only uses reasonable assumptions, but also is designed in a way that properly illuminates the "when," "where," and "why," of the region's winter energy adequacy circumstances. We agree with Commissioner Clements that these basic questions are the foundation for being able to design technology-neutral solutions that maximize benefits for consumers. As to <u>when</u>, the study should identify the weather conditions or contingencies under which system risks are most likely to occur, and seek to define how long they will last. As to <u>where</u>, the study should identify any locations on the ISO New England system where system risks are mostly likely to occur (to the extent they are not regionwide). The question of <u>why</u> risks arise is perhaps the most significant factor. The study needs to inform discussions about what conditions trigger system risks, and how far in advance these conditions can be identified. This is important to informing the design of market mechanisms to address those periods of risk. ISO New England should also evaluate

[29] ISO New England, 2023 Annual Work Plan (AWP) (Oct. 12, 2022), at slide 7.
[30] *Id.* at slide 9.

whether it has in place mechanisms to detect these triggers of risk as soon as possible (whether they be related to weather or fuel delivery disruptions).

To these questions, we would add how much, meaning what is the amount of energy supply shortfall, and over what time period does it occur? Answers to this question are essential to any cost-benefit assessment of proposed solutions. These answers will also enable stakeholders to compare the efficacy of the four general categories of solutions that Commissioner Clements posits. For example, during the forum questions arose regarding the efficacy of demand response to address any energy shortfalls, often based on assumptions that these shortfalls would be too significant or last for too long. The study must provide information that would enable such assumptions to be tested.

Further, any such study undertaken by ISO New England must account the effects of the Inflation Reduction Act ("IRA") on the investment environment for energy storage, renewable energy, energy efficiency and electrification of buildings and transportation. Studies have shown that the IRA will have a profound impact both in applying downward pressure on energy prices and also the likely accelerated effect on fossil fuel retirements.[31] Without including the implications of the IRA, any study done by ISO New England will fall short of being comprehensive and a useful guide to stakeholders.

To ensure that the study is completed in a timely manner, we encourage FERC to schedule at least one subsequent technical conference or regional forum to discuss the results of

[31] Ian Bowen, Dinesh Maden, Lavkesh Rajwani, and Shanthi Muthiah, *How Clean Energy Economics Can Benefit from the Biggest Climate Law in History*, ICF Insights, (Sept. 16, 2022), available at https://www.icf.com/insights/energy/clean-energy-economic-benefits-us-climate-law; Mike O'Boyle, Dan Esposito, and Michelle Solomon, *Implementing the Inflation Reduction Act: A RoadMap for State Electricity Policy*, (Oct. 2022), available at https://energyinnovation.org/wp-content/uploads/2022/10/Implementing-the-Inflation-Reduction-Act-A-Roadmap-For-State-Policy-1.pdf.

a study, which will serve to maintain momentum on the part of ISO New England and stakeholders. ISO New England has indicated that it will run additional scenarios in the EPRI-supported extreme weather analysis, based on stakeholder feedback received in Q1 2023, suggesting that a Q2 2023 technical conference or forum may be appropriate.

We also note that ISO New England appears to working on several near- and medium-term efforts to address energy adequacy risks, while the EPRI-supported study is described as a medium- to longer-term effort.[32] Specifically, ISO New England notes that it will be proposing revisions to the Inventoried Energy Program (described further *infra*),[33] and will "[c]ontinue regional dialogue with respect to the Everett LNG Facility" in the short and medium term.[34] Absent further explanation from ISO New England, it appears that the EPRI-supported study is either not designed to, or will not be ready in time to inform these efforts. This will leave stakeholders and the Commission at a familiar informational disadvantage when it comes to assessing the need for and effectiveness of near- and medium-term measures that ISO New England may propose.

