FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

February 1, 2006

In Reply Refer To:
Devon Power LLC, Middletown Power LLC, and Montville Power LLC
Docket Nos. ER06-118-000
ER06-118-001

Dickstein Shapiro Morin & Oshinsky LLP
Attn: Mark L. Perlis, Esq.
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Dear Mr. Perlis:

1. On November 1, 2005, Devon Power LLC, Middletown Power LLC, and Montville Power LLC (Applicants) filed, pursuant to section 205 of the Federal Power Act (FPA)[1], Reliability-Must-Run (RMR) Agreements (November RMRs). The November RMRs are unexecuted Cost of Service Agreements for each of the Applicant's facilities: the Devon Station (Units 11-14), the Middletown Station (Units 2-4 and 10), and the Montville Station (Units 5-6 and 10-11), in accordance with section 3 of Market Rule 1, Appendix A, Exhibit 2 of the ISO-New England, Inc. (ISO-NE) Tariff. The November RMRs are intended to permit the Applicants to continue to provide RMR service upon expiration, on December 31, 2005, of the 2005 RMRs that are on file between the Applicants and ISO-NE.[2]

2. Notice of the November 1, 2005 filing was published in the *Federal Register*, 70 Fed. Reg. 69,334 (2005), with interventions or protests due on or before November 22, 2005. Motions to intervene were filed by the Connecticut Office of

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[1] 16 U.S.C. § 824d.

[2] The 2005 RMRs are designated as FERC Electric Tariff, Original Volume No.1, Rate Schedule No.1, which the Commission accepted as part of its approval of an earlier settlement agreement. See *ISO New England Inc.*, 110 FERC ¶ 61,079 (2005).

Consumer Counsel (CT OCC), United Illuminating Co., Northeast Utilities Service Company (NU) on behalf of NU Companies, New England Power Pool Participants, and Dominion Energy Marketing Inc.

3. A motion to intervene and protest was filed by ISO-NE. A motion to intervene, protest and a motion to reject was filed by the Attorney General for the State of Connecticut (CT AG) and the Connecticut Municipal Electric Energy Cooperative (CMEEC). An intervention and request for extension of time to file comments was filed by the Connecticut Department of Public Utility Control (CT DPUC).

4. On November 30, 2005, the Applicants, the CT DPUC, and the CT OCC filed a notice of a pending agreement among the parties and a request for extension of time to file comments.

5. On December 20, 2005, as amended on December 23, 2005, the Applicants, ISO-NE, the CT DPUC, and CT OCC (Settling Parties) filed an agreement intended to resolve all matters regarding this proceeding and requested that the Commission act on the filing no later than January 31, 2006. The filing consists of revised RMR Tariffs (Revised RMRs) that, according to the Settling Parties, resolve, among other things, the concerns that ISO-NE had expressed in its protest as well as a significant reduction in the Annual Fixed Revenue Requirements (AFRRs) relative to both the November RMRs and the 2005 RMRs. The Settling Parties request that the Revised RMRs be made effective as of January 1, 2006, thereby taking effect immediately upon expiration of the 2005 RMRs. The Settling Parties stated that they were not aware of any opposition to the Revised RMRs.

6. On December 22, 2005, the CT AG and CMEEC withdrew their December 1, 2005 protest and motion to reject on the condition that the Commission accepts the Revised RMRs.

7. Notice of the filing of the Revised RMRs was published in the *Federal Register*, 71 Fed. Reg. 594 (2005), with interventions or protests due on or before January 6, 2005. None was filed.

Discussion

8. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2005), the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

9. As noted earlier, the Settling Parties state that the Revised RMRs address and resolve the issues the ISO-NE raised in its protest to the November RMRs. These issues include the definition of force majeure and the non-performance penalty, as well as parameters for stipulated bids, target available hours, start-up times, and gas pipelines' costs. The Settling Parties state further that the Revised RMRs reflect a significant reduction in the AFRRs relative to both November RMRs and the 2005 RMRs.[3] The Revised RMRs require the Applicants to provide certain entities (the CT AG, the CT DPUC, the CT OCC, and CMEEC) with annual informational filings setting forth non-RMR revenues, and these entities may, after January 1, 2007, file a complaint with the Commission seeking termination of the Revised RMRs.

10. Based on the foregoing, the Commission accepts the RMRs, as filed on November 1, 2005 and revised on December 20 and 23, 2005,[4] for filing as designated, and made effective, as requested, on January 1, 2006.

By direction of the Commission.

Magalie R. Salas,
Secretary.

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[3] The aggregate AFRR for the Revised RMRs is approximately $98 million, as compared to aggregate AFRRs of approximately $124 million for the November RMRs and $114.6 million for the 2005 RMRs.

[4] The Commission views the December 20 and 23, 2005 submittals as amendments to the underlying November 1, 2005 section 205 filing and not as a settlement under Rule 602. *See* 16 U.S.C. § 824d (2000); 18 C.F.R. § 385.602 (2005).