Joint Comments: February 28, 2020, Connecticut DEEP IRP Technical Meeting

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1. Introduction

- Good morning and thank you for holding this technical meeting on the electricity market frameworks needed to achieve Connecticut's climate and clean energy policies. These are critical issues and we appreciate the opportunity to present our observations and ideas.

- In addition to representing Acadia Center, NRDC, and the Sustainable FERC Project, we're presenting on behalf of groups with whom we submitted joint comments on February 5.[1]

- As we explained in our February 5 comments and at the last technical meeting on these issues,[2] the current wholesale market construct—and in particular the Forward Capacity Market—in ISO New England is incompatible with and actively undermines Connecticut's leadership on clean energy and the state's progress in addressing climate change. At the same time, these markets unjustly and unreasonably raise costs to ratepayers.

- As we unfortunately saw earlier this month, ISO New England's Forward Capacity Market rules and outcomes favor polluting resources, contrary to state policies that aim to tackle climate change by decarbonizing the power system. For the second straight year, the ISO's supposed solution for integrating new clean energy resources into the capacity market—CASPR—failed to integrate these resources. Last year, CASPR allowed only a small amount of such resources to enter. This year, CASPR failed to enable any new clean energy resources to do so. With the climate crisis growing worse and only a limited window to avoid a climate disaster, these market failures are unacceptable.

- If the ISO's markets do not change in the very near term, Connecticut must be prepared to leave them. In restructuring its electricity system, Connecticut never intended to undermine its capacity to achieve environmental progress, nor has the state given up any of its authorities to regulate generation and pollution under state law or the Federal Power Act. Yet that's exactly what is happening under the current market construct.

- In our comments today, as in our previous written comments, we urge Connecticut to move forward expeditiously to determine how and what specifically would be required to withdraw

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[1] *Clean Energy Advocates' Comments on January 22, 2020, IRP Technical Meeting* (Feb. 5, 2020), http://www.dpuc.state.ct.us/DEEPEnergy.nsf/c6c6d525f7cdd1168525797d0047c5bf/4746046b68d3cad485258506006f9666/$FILE/Clean%20Energy%20Advocates%20Joint%20CT%20IRP%20Comments%202-5-20%20FINAL.pdf.

[2] Connecticut Department of Energy and Environmental Protection, *Notice of Technical Meeting and Opportunity to Comment* (Jan. 8, 2020), http://www.dpuc.state.ct.us/DEEPEnergy.nsf/c6c6d525f7cdd1168525797d0047c5bf/da847543db14d52a852584e9005b2f15/$FILE/FINAL%20Notice%20IRP%20Technical%20Meeting-Markets%20and%20Deregulation.pdf.

the state's utilities from the ISO New England markets, if it must come to that. In other words, Connecticut must develop and have ready its exit strategy.

- There are many questions that must be answered to take this step, and we'll identify what we believe are some of the most pressing ones. But having an exit strategy is critical to make clear to the ISO that Connecticut is unwilling to wait around in the hope that the ISO one day adopts meaningful market reforms. An exit strategy will make clear that if the markets are not reformed in short order, Connecticut is ready and able to pull its utilities out of the wholesale markets.

- To be clear, we are not recommending that Connecticut today decide to exit the ISO system. We continue to support a two-track approach that involves developing an exit strategy and pushing for market and governance reforms, ideally in concert with other New England states, that would be needed at the ISO to actively facilitate and help accelerate Connecticut and other states' energy and environmental priorities, rather than hindering them. Such reforms include, at a minimum, conversion of the existing Forward Capacity Market to a voluntary, residual market, and expansion of energy and ancillary services markets to enable a decarbonized grid.

- Finally, we'll also provide some overview thoughts on some of the other specific market reforms that have been proposed by other stakeholders in this proceeding, including carbon pricing and adoption of a Forward Clean Energy Market.

2. <u>Recent Developments</u>

- Before we get into potential solutions, however, we want to highlight some new developments since the last technical meeting and comment deadline that are relevant to these discussions and that potentially affect how Connecticut and stakeholders should be thinking about these wholesale market and state policy issues.