IV. Leveraging Demand-Side Resources is a Key Solution to Winter Reliability.

We strongly support demand-side resources such as energy efficiency, conservation, and demand response, which can serve as short- and long-term solutions to winter reliability challenges. As Director of Clean Energy and Grid Transition at Acadia Center Melissa Birchard noted at the forum, demand side options "tend to be the cheapest, the quickest, and the cleanest," solutions.[35] However, as discussed in detail in Acadia Center's written comments, which we

[32] ISO New England, 2023 Annual Work Plan, at slide 9 (October 12, 2022) available at https://www.iso-ne.com/static-assets/documents/2022/10/2023_awp_final_10_12_22.pdf.
[33] *See infra* Section V. D. b. at 23.
[34] *Id.*
[35] Winter Forum Transcript at 142: 10-12.

support, ISO New England and its member states are not taking full advantage of the potential that a diverse array of demand-side programs can have in addressing winter reliability issues in the region.

Traditional energy efficiency programs such as weatherization can cut demand over longer periods of time by lowering building energy needs, fitting for the extended cold weather events described at the forum.[36] Tom Dunn, Chief Operating Officer of Vermont Electric Power Company, noted Vermont's success on this front—efficiency programs have effectively reduced peak demand in the state by 10 percent, reducing rates and providing direct comfort benefits to low-income customers.[37] The effects of these programs and the load reductions they promise for the future should be incorporated into ISO New England's planning processes, in the same way that states consider market conditions in designing their programs.[38]

One overdue action is the incorporation of demand response into the market. In short, the framework for any demand-side program should include a process for understanding and evaluating the benefits of compensating participants for providing reliability services to the grid.[39] Existing residential, industrial, and commercial demand response programs in ISO New England are likely undersubscribed because no compensation is offered in exchange for reducing demand to resolve reliability challenges.[40] Moreover, the parameters of some existing programs could be expanded to capture the diverse range of benefits available. For example,

[36] *See* Winter Forum Transcript at 21 (George, ISO New England) (describing TEPRI study).
[37] *Id.* at 144-45.
[38] *See id.* at 249: 17-21 (Connecticut PUC Chairwoman Katie Dykes) (describing how the state optimizes its demand side programming based on avoided capacity costs through ISO New England's market).
[39] Clean Energy Solution Report at 4-5.
[40] *Id.* at 5-6.

Massachusetts' ConnectedSolutions is a demand-side program that is activated only during summer months.[41]

An evaluation framework should also consider the extent that the demand-side resource contributions can be integrated into the planning processes that inform ISO New England's resource adequacy construct. Currently, the Northeast Power Coordinating Council uses a static figure of 2000 MW to represent demand response resource adequacy contributions until 2030, rather than an estimate that reflects the plausible amount that demand response programs are expected to contribute to the region.[42] The ability to formally incorporate demand-side contributions demonstrates the degree that ISO New England will rely on these programs which, in turn, could further encourage investment and development of them, similar to the signals that motivate investors to finance generators.

Finally, utilization of conservation and voluntary demand response should not be ignored while stakeholders work out compensatory market rules. While states already run various highly cost-effective efficiency programs, ISO New England could facilitate educational efforts around conservation and the issuance of critical alerts during tight hours. Education efforts could focus on less obvious conservation methods, such as time-shifting of significant household uses such as washing laundry or pre-heating hot water tanks during off-peak hours.[43] We agree with Chairman Glick and Commissioner Phillips that ISO New England should consider modeling

[41] Clean Energy Solution Report at 5.
[42] Winter Forum Transcript at 60: 1-4. *See also* Winter Forum Transcript at 140 (Commissioner Clements recognizing the benefits of conservation efforts).
[43] *See* Clean Energy Solution Report at 7.

