

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

**ISO New England’s Informational Filing for)
Qualification in the Forward Capacity Market)
for the 2025-2026 Capacity Commitment Period)**

Docket No. ER22-391-000

**MOTION TO INTERVENE AND COMMENTS OF THE ISO-NEW
ENGLAND EXTERNAL MARKET MONITOR**

Pursuant to Rules 212 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC” or “Commission”), 18 C.F.R. §§ 385.212 and 214 (2007), Potomac Economics respectfully moves to intervene in the above-captioned proceeding concerning the ISO-New England’s (“ISO-NE”) November 9, 2021 Informational Filing for Qualification in the Forward Capacity Market. The ISO’s filing included information on the Internal Market Monitor’s (“IMM”) review and mitigation of offers and bids from new and existing capacity resources. Anbaric Development Partners, LLC (“Anbaric”) and Massachusetts Municipal Wholesale Electric Company (“MMWEC”) filed a protest on November 24, 2021 regarding the IMM’s determination of the New Resource Offer Floor Price (“Offer Floor Price” or the “OFP”) for the proposed Westover Energy Storage Center (“Westover Project”).

Potomac Economics is the External Market Monitor (“EMM”) for ISO-NE. In that capacity, we review and comment on the mitigation performed by the IMM. Our comments cover the IMM’s review and determination of the Westover Project’s OFP for FCA-16.

I. NOTICE AND COMMUNICATIONS

All correspondence and communications in this matter should be addressed to:

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II. MOTION TO INTERVENE

As the EMM for ISO-NE, Potomac Economics is responsible for evaluating the quality and appropriateness of the mitigation by IMM. Potomac Economics has a unique insight into the IMM's review of the information that project sponsors submit as part of the New Capacity Qualification Package, including confidential information. Therefore, Potomac Economics' interests cannot be adequately represented by any other party. Accordingly, Potomac Economics respectfully requests that it be permitted to intervene in this proceeding with full rights as a party.

This filing discusses commercially sensitive information about the Westover Project and the IMM's determination. Therefore, we request confidential treatment of our comments pursuant to 18 C.F.R. § 388.112. We are filing a public, redacted version of our comments separately.

III. INTRODUCTION AND BACKGROUND

The Westover Project is a proposed 100 MW battery storage project to be located in Massachusetts whose sponsors (Anbaric and MMWEC) submitted an offer price for the IMM's review prior to the FCA-16.¹ The IMM reviewed the submittal and issued a Qualification Determination Notice ("QDN") which communicated the results of its review.

¹ The Westover Project will be built under a joint ownership agreement with ██████████ of the project funded by MMWEC, and ██████████ of the project funded by Anbaric. See page 4 of the protest.

In accordance with its Tariff, the IMM filed (as part of the ISO's Informational Filing) with the Commission the results of its review of proposed offers and bids from new and existing resources in FCA-16. Anbaric and MMWEC filed a protest with the Commission requesting that it overturn the IMM's mitigation of the Westover Project and permit the project to offer in FCA-16 at its proposed offer price. As the EMM for ISO-NE, we were involved in reviewing the mitigation performed by IMM for the new and existing resources in FCA-16. The IMM provided us with access to the Westover Project sponsors' submittal and discussed its proposed actions.

We are submitting the following comments as we believe they would be helpful to the Commission as it considers the protest and the IMM's answer. Our comments cover: (a) a summary of the key issues raised in the protest, (b) the Tariff provisions that govern the IMM's review of New Resources Offer Floor Price, and (c) the IMM's review of the Westover Project.

IV. SUMMARY OF KEY ISSUES RAISED IN THE PROTEST

The sponsors of the Westover Project intend to offer capacity from the project at a price below the ORTP for battery storage resources and submitted a package of information to support the requested offer price. The IMM reviewed the submittal and calculated an OFP of the Westover Project using adjusted Weighted Average Cost of Capital ("WACC") parameters and energy and ancillary services ("EAS") revenue forecast.

As noted in the protest, the sponsors developed their offer price by relying "on the inputs used to establish the Commission-approved ORTP for storage resources, while substituting more competitive inputs where justified by advantages unique to Anbaric or MMWEC." Given this, the project sponsors claim that the IMM's determination is inconsistent with its authority under the Tariff.