- First, three weeks ago, ISO New England ran its 14th annual Forward Capacity Auction, to procure capacity resources for the June 1, 2023, to May 31, 2024 capacity year. And as earlier highlighted, zero new clean energy resources were able to enter the market through CASPR, despite nearly 3,000 MW of resources that expressed interest in obtaining capacity obligations through the substitution auction.[3] CASPR's continued failure to ensure the capacity market recognizes the contributions and value of new clean energy resources being brought online by Connecticut and other states' policies shows that ISO New England's solution to integrating markets and state public policies is no solution at all.

- Second, just last week, FERC issued a troubling order on NYISO's capacity market that doubles down on its recent order in PJM.[4] Like the earlier PJM order, FERC's NYISO order would exclude new clean energy resources required under New York's ambitious clean energy laws from that

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[3] ISO New England, *Substitution Auction Elections for FCA-14*, https://www.iso-ne.com/static-assets/documents/2019/10/substitution-auction-bid-and-offer-summary.pdf.

[4] NRDC, "FERC Excludes Clean Energy From NY's Capacity Market" (Feb. 20, 2020), https://www.nrdc.org/experts/cullen-howe/ferc-excludes-clean-energy-nys-capacity-market.

region's capacity market. This order raises further questions about what kind of market reforms the current Commission would approve, even if there were a desire by ISO New England to better align its markets with state policies.

- Finally, ISO New England posted a presentation on "The Clean Energy Transition and Future Pathways" which may signal renewed discussion of markets issues within the ISO/NEPOOL stakeholder process.[5]
    - We believe there are some positive acknowledgments in the ISO's presentation of states and stakeholders' questions about the consistency of the region's markets and state policies as well as a high-level discussion of potential evolutionary paths forward, including perhaps the elimination of the Forward Capacity Market.
    - However, there are also red flags. Given the forward nature of the capacity market and generally lengthy time to alter market rules, the ISO states that any transition to a new market path would be "toward the latter part of this decade"—a timeframe that appears inconsistent with the urgent need to make major cuts in greenhouse gas emissions no later than 2030.
    - Additionally, the ISO states it "believes that the existing market structure is viable" and that while it is "committed to make improvements as necessary (e.g., ESI)" it is not "currently planning further major market structure changes."
    - This conclusion and lack of urgency from the ISO is troubling. As Connecticut, we, and others have noted, the current market construct is broken and if it is to be salvaged requires major structural change to bring the ISO system into alignment with Connecticut's climate and clean energy policies. We don't have time to wait years longer to address these issues.

3. <u>Developing an Exit Strategy</u>

- As we and others have noted in written comments, the wholesale markets have provided benefits. But these benefits are increasingly being undermined as the markets block or seek to reverse state policies, raising costs to ratepayers and continuing to stymie efforts to avert or minimize the costly and irreversible disruptions the climate crisis will bring.
- In an ideal world, reforms would be made to the wholesale markets to preserve or restore the markets' benefits and help Connecticut achieve its policies. This would be the best possible outcome. However, if ISO New England and FERC are unable or unwilling to fix the wholesale markets to accommodate and actively facilitate the state's policy goals, then Connecticut must communicate and exhibit its resolve to leave these markets altogether. This necessitates developing an exit strategy.
- We believe Connecticut should pose and answer the following questions in order to develop an effective exit strategy while it evaluates its options to move forward.

[5] *See* ISO New England, New England's Wholesale Electricity Markets: The Clean Energy Transition and Future Pathways (Feb. 20, 2020), https://www.iso-ne.com/static-assets/documents/2020/02/iso_ne_clean_energy_transition_2020.pdf.

- First, the state must fully articulate the outcomes it is seeking to achieve. What wholesale market failures is the state seeking to avoid or correct and what should its alternative approach do better? We propose the following:
    - Achieve environmental/carbon goals through rapid deployment/retention of non-carbon emitting resources;
    - Define and apply measures of cost-effectiveness, resilience, reliability, and equity/justice to its evaluation of options;
    - Avoid paying for continued investment in fossil fueled generation and infrastructure; and
    - Enable full participation, recognition, and compensation for the benefits of clean energy resources and the infrastructure necessary for their swift and efficient deployment.
- Second, the state must establish what the measures will be of success. These could include:
    - An expeditious timeframe for development and implementation;
    - Compatibility with the existing market structure during a period of transition;
    - Compatibility with state and federal statutes;
    - Producing durable and effective outcomes across a range of future scenarios;
    - Predictability for regulators, consumers, and market participants;
    - Expandability to other state jurisdictions; and
    - Reflecting the true cost and benefits of action, compared to the status quo.
- Third, the state must evaluate the feasibility of its proposed approach, including from a legal perspective. This legal analysis should include assessment of:
    - Existing state legal authority over resource adequacy and in relation to state utilities' participation in the ISO markets;
    - Potential legal barriers to withdrawing utilities from the ISO markets; and
    - Updates to existing laws that might be needed to accomplish this exit.