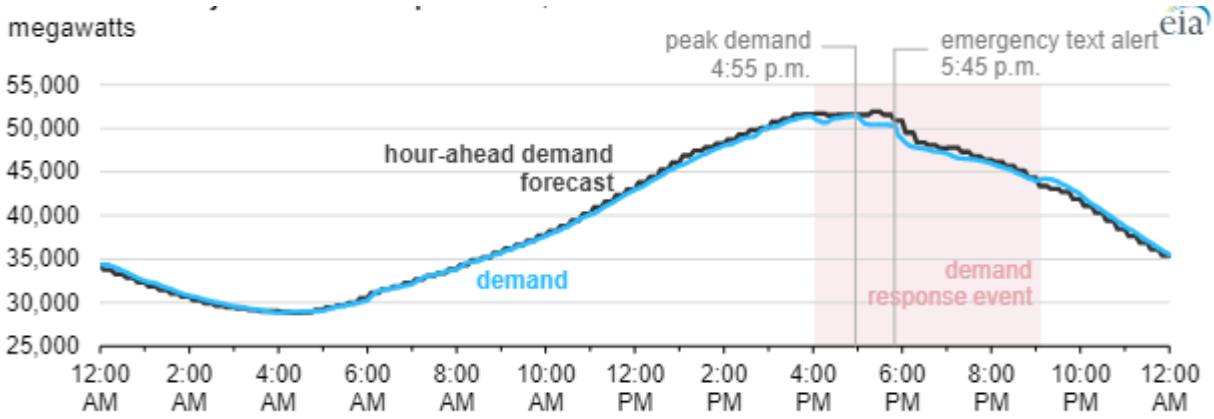
California's recent success using conservation as one of many measures used to navigate extended extreme weather events.[44]

State- or region-wide messaging can harness these savings when most needed. For example, California Independent System Operator's (CAISO) conservation program (referred to as Flex Alerts) has yielded 1000 MW per day in conservations during extreme weather events.[45] Aside from CAISO's alerts, a direct appeal from state governors has also been proven to substantially lower energy usage during dire peak demand conditions.[46] As Figure 1 demonstrates, within five minutes of CAISO sending a text alert at 5:45 p.m. asking consumers to reduce energy usage, electricity demand declined by more than 2,100 MW from the hour-ahead forecast.[47]

Since CAISO's extreme weather events concern hot temperatures during net peak hours, the framework for evaluating the success of a similar program during the winter in ISO New England's region should consider plausible load reducing activities that could be employed during the region's riskiest winter hours, such as when gas supply is likely to be low.

[44] September Open Meeting Transcript at 12: 1-5 (Chairman Glick commenting that customers "stepped up and really played a significant role when it was most critically stressed"); 28: 10-14 (Commissioner Philipps echoing the role of customers in preventing outages during the heatwave).
[45] Nancy Hirsh, *Lessons from California on Preventing Power Failures During Heat Waves*, SEATTLE TIMES (Oct. 10, 2022), available at https://www.seattletimes.com/opinion/lessons-from-california-on-preventing-power-failures-during-heat-waves/.
[46] Grace Toohey and Alexandra Petri, *A Text Asked Millions of Californians to Save Energy*, LA TIMES (Sept. 7, 2022) (stating that a text message from the California State Governor's office reduced 2000 MW of demand over a half hour span), available at https://www.latimes.com/california/story/2022-09-07/a-text-asked-millions-of-californians-to-save-energy-they-listened-averting-blackouts.
[47] U.S. Energy Information Administration, https://www.eia.gov/todayinenergy/detail.php?id=54039.

Figure 1 – CAISO Electricity Demand on September 6, 2022



V. Wholesale Market Reforms are Essential to Winter Reliability.

Market reforms that level the playing field and accurately reflect the contributions of all resources will be essential to long-term reliability. Many of these market reforms are currently being discussed in the NEPOOL stakeholder processes, but we appreciate the chance to put the pieces together in this forum to emphasize their holistic importance. These include the overdue termination of the MOPR and reforms to the capacity accreditation methodology, which should be paired with other capacity market reforms including a seasonal resource adequacy program and revisions to the Pay for Performance mechanism.

A. The Commission Should Terminate the MOPR.

The Commission should follow through with eliminating ISO New England's MOPR for State Sponsored Resources. On May 27, 2022, the Commission approved ISO New England's proposal to delay removing the MOPR until March 1, 2025.[48] In the interim, offshore wind is the primary technology that the MOPR will prevent from fully participating in ISO New

[48] *ISO New England Inc.,* 179 FERC ¶ 61,139 at P 1 (2022).