The protest claims that the Tariff limits the IMM’s authority to mitigate the OFPs to only two situations:

- The IMM can adjust the proposed “capital costs, discount rates, depreciation, and tax treatment” when it finds any of them to be “clearly inconsistent with prevailing market conditions.”
- The IMM can exclude from the project’s cash flow any out-of-market revenues.

The project sponsors further claim that (a) they submitted sufficient information to substantiate the WACC and EAS revenue forecast, and [REDACTED] [REDACTED] The protest also suggests that the IMM should not be permitted to prohibit the project sponsors from relying on the inputs to the battery storage ORTP calculations, and that “[t]hose well-vetted, Commission-approved inputs should function as “safe harbors” for all FCA participants.”

Lastly, the protest claims that the IMM has not made any finding about the project sponsors’ incentive or ability to exercise buyer-side market power, and that they are “trying to beat their competition by relying on the combination of cost advantages afforded by their particular circumstances and cost components contained in a Commission-approved and technology-specific ORTP.”

V. TARIFF PROVISIONS THAT GOVERN IMM’S REVIEW OF NEW RESOURCE OFFER FLOOR PRICES

The Tariff requires all New Capacity Resources that intend to offer in a FCA at a price below the corresponding Offer Review Trigger Price (“ORTP”) to submit certain information to the IMM as part of its New Capacity Qualification Package. The resource must submit all the information (along with sufficient documentation) that would allow the IMM to estimate the OFP for the resource.

As part of its review process, the IMM evaluates the submitted data and estimates a capacity price that represents the missing money that the resource requires from the FCM. For new generating resources, the IMM estimates this capacity price by entering the “relevant resource costs and non-capacity revenue data” and other assumptions (e.g., discount rates, taxes) into the model used to estimate the relevant ORTP.² In developing its estimate for the capacity price, the Tariff requires the IMM to “exclude any out-of-market revenue” and adjust “any assumptions that are clearly inconsistent with prevailing market conditions”.

After adjusting the submitted inputs as necessary, the IMM determines whether the requested offer prices are consistent with its capacity price estimate. If the two values are found to be inconsistent, the resource’s OFP will be set at the IMM’s capacity price estimate. The IMM issues a Qualification Determination Notice (“QDN”) which communicates the results of its review and the final OFP.

VI. COMMENTS ON THE IMM’S REVIEW OF WESTOVER PROJECT

Based on the above guidance from the Tariff, and our review of information submitted by the project sponsors, we believe:

- The IMM has the authority to adjust a project’s non-capacity market revenues that are inconsistent with prevailing market conditions;
- It is not appropriate for projects sponsors to selectively rely on ORTP inputs; and
- IMM’s adjustments to submitted inputs are appropriate.

In the rest of this subsection, we discuss our rationale for each of the above comments.

² See Section III.A.21.2 of the Tariff.

A. IMM has the authority to adjust a project’s non-capacity market revenues

Although the Tariff provides explicit guidance related to treatment of regulated revenues, Section III.A.21.2(b)(i) of the Tariff also states that “any assumptions that are clearly inconsistent with prevailing market conditions will be adjusted”. Accordingly, the Tariff provides for the IMM to utilize revenues that differ from the submitted values to the extent the IMM deems them to be inconsistent with the prevailing market conditions, regardless of whether the resource is a recipient of out-of-market revenues.

Hence, the IMM has the authority to utilize adjusted revenues in its capacity price estimate for the Westover project.

B. It is not appropriate for projects sponsors to selectively rely on ORTP inputs

The ISO calculates an ORTP for each major technology based on generic cost and revenue estimates for the technology. The assumptions used in the ORTPs are generally consistent with the characteristics of a typical project for a given technology. Any project of a given technology can elect to have the ORTP-based offer floor and avoid the detailed review of cost and revenue assumptions for the project. Having the option of using the ORTP is useful because it allows many developers to avoid needless administrative effort, which also saves time and effort for IMM staff. However, any developer with net costs lower than the ORTP can elect to go through the review process and obtain a lower OFP, if appropriate.