- Answering these questions will require more time and consideration, both from the state and stakeholders. We recommend that DEEP lay out a clear process for doing so that provides sufficient time for comments and to engage objective experts.
    - This could include additional technical meetings focusing on specific questions around elements of an exit strategy.
    - It could also involve DEEP and potentially other state agencies developing technical and legal analysis and/or engaging expert consultants to prepare reports on these issues that the agency and stakeholders can respond to.

- We would encourage Connecticut to, wherever possible, also involve other New England state partners in these discussions as the ISO's market failures are also harming other states and interfering with their efforts to decarbonize.

4. <u>Other Potential Market Frameworks Raised in This Proceeding</u>

- Finally, we have a few observations and questions about other potential market frameworks that have been proposed in this proceeding—and elsewhere—to better align the markets with achieving state policy goals, including potential changes to existing wholesale markets as well as potential new markets.
  - In our written comments, we highlighted the potential for resolution first by making the Forward Capacity Market a voluntary, residual market and second by enhancing the energy and ancillary services markets, for example through scarcity pricing, to better support a high renewable energy future.
  - Other frameworks include, for example, carbon pricing, a Forward Clean Energy Market, full elimination of the Forward Capacity Market, and individual states retaking resource adequacy control from the ISO through a Fixed Resource Requirement. There are likely other ideas as well.
  - We support further exploration of the strengths and weaknesses of these different approaches, though recommend a more in-depth process with greater opportunities for stakeholders to evaluate viable proposals.
  - Exploring alternative market frameworks should also be in addition to, not as a substitute for, developing a market exit strategy, which is a necessary safeguard to ensure Connecticut is able to achieve its state policies in the case that ISO New England and FERC refuse to acceptably reform wholesale markets, as they have refused thus far.
- In considering potential frameworks that would integrate carbon or clean energy goals into wholesale markets, we further raise two points of caution:
  - First, FERC's recent PJM and NYISO orders exhibit clear hostility toward state policies and jurisdiction. It is thus unclear whether even if there were agreement in the region on a particular framework whether it would be approved by the Commission. FERC's conception of "subsidies" that it has ordered be subject to the MOPR in PJM further raises questions about whether the Commission might subject revenues that clean energy resources receive under a mechanism like a Forward Clean Energy Market to the MOPR, or whether the Commission might seek to counteract a carbon price via the MOPR.
  - Second, given FERC's actions as well as the ISO's unwillingness thus far to accommodate and help achieve state climate and clean energy policies, Connecticut should proceed cautiously in considering potential solutions that are limited to wholesale market reforms. At best, such approaches are uncertain to receive ISO or FERC approval—or of receiving approval in a manner consistent with state policies—but they might also risk bringing Connecticut's state policies under the control of FERC or setting up Federal Power Act jurisdictional challenges that could undermine state authority.

5. Conclusion

- Accordingly, we urge Connecticut to not put all its eggs in one basket and to pursue the two-track approach—an exit strategy plus continued engagement around wholesale market reforms.

- In doing so, it is also important to be realistic about the complexity of these market issues and the time that will be needed to consider and resolve them, whether that entails exiting the market or reforming it. As ISO New England's "The Clean Energy Transition and Future Pathways" presentation makes clear, potential changes to wholesale market frameworks could take years. Transitioning Connecticut away from the wholesale markets would also likely need to be achieved via a gradual or staged process to ensure reliability and avoid shocks to consumers and market participants.

- This extended timeline of course isn't a reason for delay: it's why we need to start the discussions now and why we're glad to see DEEP leading the way. The current market dysfunction ignores the necessity for decarbonization that should serve as the overriding preference in any market design. It is imperative that we reframe our measures of market success and transform the market to serve as the "Agent of Change".

- Thank you again for the opportunity to provide comments, and we look forward to continuing to engage with Connecticut policymakers on these issues.