England's capacity market.[49] Yet, offshore wind is a technology that performs exceptionally well during cold winter months, and can significantly reduce the region's use of scarce fuel supplies.[50] As part of the market solutions to ISO New England's winter reliability issues, the Commission should reject any proposals from ISO New England or market participants to extend the March 2025 deadline.

B. The Commission Should Direct ISO New England to Develop a Seasonal Capacity Construct.

Second, we agree with Commissioner Clements that ISO New England should consider establishing resource adequacy requirements and accreditation values on a multi-seasonal basis to improve ISO New England's ability to ensure system reliability.[51] In its June 2022 study of ISO New England's capacity market, Brattle concludes that targeting unique seasonal risks is necessary for ISO New England to manage the energy transition while maintaining a reliable systema at reasonable costs to consumers.[52] ISO New England's current process, which uses a one-in-ten reliability standard to determine the region's resource adequacy requirements and reserve margin, plans for adequate supply during summer months, when overall regional peak demand is highest.[53] However, this standard does not identify risky hours for extended periods of cold weather during winter months and the related resource constraints, in particular the lack of gas supply under these conditions.[54] ISO New England's reliance on gas supply has increase

[49] Clean Energy and Consumer Advocates April 21, 2022 Protest, Docket No. ER22-1528 at 55-56 (citing OFSA at 5, 48; ISO-NE, *High-Level Assessment of Potential Impacts of Offshore Wind Additions to the New England Power System During the 2017-2018 Cold Spell*, at 1 (Dec. 17, 2018) (ISO-NE Offshore Wind Analysis)).
[50] *Id.*
[51] Winter Forum Transcript at 270: 19-23.
[52] Brattle Clean Energy Transition Report 1 at 5, 11, 26; *See also* Samuel Newell, Kathleen Spees, and John Higham, Capacity Resource Accreditation for New England's Clean Energy Transition, Report 2: Options for New England (June 28, 2022) at 1, 5-7, 11.
[53] Brattle Clean Energy Transition Report 1 at 4, 9.
[54] *Id.* at 1 at 8.

from 15 percent in 2020 to 53 percent in 2022,[55] further elevating the need to identify market solutions that send appropriate price signals to encourage development and procurement of needed supply during winter months.

A seasonal capacity market would also allow ISO New England to procure different amounts of capacity in different seasons, reflecting seasonal peak loads, and seasonal reserve margin requirements. This right-sizing of the capacity market can save consumers money without sacrificing any reliability. In addition, different seasonal peak loads provide incentives for load-serving entities to manage their loads in all seasons through implementation of robust demand response and energy efficiency programs. As noted above, the current market design fails to incentivize demand response in the winter, despite the potential for this resource to help balance the system during peak winter events and to avoid drawdown of scarce fuel supplies. If load-serving entities can avoid capacity costs by reducing their winter peak loads, as in a seasonal capacity market, winter demand response and efficiency programs would become far more cost-effective.

Moreover, in the next eight years, the successful implementation of the Renewable Portfolio Standard goals in New England states will shift the energy mix to a higher percentage of renewable generators.[56] Moving to a seasonal planning process will also ensure that this transition happens in a reliable, affordable manner, by better accounting for seasonal differences in renewable energy resource availability. However, in the near-term, gas remains the overwhelming source of reliability risk in New England, and its key vulnerability—fuel supply

[55] Clean Energy Solution Report at 2-3.
[56] ISO New England, *On the Horizon: 2022 Regional Electricity* Outlook, at slide 4, available at https://www.iso-ne.com/static-assets/documents/2022/06/2022_reo.pdf.

limitations—is strongly seasonal. This is sufficient reason for ISO New England to prioritize development of a seasonal resource adequacy construct.

