



March 20, 2007

VIA HAND DELIVERY

The Honorable Philis J. Posey
Acting Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

**Re: ISO New England Inc. and New England Power Pool Participants
Committee, Docket No. ER07-365-001 Revisions to Market Rule 1
Relating to the Methodology for Calculating Installed Capacity
Requirements**

Dear Acting Secretary Posey:

Pursuant to Rule 1907 of the Federal Energy Regulatory Commission's ("FERC" or "Commission") Rules of Practice and Procedure, 18 C.F.R. § 385.1907 (2006), ISO New England (the "ISO") and the New England Power Pool ("NEPOOL") Participants Committee (collectively, the "Filing Parties") hereby jointly submit an original and five (5) copies of this filing in compliance with the Commission's *Order* issued on February 28, 2007 ("February 28 Order").¹ The Commission directed in the February 28 Order that the definitions of the terms "Existing Capacity Resource" and "Permanent De-List Bid", which were contained in the package of Market Rule 1 revisions relating to the Installed Capacity Requirements (the "ICR Rules") filed on December 22, 2006 in this proceeding ("December 22 Filing") be modified as set forth in its February 28 Order.

As described herein, compliance with the Commission's directives has been effected through the Forward Capacity Market ("FCM") definitions and Market Rules

¹ Capitalized terms used but not otherwise defined in this filing have the meanings ascribed thereto in the ISO's Transmission, Markets and Services Tariff, FERC Electric Tariff No. 3 (the "Tariff"), the Second Restated New England Power Pool Agreement and the Participants Agreement.

filed on February 15, 2007 in Docket Nos. ER07-546-000 and ER07-547-000 (the “FCM Filing”).² As explained in the FCM Filing, Market Rule revisions implementing the FCM and ICR proposals, including several definitions common to both proposals, overlap. The term “Existing Capacity Resource” as used in the ICR Rules in the December 22 Filing in this proceeding has been replaced by the term “Existing Generating Capacity Resource” in the FCM Filing. The Market Rules in the FCM Filing add greater specificity as to when a resource is “new” versus “existing,” including when a new capacity resource may elect to be treated as existing. The Market Rules in the FCM Filing also revise the definition of “Permanent De-List Bid” from the definition of that term included in the December 22 Filing of the ICR Rules. The revised definition refers to the FCM Market Rule provisions which provide a more complete description of these bids.

I. BACKGROUND

On December 22, 2007, the ISO and NEPOOL submitted the ICR Rules, which are proposed revisions to Market Rule 1 that were designed to memorialize the processes and methodologies used to determine the Installed Capacity Requirements (“ICR”) for the New England Control Area. In particular, the ICR Rules described key aspects of the methodology and process of calculating the ICR and related values. Among other things, the ICR Rules in the December 22 Filing included definitions for the terms “Existing Capacity Resource” and “Permanent De-List Bid.”

On January 17, 2007, the Connecticut Department of Public Utility Control (“CT DPUC”) submitted a *Protest* controverting various aspects of the December 22 Filing, including the proposed definitions of “Existing Capacity Resource” and “Permanent De-List Bid”. Specifically, the CT DPUC argued that the FCM Settlement provides that a new capacity resource may elect to be treated as an Existing Capacity Resource. Accordingly, the CT DPUC requested that the proposed definition of “Existing Capacity Resource” in the ICR Rules be revised to state that a new capacity resource may be required to be treated as an Existing Capacity Resource pursuant to contract requirements or for other reasons.

With respect to the definition of “Permanent De-List Bid” proposed in the December 22 Filing, the CT DPUC argued in its *Protest* that the proposed definition was tautological and failed to define permanently de-listed capacity. As a result, the CT DPUC argued that the proposed definition should be modified to comport with the

² Both the FCM Filing, which proposed all the changes to the ISO Tariff necessary to implement the FCM, and the ICR Filing, which specified the process for determining the ICR for the FCM, were required under the terms of the FCM Settlement Agreement (“FCM Settlement”), which was approved by the Commission on June 16, 2006. *Devon Power LLC*, 115 FERC ¶61,340 (2006).

definition of “Permanent De-List Bid” reflected in Section 11.III.D.3 of the FCM Settlement.

