ISO-NE security proposal sees ongoing debate
Calpine with Vistra, NEPGA disagree with NESCOE

The debate over ISO-NE’s energy security improvements (ESI) proposal continued at FERC last week with the states and generators making dueling filings (PMT, May-19). The New England States Committee on Electricity (NESCOE), which represents the region’s governors, filed an answer last Monday that drew responses Friday from the New England Power Generators Assn (NEPGA) and Calpine and Vistra Energy.

NESCOE argued the ESI proposal presented an inherent risk of uncompetitive offers and a unique challenge to mitigating market power. The IMM and NESCOE’s expert witness – James Wilson – both raised that issue in the first round of comments last month.

The market monitoring issue is compounded by the confusion around the central feature of the ESI – the energy call option. At times the IMM calls it a “real option – apparently viewing it as distinct from a financial option, but the IMM and the ISO also say it is a financial, not a physical, obligation.”

One of the IMM’s major worries is that parties could submit offers with no intent or ability to cover their option in real-time by providing energy and instead, take the financial risk of an unfavorable closeout. The IMM said the ability of ESI’s financial consequences to induce performance in real-time remains to be seen, arguing it will need to be monitored closely and ex ante mitigation rules might need to be developed, or ex post probes run if it fails.

“However, no assessment of market power or rules to effectively mitigate the exercise of such power accompany the ISO-NE filing,” NESCOE said.

FERC should reject the proposal as premature as it fails to address market power, NESCOE argued. Generators argued FERC could accept the rules and then approve market mitigation later on, but NESCOE said they could not point to any instance where that happened.

The IMM wants to file reports on ESI’s performance, but NESCOE argued that would not be enough and should only be...
used as a complement for mitigating market power.

NEPGA said nothing in the Federal Power Act’s Section 206 prohibits FERC from conditionally accepting one part of an overall design conditioned on the latter approval of mitigation rules. “NESCoE mistakenly relies on a FPA Section 205 case that was rejected (without prejudice) due to its lack of market power analysis,” NEPGA said.

“ISO-NE here acknowledges the need for — and is in the process of completing — a market power analysis and has asked the commission to approve the ESI proposal conditioned on subsequent commission-approved mitigation rules.”

The state group also argued the ESI proposal would simply cost too much, but NEPGA said its arguments were based on the highest revenue projections from two specific resource types. Potential margins from two resource types operating under highly stressed winter conditions say little about whether the rules are just and reasonable, NEPGA said.

“The more relevant comparison is total potential market-wide costs averaged over multiple years versus the reliability benefits those costs will bring,” NEPGA said. “As explained below, when the totality of the impact assessment projected cost evidence is considered, it shows relatively modest costs more than justified in that they represent the cost of a reliable day-ahead operating plan for the near and long-term.”

NESCoE is the main supporter of the alternate rules before FERC, of which the biggest difference is that they are limited to the winter season only. Calpine and Vistra argued that would not do enough as the risk of shortfalls is not limited to only winter months.

ISO-NE had a scarcity event in September 2018 that triggered its pay-for-performance rules but Calpine and Vistra noted that is not the only example of the ISO’s grid being stressed outside of winter.

**Outage offers insight**

In the last two weeks — on May 29 – ISO-NE experienced issues when a 1,250-MW power plant tripped offline and then six hours later a major power line went down, leading to the loss of another 1,340 MW. ISO-NE fixed the issue by dispatching a number of combined-cycle plants outside the market.

“Had that product been in place for the event, ISO-NE would have known that required reserves were in place, thereby avoiding the need to take out-of-market actions,” Calpine and Vistra said. “Additionally, had fuel supply been tighter when the event occurred, the replacement energy reserves would have provided generators issuing such options with an incentive to firm up their
fuel arrangements in advance of the event."

**Texas Supreme Court to review ERCOT, Panda dispute**

The Texas Supreme Court agreed to review a dispute between ERCOT and Panda Power, which sprung out of a lawsuit the firm filed after its investment in a natural gas plant did not pan out. The legal question before the court is whether ERCOT qualifies for the same immunities that government entities get under state law.