As noted above, the protest characterizes the various inputs to the ORTP as “safe harbors” for each of the inputs to the model the IMM uses to estimate the capacity price.³ This is not a reasonable characterization of the individual input values. The inputs to the ORTP calculation correspond to a representative project, and while they could serve as useful benchmarks, they may

³ See page 5 of the protest.

not always be relevant to a project's offer price calculation. A number of project-specific circumstances could result in situations where the ORTP inputs are not relevant for the project.

For instance:

- A battery project that relies on regulation revenues may have considerably different costs compared to a resource that primarily relies on energy price arbitrage and reserve markets.
- A resource may enter into service later than the entry date assumed when developing the ORTP values. Consequently, to the extent that the underlying technology costs or revenues decline (relative to the current conditions), the ORTP parameters may not be relevant for the project.

If developers are able to pick and choose individual line items that made up the ORTP, they may simply take the line items that are lower than the estimated cost of their project and reject the line items that are higher. This will tend to bias downward the overall estimated net cost of entry for projects seeking an OFP to a level predictably lower than the project's actual cost.

Hence, the Westover Project sponsors should not be able to choose only specific inputs from the ORTP model without further support, even if the technology type of the proposed project and the ORTP project is the same.

C. IMM's adjustments to submitted inputs are appropriate

As described in the QDN and the protest, the IMM adjusted the project sponsor's inputs related to the WACC parameters and EAS revenue forecast. We support the IMM's decision to adjust these parameters and replace them with [REDACTED]

[REDACTED] We summarize the rationale for the IMM's adjustments and quantify their impact on the Westover Project's Offer Floor Price below.

1. WACC Parameters

In estimating its OFP, the IMM adjusted the cost of equity, cost of debt, and the debt-to-equity ratio of Anbaric, and the cost of capital of MMWEC since [REDACTED]

[REDACTED]

a. Anbaric WACC Parameters

[REDACTED]

[REDACTED]

[REDACTED] As noted in the protest, the project sponsors supported their proposed cost of equity by providing a press release that suggested that the expected return on equity of Ontario Teacher’s Pension Plan (which is a financing partner) for a transmission project in New England is 7.9%.⁴ However, since this project would be able to recover its costs under a cost-of-service compensation mechanism (if selected under a competitive solicitation), it is not an appropriate comparable for estimating the cost of equity of the Westover Project, which the sponsors claim is a pure merchant project. [REDACTED]

[REDACTED]

[REDACTED] Hence, we find the IMM’s decision to adjust Anbaric’s WACC parameters reasonable and in compliance with the Tariff.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

⁴ See pp 16 of affidavit of Luis A. Ortiz in support of the protest.

[REDACTED]

b. MMWEC WACC Parameters

[REDACTED]

2. EAS Revenues

The IMM adjusted the submitted EAS revenue forecast, which was based on inputs to the ORTP, and replaced it [REDACTED].

This was appropriate because the revenue estimates used in the ORTP were developed based on historical prices. However, the resource mix over the project life is likely to change considerably from the recent past, and the historical trends for regulation prices and the spread between peak and off-peak prices will also change. Hence, the ORTP revenues do not provide a good estimate for the conditions that this project is likely to encounter. [REDACTED]

[REDACTED]

Accordingly, we support the IMM's decision to replace the submitted EAS revenue forecast with [REDACTED]

[REDACTED]

3. Impact of IMM's Adjustments

The following chart shows the extent to which each of the IMM's adjustments (Anbaric's WACC, MMWEC WACC, and the EAS revenue forecast) increased the OFP for the Westover

Project.⁵ [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

⁵ The precise impact of each adjustment likely depends on the sequence in which they are incorporated into the offer price calculation. Nonetheless, the approximate impact of each adjustment, and the cumulative impact of the adjustments, is similar regardless of the sequence.

VII. CONCLUSION

WHEREFORE, for the foregoing reasons, Potomac Economics, Ltd. respectfully requests the Commission to grant its motion to intervene in this proceeding, accept these comments, and find the IMM's determination for Westover Project's Offer Floor Price to be compliant with the tariff.

Respectfully submitted,

/s/ David B. Patton

David Patton
President
Potomac Economics, Ltd.

CERTIFICATE OF SERVICE

I hereby certify that I have this day e-served a copy of this document upon all parties listed on the official service list compiled by the Secretary in the above-captioned proceeding, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated this 9th day of December, 2021 in Fairfax, VA.

/s/ David B. Patton