The Commission, in its February 28 Order, agreed with the CT DPUC and directed the Filing Parties to (1) revise the definition for “Existing Capacity Resource” either as proposed by the CT DPUC or in such a way that it clearly articulates that a new capacity resource may elect to be treated as an Existing Capacity Resource;³ and (2) provide a fuller definition of “Permanent De-List Bid.”⁴ The Commission ordered that both changes be made within 30 days.

II. DESCRIPTION OF THE FILING PARTIES

The ISO is the private, non-profit entity that serves as the regional transmission organization (“RTO”) for New England. The ISO operates the New England bulk power system and administers the New England Energy Markets pursuant to the ISO Tariff and the Transmission Operating Agreement with the New England transmission owners. In its capacity as an RTO, the ISO has the responsibility to protect the short-term reliability of the Control Area and to operate the system according to reliability standards established by the NPCC and NERC.

NEPOOL is a voluntary association organized in 1971 pursuant to the New England Power Pool Agreement, and it has grown to include more than 300 members. The Participants include all of the electric utilities rendering or receiving services under the ISO Tariff, as well as independent power generators, marketers, load aggregators, brokers, consumer-owned utility systems, demand response providers, end users and a merchant transmission provider. Pursuant to revised governance provisions accepted by the Commission in *ISO New England Inc. et al.*,⁵ the Participants act through the NEPOOL Participants Committee. The NEPOOL Participants Committee is authorized by Section 6.1 of the Second Restated NEPOOL Agreement and Section 8.1.3(c) of the Participants Agreement to represent NEPOOL in proceedings before the Commission.

³ February 28 Order at P 58.

⁴ February 28 Order at P 61.

⁵ *ISO New England Inc., et al.*, 109 FERC ¶ 61,147 (2004)

III. FEBRUARY 28 ORDER COMPLIANCE MODIFICATIONS

A. Definition of “Existing Capacity Resource”

In response to the CT DPUC’s contentions, the Commission, in its February 28 Order, directed the Filing Parties to revise the definition of “Existing Capacity Resource” in the ICR Rules by either: (1) adopting the definition proposed by the CT DPUC⁶ or (2) articulating clearly that a new capacity resource may elect to be treated as an Existing Capacity Resource. In the FCM Filing, the term “Existing Capacity Resource” has been changed to “Existing Generating Capacity Resource.” This terminology is common to both the ICR Rules and the FCM Market Rules. The definition in the FCM Market Rules provides greater specificity as to when a particular resource will be defined as either an Existing Generating Capacity Resource or a New Generating Capacity Resource. This specificity includes the scenario in which a New Generating Capacity Resource elects to be treated as an Existing Generating Capacity Resource, or is otherwise required to do so pursuant to contract. Proposed Section III.13.1.1.1.(b) of the Market Rules in the FCM Filing states:

For the Forward Capacity Auction for the Capacity Commitment Period beginning June 1, 2010, any resource that is not expected, as determined by the ISO, to begin Commercial Operation by February 1, 2009 shall be treated as a New Generating Capacity Resource, *unless the resource is required pursuant to contract to be treated as an Existing Generating Capacity Resource or the resource elects to be treated as an Existing Generating Capacity Resource in the New Capacity Qualification Package.* If such a resource is required pursuant to contract or elects to be treated as an Existing Generating Capacity Resource:

(i) the resource must satisfy all of the qualification process requirements applicable to a New Generating Capacity Resource as described in Section III.13.1.1.2 (including the Qualified Capacity determination pursuant to Section III.13.1.1.2.5), except that the resource may not elect, if its offer clears in the Forward Capacity Auction, to have the associated Capacity Supply Obligation and Capacity Clearing Price continue to apply after the first Capacity Commitment Period; and

(ii) the resource shall be entered into the Forward Capacity Auction in the same manner as an Existing Generating Capacity Resource that did not