The case involves investments from earlier this decade as the last few years have had shortages of reserves and much higher prices.

The case has now found its way to the highest court in the state after ERCOT filed to appeal a lower court’s decision. In a filing Panda made last year, the firm argued the lower court’s decision made no sense as it found ERCOT entitled to “sovereign immunity,” but that it is not a governmental unit and those conclusions are irreconcilable, the ISO said.

ERCOT wants the court to find it is a governmental unit, but Panda would rather the court reverse the finding that the grid operator is entitled to sovereign immunity. The grid operator noted the Texas Supreme Court found a private university’s police force entitled to sovereign immunity as even though it is paid by a private entity, it also performs critical governmental functions.

“ERCOT has more indicia of governmental-unit status than did the police force” at the university, the grid operator said in a filing last year. “It exercises uniquely governmental powers, including the power to make law, and it does so while under the state’s complete authority and supervision.

“It is subject not only to conflict-of-interest and public-information laws, but – more significantly – sunset review. It even receives public funding. No other privately organized entity in Texas meets all these criteria.”

Panda argued ERCOT’s claims that it is a state agency cannot be right, arguing Texas’ deregulation of the electric industry was designed to make government less involved in the electricity market – not more. “It is passing strange for this market-focused overhaul to have resulted in the creation of a governmental grid operator entitled to sovereign immunity, as ERCOT claims,” Panda said.

**NYSERDA asks for OK on clean energy program**

The New York State Energy R&D Authority (NYSERDA) filed a petition with the PSC last week to set up the Clean Energy...
Resources Development & Incentives Program. The “build-ready” program and petition were required under the Climate Leadership & Community Protection Act (CLCPA) in 2019, NYSERDA said.

The CLCPA requires the state to get 70% of its power from renewables by 2030 and the build-ready program was meant to help speed up some of that development. Under it, NYSERDA would identify areas with good renewable resources and then put out the development of power plants in those locations for competitive bidding.

“Given the state's aggressive climate goals, we must pursue all possible means to advancing clean energy development for the state of New York. State government is well-placed to build upon, support and enhance the already-significant work of the private market,” NYSERDA said. “The state can take a holistic view of where state and local needs lie, where generation and transmission are best developed, where communities can benefit from renewable energy projects, and how renewable energy development can be creatively and broadly integrated within the state.”

The build-ready program’s creative approach will yield projects that are fundamentally different from those the private market would naturally consider, doing so in a way that considers a broader set of costs and benefits. The state can take a multi-dimensional approach to identify sites that are valuable to supporting the state’s goals and all New Yorker’s, positive to local communities, and supportive of the environment and economically viable.

The state will have to speed up its procurement of renewables to meet the 2030 goal. NYSERDA procured 3,200 GWH/year over the last three years, but even that is likely not enough. The program can help speed that up.

“The build-ready program is anticipated to sustain the competitive disposition of approximately six large-scale renewable projects annually, starting in 2022 or 2023, and collectively are expected to contribute a measurable percentage of the generation associated with future tier-one procurements,” NYSERDA said.

The petition would set the program and its budget for five years until 2025 at a total cost of $71.8 million – most of which would go to technical, consultant, and legal support for the program. Eventually the program will start to make money but NYSERDA said it would need several years of $10-15 million in disbursements to be stood up.

1 story in 20 seconds

Gas futures lose 4¢

with cool ahead: NYMEX July natural gas futures settled lower in trading Friday amid near-term expectations for elevated cooling in the highest consuming regions, likely to diminish early space cooling needs, analyst Jackson Mueller reported. The contract
dropped 4¢ to close at $1.782/MMBTU. Both the six-to-10-day and eight-to-14-day forecasts showed colder-than-normal weather across most of the eastern 2/3 of the country and the Pacific Northwest, with some hotter-than-normal weather from California to Texas and in the Rockies.