MISO recently submitted a seasonal resource adequacy filing for similar reasons, including an energy mix transitioning to a higher percentage of renewables and significant weather events with correlated generator outages.[57] MISO's objectives were to use the seasonal planning construct to identify reliability needs that are unique to each season and align resource availability with the unique seasonal need.[58] While grounded in sound principles of more precisely defining resources' seasonal availability and the system's seasonal needs, the flaws in MISO's proposal demonstrate the importance of careful market design.[59] Moreover, we note that any transition to a seasonal capacity and accreditation process should be planned thoughtfully to avoid market disruption.

C. The Commission Should Grant the Pending Complaint Regarding Gas Supply in Capacity Accreditation and Operating Reserves Markets.

One of the most significant legal actions that FERC could take to ensure that ISO New England's market design properly supports winter energy adequacy is to grant the F.P.A. Section 206 complaint filed by the American Clean Power Association and RENEW Northeast (Docket No. EL22-42).[60] That complaint highlights two significant problems with ISO New England's current markets that undermine the incentive gas generators have to obtain firm fuel supplies—an omission that ISO New England itself identifies as the root of the region's energy adequacy

[57] MISO November 20, 2021 Transmittal Letter, Docket No. ER22-495-000, at 2.
[58] *Id.* at 4-5.
[59] Clean Energy Coalition October 27, 2022 Request for Rehearing, Docket No. ER22-495-002.
[60] Available at https://www.ferc.gov/enforcement-legal/legal/complaints/pending-complaints.

problems.[61] The complaint seeks a determination from the Commission that ISO New England must account for fuel insecurity when determining the capacity accreditation for gas plants. Doing so would ensure that ISO New England can actually count on more of its capacity being available to generate electricity during winter cold snaps and send price signals that better support entry by resources with firm fuel supply arrangements or without fuel dependencies, such as renewable generators. The complaint also seeks a determination that ISO New England's existing operating reserve market rules are unjust and unreasonable in that they do not require units offering in to have nominated gas supply during the relevant interval. This omission in the current rules likewise gives the region a misleading reassurance of resource availability.

Sierra Club, along with Natural Resources Defense Council, Acadia Center, Conservation Law Foundation, Environmental Defense Fund, and the Sustainable FERC Project, filed comments in support of the American Clean Power and RENEW Northeast complaint. The relief it seeks would not be disruptive to ISO New England's markets, but rather ensure and support timely progress toward markets that provide better reliability value to consumers.

D. The Commission and ISO New England Should Study Options for Pay for Performance, Capacity Accreditation, and Other Reforms that Encourage Reliability Without Expanding Gas Reliance.

a. Pay for Performance ("PFP") and Capacity Accreditation

As noted during the forum, the Forward Capacity Auction's PFP mechanism has kicked in only once since it was implemented several years ago, and that instance was five years ago

[61] ISO New England, Draft ISO/EDC/LDC Problem Statement and Call to Action on LNG and Energy Adequacy, AD22-9, (Sept. 8, 2022), available at https://isonewswire.com/wp-content/uploads/2022/08/DraftFERCTechConferenceEverettandEnergyAdequacyProblemStatement-8.29-final.pdf.

during a shoulder season.[62] ISO New England has in the past asserted that PFP does not obviate the need for additional programs to incent fuel procurement because, for example, the Inventoried Energy Program incentivizes resources to "maintain inventoried energy during cold weather conditions that may improve winter energy security, but do not necessarily correspond with scarcity conditions."[63] This response raises the question as to whether scarcity conditions should be defined more broadly in order for PFP to adequately address winter energy security, and possibly to separately address the possibility that the current definition of scarcity risks is simply too narrow, combined with other elements of the PFP program, to incent the desired behavior by suppliers.[64] Any broadening of the definition should be informed by the winter energy adequacy analysis that ISO New England says it is undertaking with EPRI.

For PFP to provide an incentive for long-term fuel contracting or sufficient re-supply arrangements, it must have bite.[65] At the same time, a PFP program with bite may mean increased capacity market offers from resources incorporating the cost of meeting the capacity product definition—this has a cost to consumers but may also be a more reasonable means of ensuring that generators have an ability to recover the full cost of serving as a capacity resource. However, a broader definition of scarcity conditions may disproportionately and unreasonably

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[62] Winter Forum Transcript at 104:6-10 (Mike Knowland, Manager of Forecast and Scheduling, ISO New England).

