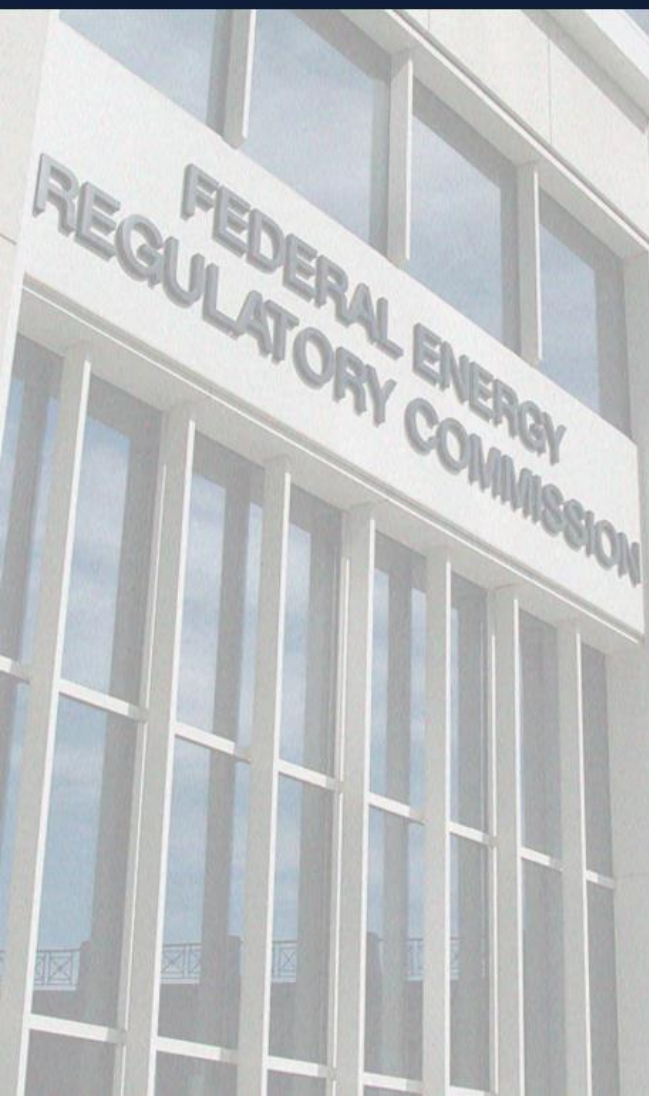




Federal Energy Regulatory Commission

Footprint Power, LLC Salem Harbor Facility:

A Case Study



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Salem Harbor Case Study

Federal Energy Regulatory Commission

- Enforcement changed its recommendation for sanctions *after* Commission initiated a public enforcement proceeding against subject
- Case:
 - Generator lacked fuel, but submitted false energy supply offers and collected millions of dollars from them
 - Enforcement alleged that the conduct violated various market rules, like the requirement to:
 - Report anticipated generator availability
 - Submit accurate and factual, not false information



Salem Harbor: The Facility

Federal Energy Regulatory Commission

- 748 MW fossil-fueled generating facility purchased from Dominion in 2012
- Investigation involved Unit 4, a 437 MW oil-fired generator
- Conduct under investigation occurred in the summer (June and July) of 2013



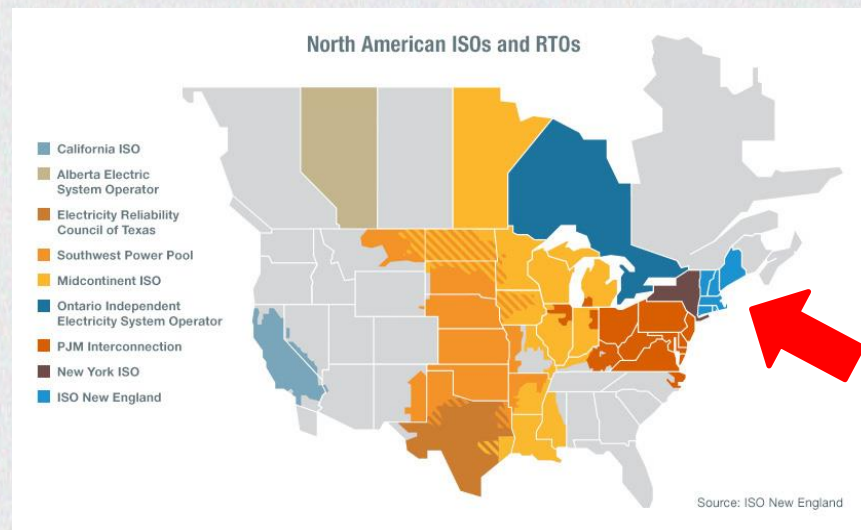
Salem Harbor Facility



Salem Harbor: Relevant Facts

Federal Energy Regulatory Commission

- Through its Forward Capacity Market (FCM), ISO-New England pays resources to provide capacity to the region
- At an annual auction, resources compete to obtain a “Capacity Supply Obligation” (CSO): a commitment to supply a specified amount of MW capacity in exchange for a capacity payment three years in the future
- Resources that win a CSO must:
 - Offer energy equal to more than CSO
 - Must be available for dispatch at CSO unless excused under limited exceptions





Salem Harbor: Relevant Facts

Federal Energy Regulatory Commission

- Footprint sold almost all of Salem Harbor's fuel back to Dominion at the time it purchased the facility
- Unit 4 still had a CSO equal to 437 MW
- Which meant Unit 4 had to:
 - Offer all 437 MWs daily, **and**
 - Be available to produce that energy
- Footprint received CSO payments for Unit 4 equal to \$2,179,839 in June 2013 and \$2,178,092 in July 2013



Salem Harbor: Referral to Commission

Federal Energy Regulatory Commission

ISO-New England's Market Monitor flagged Unit 4's offering behavior in a July 2013 referral, finding that:

1. Unit 4 was offered at its CSO in July 2013, but failed to produce energy at its CSO when dispatched by the ISO
2. Offering Unit 4 in this manner misrepresented the unit's operating availability



Salem Harbor: Enforcement Investigation

Federal Energy Regulatory Commission

During the period under investigation, Enforcement found that:

- Salem Harbor did not have enough oil to generate at Unit 4's CSO of 437 MW
- Footprint *knew* that Salem Harbor did not have enough oil, and that it would take several days to receive fuel once it was ordered





Salem Harbor: Enforcement Investigation

Federal Energy Regulatory Commission

- Footprint initially claimed:
 - No economic motive
 - “Good faith” belief that Salem Harbor had enough fuel
 - Environmental restrictions limited Unit 4’s availability
 - Commission previously excused other generators for the same conduct
- Enforcement found that most of Footprint’s arguments were without merit, but in light of some of the additional information received, did *narrow the set of violations pursued*



Salem Harbor: Public Enforcement Proceeding

Federal Energy Regulatory Commission

- In June 2018, the Commission issued an Order to Show Cause, initiating a public enforcement proceeding against Footprint, seeking:
 1. \$2,049,571 in disgorgement for unearned CSO payments
 2. \$4,200,000 civil penalty
- In August 2018, Footprint submitted an Answer to the Commission's Order to Show Cause, raising an argument regarding Unit 4's supply offers that Footprint had not fully raised in its prior written responses to Enforcement's allegations



Salem Harbor: Proceeding Terminated

Federal Energy Regulatory Commission

- Argument applied to some, but not all of the alleged violations
- Enforcement reevaluated its position and recommended that the Commission vacate its Order to Show Cause
- First time the Commission has vacated an Order to Show Cause
- Key Takeaway:
 - Demonstrates that the Commission's Enforcement's process works as it should