

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
Nora Mead Brownell, Joseph T. Kelliher,  
and Suedeem G. Kelly.

ISO New England Inc.

Docket Nos. ER05-811-000  
PL05-3-000

ORDER ACCEPTING AMENDMENTS

(Issued June 1, 2005)

1. In this order, we accept proposed amendments filed by ISO New England Inc. (ISO or ISO-NE) and the New England Power Pool (NEPOOL) Participants Committee (jointly, Filing Parties) to financial policies of the ISO Transmission, Markets and Services Tariff (ISO Tariff) to allow an additional form of collateral. This order benefits customers because it increases financing options for entities participating in the New England markets and provides a means to reduce the net cost of providing collateral.

**Background**

2. On April 12, 2005, in Docket Nos. ER05-811-000 and PL05-3-000,<sup>1</sup> the Filing Parties filed amendments to the ISO Financial Assurance Policy for Market Participants, the ISO Financial Assurance Policy for Non-Market Participant Transmission Customers, and the ISO Financial Assurance Policy for Non-Market Participant FTR Customers and Non-Market Participant Demand Response Providers (Amendments), Exhibits 1A, 1B, and 1C of Section I of the ISO Tariff, to add short-term United States Treasury obligations<sup>2</sup> as a form of acceptable financial assurance. The Filing Parties request an effective date of June 1, 2005.

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<sup>1</sup> The Filing Parties explain that the Amendments are also being filed in Docket No. PL05-3-000, ISO-NE's ongoing compliance filing, because it represents continued measures that the New England stakeholders are taking to reduce the burden of collateral requirements on those entities seeking to participate in the New England markets.

<sup>2</sup> Treasury obligations generally earn interest at a higher rate than the overnight rate at which cash deposits provided under the Financial Assurance Policies are now invested.

3. The Amendments allow Covered Entities to provide United States Treasury obligations with maturity dates of one year or less from the dates that they are provided, subject to certain restrictions, as a form of financial assurance. Only 95 percent of the value of the Treasuries will be used for purposes of determining whether a participant has satisfied its Financial Assurance Requirement. The Filing Parties explain that the five percent discount is to account for any risk in liquidating the Treasuries before their maturity dates and for the administrative burden that ISO-NE would incur if it were required to liquidate the Treasuries before they mature.

4. Notice of the filing was published in the *Federal Register*, 70 Fed. Reg. 22,022 (2005), with comments, protests, and interventions due on or before May 3, 2005. Northeast Utilities Service Companies filed a motion to intervene. DC Energy LLC (DC Energy) filed a motion to intervene and comments.

5. On May 18, 2005, the Filing Parties filed an answer to the comments.

### **Discussion**

6. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2004), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Notwithstanding that Rule 213(a)(2) of the Commission Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2004), generally prohibits answers to comments, we will accept the answer of the Filing Parties because it has provided information that assisted us in our decision-making process.

7. DC Energy supports the ISO's filing in part. DC Energy believes that the Amendments slightly increase a customer's options for satisfying the Financial Assurance Policies requirements. However, DC Energy argues that the additional five percent collateral requirement is excessive, and two percent would be more appropriate. DC Energy also argues that it is unfair to allow ISO-NE five business days to comply with a request that collateral be returned, while requiring a customer to post additional collateral in only two business days. DC Energy further asserts that ISO-NE should provide notice when it determines that a customer's collateral account is too low, and provide the customer with two business days to increase its collateral; because customers are responsible for increasing their collateral without any notice from the ISO, a customer could be in default without realizing it. Finally, DC Energy believes that more can be done to decrease customer costs without any degradation in financial assurances. Therefore, DC Energy requests that ISO-NE be required to file additional amendments to decrease customer costs in providing collateral, such as by allowing investments in a list of pre-approved high quality securities.

8. In response, the Filing Parties argue that DC Energy is attempting to bypass the NEPOOL stakeholder process, where DC Energy raised the issue of proposing more sweeping changes, but was unsuccessful. The Filing Parties note that the proposed amendments were unanimously approved (with one abstention) by the NEPOOL Participants Committee. They also maintain that the Amendments are a benefit to customers over the pre-existing, just and reasonable Financial Assurance Policies, and that, if DC Energy wishes to challenge them, it needs to file a complaint under section 206 of the Federal Power Act (FPA).<sup>3</sup> They further argue that DC Energy has not supported its allegation that five percent collateral is too burdensome, nor has it justified its alternative suggestion of two percent, and point out that the possibility of reducing the collateral was fully explored during the stakeholder process and rejected. Regarding the terms of posting and returning funds, the Filing Parties point out that ISO-NE has to manage the accounts for more than 200 covered entities and argue that five business days is a reasonable period in which to respond to a written request by a customer to return funds. Finally, they dispute DC Energy's allegation that a customer has no notice of increases in collateral, noting that ISO-NE issues notices to market participants when their obligations equal 80 percent and 90 percent of their credit test amounts, as well as issues weekly invoices.

### **Commission Determination**

9. We will accept the proposed Amendments. They represent an improvement in the existing, just and reasonable rates because they offer an additional financing option. The provisions regarding notice and the five business-day period in which ISO-NE shall return collateral are not newly proposed in this proceeding, but rather have been previously accepted by the Commission and have become the filed rate.<sup>4</sup> Thus, the Filing Parties are correct that, if DC Energy wishes to challenge those provisions, it may file a complaint pursuant to section 206 of the FPA, or continue to pursue changes through the stakeholder process. Additionally, we disagree with DC Energy's allegation that the five percent collateral is too high; we find it to be reasonable. The five percent discount was an amount agreed to by stakeholders as adequate to both protect the ISO and the Market Participants from a reduced recovery if the Treasuries were liquidated before maturity and provide additional funds to reimburse the ISO for the costs it would incur if the Treasuries had to be liquidated prematurely. Moreover, as the Filing Parties point out, customers have no obligation to use this form of collateral. Finally, we also find that DC Energy's request to require ISO-NE to file additional changes is beyond the scope of this proceeding.

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<sup>3</sup> 16 U.S.C. § 824e (2000).

<sup>4</sup> See, e.g., January 18, 2002 Letter Order in Docket No. ER02-569-000.

The Commission orders:

(A) The Amendments are hereby accepted, to become effective June 1, 2005, as requested.

(B) The Filing Parties' May 18 Answer is hereby accepted.

By the Commission.

( S E A L )

Linda Mitry,  
Deputy Secretary.