[63] *ISO New England Inc.*, Docket No. ER19-1428-000; ISO New England Response to Commission Request for Additional Information Regarding the Inventoried Energy Program, at 12. In ISO New England's response to the Commission's deficiency letter in the IEP proceeding, it is clear that ISO New England's primary concern is providing additional revenues to resources that may otherwise retire, rather than paying for an actual service or system need.

[64] Winter Forum Transcript at 105:20-25 (David Cavanaugh, Energy New England) (noting that heading into winter, generators with partially full oil supply tanks will be looking at PFP risk, but "valu[ing] that with the monthly stop loss provisions, annual stop loss provisions, and the possibility of occurrence being low."

[65] Winter Forum Transcript at 105:1-11 (Chairman Glick). We also note the role that PFP has in not only incentivizing longer-term behavior, but also week to week actions by generators for preparedness. Mike Knowland, Manager of Forecast and Scheduling at ISO New England, also highlighted another element of PFP implementation, which is the role of the ISO's 21-day energy analysis, to "give that forewarning of the potential for a PFP event with enough time to make the arrangements to get the oil delivery, or to potentially, at least back when the analysis was designed and developed, to arrange for LNG cargos." Winter Forum Transcript at 105:17-21.

affect certain resources that do not have the ability to make investments to produce during all hours of the year.[66] Analysis would therefore be needed of the likely effects on capacity prices and revenues of a more stringent PFP rule in order to determine whether this approach would be efficacious and result in rates that are just and reasonable.

At the forum, Pallas LeeVanShaick, with the ISO New England External Market Monitor, expressed skepticism that PFP reform would be only "supplemental" in nature, rather than the primary solution to the region's winter energy adequacy circumstances.[67] We agree with this, and believe that FERC and ISO New England should instead look to reforming capacity accreditation in a way that fully accounts for resource (including fuel) availability in the winter months, including a possible move to a seasonal capacity construct.[68] Ultimately, solutions to winter reliability in New England must move beyond mechanisms to incent firmer fuel supply arrangements, which will become increasingly expensive and vulnerable to disruption in a more extreme climate and less stable geopolitical environment. Solutions that are consistent with state policies to decrease reliance on fuels, through rapid deployment of renewable energy and storage, and greater reliance on latent energy efficiency (both gas and electric), and demand response, are the "no regrets" path out of the current dilemma.

[66] For example, in 2014, the Commission determined that it was not appropriate for energy efficiency resources participating in the Forward Capacity Market ISO New England to be subject to capacity performance payments or penalties for time periods outside the "hours in which demand reduction values are calculated under the Tariff for that particular type of resource." *ISO New England Inc.*, 147 FERC ¶ 61,172, at P 89 (2014) (2014 Pay-for-Performance Order), *denying reh'g*, 153 FERC ¶ 61,223 at P 89 (2015) (Pay-for-Performance Rehearing Order)147 FERC ¶ 61,172.

[67] Winter Forum Transcript at 140:4-9.

[68] Samuel Newell, Kathleen Spees, and John Higham, Capacity Resource Accreditation for New England's Clean Energy Transition, Report 2: Options for New England (June 28, 2022) at 30.

b. Inventoried Energy Program ("IEP")

The Commission should scrutinize any effort by ISO New England to increase compensation to oil and gas generators under the IEP program. Recently, ISO New England explained to its members that it plans to file updates to its IEP. In part, these updates will respond to the Commission's order directing a compliance filing[69] following the D.C. Circuit's order in *Belmont Municipal Light Department v. FERC*, 38 F.4th 173 (D.C. Cir. 2022), which found that it was unreasonable for coal, nuclear, hydropower, and biomass units that would not be incentivized to inventory energy to be eligible for payments under the program.[70]

