

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Nora Mead Brownell, and Suedeen G. Kelly.

ISO New England, Inc.

Docket No. ER05-715-001

ORDER DENYING REHEARING AND
GRANTING CLARIFICATION

(Issued September 7, 2005)

1. On June 8, 2005, the Connecticut Department of Public Utility Control, the Connecticut Office of Consumer Counsel, and Richard Blumenthal, Attorney General for the State of Connecticut (collectively, the Connecticut Parties); the Long Island Power Authority and its operating subsidiary LIPA (collectively, LIPA); the New England Conference of Public Utilities Commissioners (NECPUC); and the New England Power Pool Participants Committee (NEPOOL) filed requests for rehearing or clarification of the Commission's May 9, 2005 Order in this proceeding.¹ The May 9 Order, among other things, accepted ISO New England, Inc.'s (ISO-NE or the ISO) proposed Installed Capacity Requirements (IC Requirements) for the 2005/2006 Power Year.² In this order, the Commission denies rehearing and grants clarification of the May 9 Order.

I. Background

2. On March 21, 2005, as supplemented on April 1, 2005, ISO-NE filed its IC Requirements for the 2005/2006 Power Year, as required by ISO-NE's Markets and Services Tariff and section 11.4 of the New England Participants Agreement. The IC Requirement is a projection of the minimum amount of capacity required to serve load reliably in the New England region. ISO-NE explained that the only substantive differences between the assumptions used in the development of the IC Requirements for Power Year 2005/2006 versus the assumptions that were used in previous annual IC Requirements calculations was the use of 1800 MW and not 2000 MW as a measure of tie benefits, and the use of the Equivalent Forced Outage Rate Demand (EFORD) generator availability metric, instead of the Equivalent Forced Outage Rate (EFOR) availability metric.

¹ See *ISO New England, Inc.*, 111 FERC ¶ 61,185 (2005) (May 9 Order).

² June 1, 2005 to May 31, 2006.

3. In the May 9 Order, the Commission, among other things, set the tie benefits at 2000 MW for the 2005/2006 Power Year and directed ISO-NE to adjust the IC Requirements accordingly. The Commission explained that ISO-NE's study supported a tie line benefit of 2000 MW for the 2005/2006 Power Year, while the 1800 MW was not supported by a study but rather reached by a consensus vote of the Participant's Committee (PC). In this regard, the Commission also noted that, while certain protestors argued that New England ties with New York have grown weaker, others argued that they are stronger because of the addition of new direct current lines and new generation resources.

4. The Commission also denied the protests regarding EFORD, noting that the Commission had approved the use of EFORD when it approved the Standard Market Design for New England (SMD NE).³ The Commission explained that EFORD provides generators with incentives to be available when they are needed, thus promoting reliability. In response to concern over the interaction of the IC Requirements with Locational Installed Capacity (LICAP), the Commission noted that, while the IC Requirements are inputs to the LICAP determinations, issues related to LICAP determinations and the rates applied to LICAP requirements should be addressed in the ongoing LICAP proceeding.

II. Requests for Rehearing and Clarification

5. NEPOOL alleges that, unless the filed IC Requirements are first determined to be unjust and unreasonable, there is no basis for even considering alternative values, even if those alternative values are superior or more desirable. NEPOOL states that the filed IC Requirements were just and reasonable because they satisfy the 0.1 loss of load expectation (LOLE) reliability criteria⁴ that has been applied in prior Power Years, and they were developed using time-tested methodologies and processes.

6. NEPOOL argues that the May 9 Order erred by requiring the use of 2000 MW of assumed tie benefits in the calculation of IC Requirements. The 2000 MW of assumed tie benefits was based on an initial study conducted for the 2002/2003 Power Year that recommended 1800 MW of tie benefits. NEPOOL further contends that, by rejecting the 1800 MW value approved by stakeholders, the May 9 Order does not base the IC Requirements on a current tie benefits study, devalues the stakeholder process, and may

³ See *New England Power Pool*, 100 FERC ¶ 61,287 at P 12, 96-98 (2002), *order on reh'g*, 103 FERC ¶ 61,304 at P 77 & n.29 (2003).

⁴ A loss of load expectation of no more than once in every ten years.

reduce the willingness of stakeholders to compromise in the future. NEPOOL therefore requests that the Commission grant rehearing and approve the implementation of the 1800 MW approved by stakeholders.

7. LIPA requests that the Commission clarify that the 200 MW increase, from 1800 MW to 2000 MW, in tie reliability benefits directed by the Commission should be allocated to rights holders over the Cross-Sound Cable consistent with the allocation of tie reliability benefits for the similarly-situated Hydro-Quebec intertie. LIPA notes that the May 9 Order specifically mentioned the addition of a new direct current line (the Cross-Sound Cable) and new generation resources in New York (which can be accessed through the Cross-Sound Cable) as justification for the 200 MW increase. LIPA states that, unless the Cross-Sound Cable is separately allocated capacity credits, the Commission will have created disparate treatment of similarly situated facilities.