⁶ In its *Protest*, the CT DPUC proposed that the sentence “or that is not within 12 months of its requested commercial operations date but is required pursuant to contract or otherwise elects to be treated as an Existing Capacity Resource” be added to the end of the definition of “Existing Capacity Resource.” See CT DPUC Protest at 13.

submit a Static De-List Bid, a Permanent De-List Bid, an Export Bid, or an Administrative Export De-List Bid, as described in Section III.13.2.3.2(c)d.⁷

As is clear from the above language in the FCM Rule, a new capacity resource may elect to be treated as an Existing Generating Capacity Resource. Thus the definition provided in the FCM Market Rule satisfies the requirements of the Commission's directive in its February 28 Order. Accordingly, instead of filing a revised tariff sheet in the subject docket, the Filing Parties submit that compliance with the February 28 Order has been effected through the FCM Filing.

B. Definition of "Permanent De-List Bids"

The Commission, in its February 28 Order, directed that the definition of "Permanent De-List Bid" – namely, "a bid submitted in the Forward Capacity Auction by an Existing Capacity Resource to permanently de-list capacity" – included in the proposed ICR Rules be amended to "provide a fuller description of Permanent De-List Bids."⁸

The Market Rule provisions in the FCM Filing revise the definition of "Permanent De-List Bid" from the one submitted with the ICR Rules in the December 22 Filing to read as follows, in pertinent part: "a bid that may be submitted by an Existing Generating Capacity Resource, Existing Import Capacity Resource, or Existing Demand Resource in the Forward Capacity Auction to permanently remove itself from the capacity market, as described in Section III.13.1.2.3.1.2." (Emphasis added). Proposed Section III.13.1.2.3.1.2. (Permanent De-List Bids), states:

An Existing Generating Capacity Resource seeking to opt out of the capacity market permanently beginning at the start of a particular Capacity Commitment Period may submit a Permanent De-List Bid in the associated Forward Capacity Auction. A Permanent De-List Bid may not result in a resource's Capacity Supply Obligation being less than its Economic Minimum Limit except where the resource submits a Permanent De-List Bid for the resource's full summer Qualified Capacity. Each Permanent De-List Bid must be detailed in an Existing Capacity Qualification Package submitted to the ISO no later than the Existing Capacity Qualification Deadline, and must be in the form of a curve (up to five price-quantity pairs) associated with a specific Existing Generating Capacity Resource. All Permanent De-List Bids are subject to a reliability review as described

⁷ Original Sheet No. 7308B, ISO New England Inc., FERC Electric Tariff No. 3. (emphasis added).

⁸ February 28 Order at P 61.

in Section III.13.2.5.2.5. Permanent De-List Bids above 0.8 times CONE are subject to review by the Internal Market Monitoring Unit pursuant to Section III.13.1.2.3.2 and must include the additional documentation described in that section. Permanent De-List Bids, if accepted, shall be entered into the Forward Capacity Auction pursuant to Section III.13.2.3.2(b). A resource whose Permanent De-List Bid clears in the Forward Capacity Auction is precluded from subsequent participation in the Forward Capacity Market unless it qualifies as a New Generating Capacity Resource pursuant to Section III.13.1.1.1.2.

Thus, the revised definition of “Permanent De-List Bid” and provisions of Section III.13.1.2.3.1.2 of the Market Rules changes in the FCM Filing provide a more comprehensive explanation of Permanent De-List Bids. The definition in the FCM Filing details what a Permanent De-List Bid is; how a unit can permanently de-list; and the conditions/limitations associated with permanently de-listing. The Filing Parties submit that these provisions fully satisfy the directives in the February 28 Order that the Filing Parties “provide a fuller description of Permanent De-List Bids.”

IV. CONCLUSION

The Filing Parties respectfully request that the modifications identified herein be accepted as compliant with the requirements of the February 28 Order.

Please acknowledge receipt of the foregoing by date-stamping and returning to our messenger the enclosed extra copies of this filing.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.2010 (2006), upon each person designated on the official service list in this proceeding as compiled by the Secretary of the Federal Energy Regulatory Commission.

Dated at Washington, D.C., this 20th day of March, 2007.

Sherry A. Quirk