Besides complying with the Commission's compliance directive, ISO New England has stated that it will also seek approval to increase the forward payment rate for inventoried energy to reflect higher LNG costs and will adjust the requirements for fuel supply contracts to reflect terms that are commercially available.[71] The increased costs of this program could be very significant,[72] so it will be critical for the Commission to ensure that the program ensures commensurate reliability value to consumers. This is especially true in light of ISO New England's previous admission that the IEP does not reflect sound market design principles.[73]

[69] *ISO New England, Inc.*, 180 FERC ¶ 61,181 (Sept. 23, 2022).
[70] *See* Kathryn Boucher, ISO New England Regulatory Counsel, *Inventoried Energy Program: Proposed changes to existing program structure on remand*, Presentation to NEPOOL Markets Committee, Oct. 12-13, 2022.
[71] *See* Craig Martin, *Inventoried Energy Program Updates: Parameter changes to keep program current with market conditions*, Presentation to NEPOOL Markets Committee, Oct. 12-13, 2022.
[72] Chris Geissler, Stephen George, and Craig Martin, *Winter 2022/23 Analysis: Assessment and Recommendations* (July 14, 2022), available at https://www.iso-ne.com/static-assets/documents/2022/07/a09_mc_2022_07_12-14_winter_2022_2023_presentation.pptx, at slide 27 ("Analysis Group has estimated an updated indicative program rate for winter 2022/23 of $118/MWh, or approximately forty percent higher than the previously approved rate of $82/MWh (from 2018)").
[73] ISO-NE, Inventoried Energy Program, Docket No. ER19-1428-000, at 6 (Mar. 25, 2019) (noting that the objective of "adherence to sound market design principles" was de-prioritized in favor of "simplicity in both the design and implementation" of the program).

Moreover, in July 2022, ISO New England presented its Winter 2022/23 Analysis, including its recommendation that the region *not* pursue any supplemental winter fuel programs for winter 2022/23.[74] The basis for ISO New England's recommendation was that existing market signals already sufficiently incentivize both oil-fired and gas-fired units to procure fuel ahead of the winter. For example, noting that "[t]he spread between forward electricity and fuel prices for winter 2022/23 is sufficiently high that oil-fired units could 'lock-in' winter margin by selling electricity forward and buying fuel for the winter now," ISO-NE concluded that "an out-of-market fuel program *may largely compensate resources for holding fuel that they will procure anyway*."[75]

This assessment renews long-standing questions as to whether the IEP actually provides any additional incentive for resources to procure fuel or make fuel supply arrangements prior to the winter. While this specific analysis pertains to winter 2022/23, rather than the IEP program periods of winter 2023/24 and 2024/25, it raises important questions about whether IEP will incentivize any real additional fuel procurement for these future winters as well, and suggests that neither ISO-NE nor the Commission may be able to accurately assess whether IEP payments would improve winter energy adequacy until much closer to the program period. The same flaw that the D.C. Circuit identified with respect to payments to units that would not be incentivized to operate any differently may very well apply to any payments to oil and gas units.[76]

Even if the IEP could incentivize additional fuel procurement, the value of increasing the IEP forward payment rate is questionable for other reasons. First, the payment rate is based on

[74] *Id.*

[75] *Id.* at slide 16; *see also id.* at slide 18 ("Forward spark spreads also suggest that gas units will be marginal over the winter during on-peak hours.") (emphasis added).

[76] *See Belmont Municipal Light Dep't*, 38 F.4th at 187.

the costs of procuring forward LNG supplies – a price clearly subject to significant variation based on volatile and unpredictable global markets. Efforts to set this rate well ahead of the time such contracts would be executed seem plagued by the potential for significant error—either the rate set will be too low to make any difference, or so high as to constitute a windfall for recipients. This is an inherent problem with a non-market program that incentivizes fuel procurement like the IEP.