8. The Connecticut Parties contend that the Commission erred by accepting EFORd as a measure to determine IC Requirements and that EFORd does not provide generators incentives to be available when needed. The Connecticut Parties further argue that, if generators are available when needed, IC Requirements should decrease, but use of EFORd increases IC Requirements by 438 MW. The Connecticut Parties question why an additional 438 MW of capacity is necessary to maintain the same LOLE.

9. The Connecticut Parties and NECPUC argue that because ISO-NE indicated in the LICAP proceeding that its proposed shortage hour availability metric will improve generation availability, this improvement should be incorporated into the IC Requirements beginning January 1, 2006. The Connecticut Parties and NECPUC also disagree with the Commission's decision in the May 9 Order that the rates applied to the LICAP requirements should be addressed in the LICAP proceeding because, they contend, the record is closed in that case. NECPUC also argues that the Commission should have set the IC Requirements for the period after the LICAP market goes into effect (from January through May 2006) for hearing. The protestors further question how the IC Requirements will affect rates paid to generators by New England ratepayers.

10. NEPOOL and ISO-NE filed answers to the various requests for rehearing. On July 6, 2005, LIPA filed a response to NEPOOL's and ISO-NE's answers.

III. Discussion

A. Procedural Matters

11. Pursuant to Rule 713(d) of the Commission's Rules of Practice and Procedure,⁵ answers to requests for rehearing are not permitted. Therefore, the Commission will reject NEPOOL's and ISO-NE's answers to the requests for rehearing, and accordingly, we will reject LIPA's response to NEPOOL's and ISO-NE's answers.

B. Commission Conclusion

12. We deny the various requests for rehearing for the reasons discussed below, but we will clarify certain aspects of the May 9 Order. Specifically, we agree with NEPOOL that its initial study done for the 2002/2003 Power Year determined tie reliability benefits of 1800 MW.⁶ However, that determination was superseded by a subsequent determination of tie reliability benefits of 1900 MW for the 2003/2004 Power Year based on the 2003 NEPOOL Tie Reliability Benefits Study (2003 Study).⁷ Subsequently, the measure of tie reliability benefits was increased from 1900 MW to 2000 MW due to another Commission proceeding that resulted in a 100 MW increase in tie line benefits from the Hydro Quebec transmission facilities.⁸ ISO-NE and many NEPOOL Power Supply Planning Committee (PSPC) members agreed that a tie reliability benefits assumption of 2000 MW based on the results from the 2003 Study and the Hydro Quebec proceeding was still applicable for use in this year's effort.⁹ We agreed, because the 2000 MW was consistent with the most recent tie benefits study, and because no information was filed that would support a change from the latest study results. In contrast, as stated in ISO-NE's June 8, 2005 filing,¹⁰ 1800 MW was merely a compromise.

⁵ 18 C.F.R. § 385.713(d) (2005).

⁶ See Attachment 5, NEPOOL Tie Reliability Benefits Study, Docket No. ER04-670-000 (July 15, 2002).

⁷ See Attachment 6, NEPOOL Tie Reliability Benefits Study, Docket No. ER04-670-000 (February 26, 2003 letter from Peter K. Wong, Chairman, NEPOOL Power Supply Planning Committee).

⁸ See New Power Pool and ISO New England Inc., 111 FERC ¶ 61,132 (2005).

⁹ See May 9 Order at P 4; Transmittal Letter at 9.

¹⁰ Transmittal Letter at 5.

13. Additionally, in *New England Power Pool*,¹¹ we directed the parties to develop a standard methodology that could be used to determine the tie line benefits in future years so that participants had greater certainty and could make sound decisions concerning the acquisition of resources to meet their Installed Capacity (ICAP) obligations.¹² ISO-NE selected as the appropriate methodology capacity on tie lines that would potentially be available in the event of an emergency. Using 1800 MW rather than 2000 MW of tie benefits would be unsupported departure from the methodology historically employed to determine IC Requirements in New England. Allowing 1800 MW would also accede to allegations that the ties between New England and its neighbors have grown weaker. In this proceeding, there was no support proffered for allegations of weaker ties nor did ISO-NE (based on its recommendation to NEPOOL) agree with this assertion. Accordingly, we will deny NEPOOL's request for rehearing.

14. We also deny LIPA's request to clarify that the 200 MW increase in tie line benefits resulting from the use of 2000 MW rather than 1800 MW should be allocated to rights holders over the Cross-Sound Cable. LIPA's request is outside the scope of this proceeding as the issue in this proceeding is limited to the appropriate determination of IC Requirements and does not include the allocation of tie benefits. This is not the appropriate proceeding in which to raise the issue of uniquely associating tie benefits with a new transmission line. Even if the allocation of tie benefits were at issue here (and we again stress that it is not), however, there is nothing in the record that indicates that any portion of the 600 MW tie line benefit assigned to New York¹³ that was included in the February 2003 Tie Reliability Benefits Study was attributable to the Cross Sound Cable.¹⁴ While we agree with LIPA that, after these new facilities are placed in service,

¹¹ 104 FERC ¶ 61,204 (2003).

¹² *Id.* at P 31-32.

¹³ May 9 Order at P 4.

¹⁴ *See supra* note 7, pages 4-8, *i.e.*, 2, Study Methodologies, and 2.2, Calculation of Potential Seasonal Tie Benefits from Different Control Areas. The study determined that 600 MW of tie benefits should be assigned to New York, 200 MW to New Brunswick, and 1100 MW to Hydro Quebec.

ISO-NE's Transmittal Letter in Docket No. ER05-715-000, at page 13, where ISO-NE stated that "it was noted that New York could provide emergency assistance to New England since its capacity needs are in New York City and Long Island and that there is surplus capacity in upstate New York." This suggests that that ISO-NE designated the 600 MW of potentially available capacity to come from upstate New York and not over the Cross Sound Cable.

New England parties may use them, any tie line benefits associated with the Cross Sound Cable would first need to meet the potentially available criteria established by ISO-NE. Although we stated that additional tie lines and generation resources have been added since the 2002/2003 studies, we also noted that ISO-NE would be performing a comprehensive review of the study assumptions in the near future and these changes should be made on a prospective basis.¹⁵ Therefore, any determination for the Cross Sound Cable would need to be presented to and verified by ISO-NE, just as for the Hydro-Quebec Interconnection, before the ISO includes them in its tie benefits study.

15. With respect to the Connecticut Parties' question as to why an additional 438 MW of capacity is necessary to maintain the same LOLE, we reiterate that ISO-NE is simply using a more accurate estimate that recognizes that, when individual generators are unavailable when they were needed, reliability drops. EFORd uses the unit's actual availability, while EFOR used average data for measuring outage rates that assumed 100 percent unit availability. In other words, 438 MW were "lost" by the generators because two years of data showed that intermediate and peaking units had been assumed to be available when, in fact, they were being forced out of service with maintenance problems or were unavailable because they were on reserve shutdown.¹⁶ With EFORd, Generators have an incentive to increase their availability over time.¹⁷ EFORd is a more accurate method of reflecting available generator capacity and, because it provides incentives for generators to increase their availability, should provide greater reliability benefits to the region over time.

16. With respect to the Connecticut Parties' and NECPUC's continued attempts to bring the availability metric adopted for the LICAP market and the rates to be applied to the LICAP requirements into this proceeding, we will deny rehearing. Such changes, if they are to be adopted, should follow the normal ISO-NE process and our filing requirements. While our earlier order incorrectly referenced the ongoing LICAP proceeding, our intent was simply to direct the parties to a different and more appropriate proceeding for consideration of their proposal, rather than this proceeding.

¹⁵ *I.e.*, 111 FERC ¶ 61,185 at P 30 and 31, respectively.

¹⁶ *See* Attachment 9, Support for EFOR to EFORd, Docket No. ER05-715-000.

¹⁷ *E.g.*, if a generator has an EFORd value of 10 percent, then its sellable ICAP would be reduced by 10 percent to determine its Unforced Capacity (UCAP). If the generator reduces its EFORd value to 5 percent over time, then the generator's ICAP would be reduced by only 5 percent to determine its sellable UCAP (IC Requirements are satisfied only with UCAP, not ICAP).

17. Finally, Connecticut Parties and NECPUC contend that the Commission exceeded its statutory authority and made resource adequacy determinations for New England. The Commission agrees with ISO-NE that ISO-NE has the authority to file the IC Requirements with the Commission and that the Commission has the authority to accept ISO-NE's proposed IC Requirements for the 2005/2006 Power Year. The ISO Tariff and the Participants Agreement specifically provide for the ISO to file with the Commission, and for the Commission to consider and act on, annual IC Requirements filings. Thus, we were simply determining the IC Requirements, as the ISO Tariff and the New England Participants Agreement provide.¹⁸

The Commission orders:

For the reasons stated above, we deny rehearing and grant clarification, as discussed in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

¹⁸ May 9 Order at P 2; 16 U.S.C. § 824d (2000).