Second, an early 2023 upward adjustment to the IEP forward payment rate would do nothing for what ISO New England has explained is a core objective of the program: to enable capacity resources to factor likely IEP revenues into entry and exit decisions that would be made in the three-year forward auction. ISO New England viewed this objective as so essential to the purpose of the IEP that it justified the rushed development of the program back in 2019.[77] In its July 2022 winter assessment, ISO New England noted this as a downside of attempting to use the IEP for winter 2022/23, explaining that "An IEP for this winter, long after the FCA was run, means fuel secure resources have already made entry/exit decisions this year without considering potential program revenues," thus failing to achieve "a principal goal of the program."[78]

The Commission should look very skeptically on any forthcoming revisions to the IEP that simply increase the amount of money that gas- and oil-fired generators can earn for doing what they are likely already doing—procuring the fuel needed to satisfy their capacity supply obligations and earn money in the energy and ancillary service markets. We respectfully submit that ISO New England's efforts to improve winter energy adequacy in the short-run should

[77] Motion for Leave to Answer and Answer of ISO New England Inc., FERC Docket No. ER19-1428-000 (filed April 30, 2019), at 5 ("to ensure that the program was filed and understood by stakeholders before retirement de-list bids were due to the ISO (on March 15, 2019) for the Forward Capacity Auction to be conducted in February 2020, and given the interim nature of the program, it was appropriate to forgo the complex and time-consuming development of a robust methodology to estimate the program's expected reliability benefits.").
[78] Winter 2022/23 Analysis, *supra*, at slide 28.

instead be focused on resource types where inadequate incentives may currently exist for winter performance, like demand response.

VI. Conclusion

For the foregoing reasons, we respectfully request that the Commission facilitate a cleaner and more reliable ISO New England by assisting transparent and collaborative study of winter reliability issues, continuing to encourage the integration of demand side resources, and ensuring holistic wholesale market reforms from its regulatory role.

Respectfully submitted on November 7, 2022:

/s/ Casey Roberts
Casey Roberts
Senior Attorney
Sierra Club Environmental Law Program
Denver, CO
(303) 454-3355
casey.roberts@sierraclub.org

/s/ Christine A. Powell
Christine A. Powell
Deputy Managing Attorney, Clean Energy Program
Ada Statler
Associate (pending bar admissions), Clean Energy Program
Earthjustice
50 California Street, Suite 500
San Francisco, CA 94111
cpowell@earthjustice.org

/s/ John N. Moore
John N. Moore
Director and Senior Attorney
Sustainable FERC Project
20 North Wacker Drive, Suite 1600
Chicago, IL 60601
312-651-7927
moore.fercproject@gmail.com

/s/ Christy Walsh
Christy Walsh
Senior Attorney and Director of Federal Energy Markets
Natural Resources Defense Council
1152 15th St NW, Suite 300
Washington, D 20005
202-909-6842
cwalsh@nrdc.org

/s/ Melissa E. Birchard
Melissa E. Birchard
Director, Clean Energy and Grid Transition
Acadia Center
15 Court Square, Suite 1000
Boston, MA 02108
mbirchard@acadiacenter.org

/s/ Mireille Bejjani
Mireille Bejjani
Co-Executive Director
Slingshot
62 Summer St
Boston, MA 02110
mireille@slingshotaction.org

/s/ Roger W. Stephenson
Roger W. Stephenson, APR
Northeast Regional Advocacy Director
Union of Concerned Scientists
Two Brattle Square
Cambridge, MA 02138
rstephenson@ucsusa.org

/s/ Phelps Turner
Phelps Turner
Senior Attorney
Conservation Law Foundation
53 Exchange Street, Suite 200
Portland, ME 04101
207-210-6439
pturner@clf.org

/s/ Ted Kelly
Ted Kelly
Senior Attorney, Federal Energy
Jolette Westbrook
Director and Senior Attorney, Equitable Regulatory Solutions
Environmental Defense Fund
1875 Connecticut Ave NW
Washington, DC 20009
tekelly@edf.org

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 list in this proceeding, by e-mail.

Dated: November 7, 2022.

/s/ Christine A. Powell
Christine A. Powell
Deputy Managing Attorney, Clean Energy Program
Earthjustice
50 California Street, Suite 500
San Francisco Ca 94111
cpowell@earthjustice.org