

122 FERC ¶ 61,189
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

New England Power Pool

Docket No. ER08-406-000

ORDER ACCEPTING INFORMATIONAL NEPOOL MEMBERSHIP FILING

(Issued February 29, 2008)

1. On January 2, 2008, the New England Power Pool (NEPOOL) filed an application to expand its membership to include, among other entities, Franklin Power LLC (Franklin Power), and GLE Trading LLC (GLE Trading), along with the termination of membership for one of the existing members. In this order the Commission accepts for informational purposes¹ the proposed membership filing.

I. Background and Proposal

2. The NEPOOL Participants Committee has the authority, pursuant to section 3.1 of the Second Restated NEPOOL Agreement and sections 8.1.3(f) and (g) of the Participants Agreement, to act on an Entity's application to become a Participant in NEPOOL. By a delegation of authority, the Participants Committee has authorized the Membership Subcommittee to approve applications and terminations which will be subject to the standard conditions, waivers and reminders (SCWRs) established by the Participants Committee. The Membership Committee reviews the materials submitted by Applicants and terminating members and approves or disapproves applicants for membership in, and/or termination of the Participant status.

¹ The Commission has relieved NEPOOL of the requirement to file changes to the NEPOOL Agreement in tariff format. *ISO New England Inc.*, 95 FERC ¶ 61,384, at 62,441-42 (2001).

II. Notice of Filing, Interventions and Protests

3. Notice of NEPOOL's filing was published in the *Federal Register*, 73 Fed. Reg. 2,471 (2008), with comments, protests or interventions due on or before January 23, 2008. PSEG Power LLC (PSEG Power) and PSEG Energy Resources & Trade LLC (PSEG ER&T) (collectively, the PSEG Companies), filed a timely motion to intervene and comments. NEPOOL filed an answer on February 7, 2008.

A. Procedural Matters

4. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2007), the timely, unopposed motion to intervene serve to make the entities that filed it parties to this proceeding.

5. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 85.213(a)(2) (2007), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept the NEPOOL answer because it has provided information that assisted us in our decision-making process.

B. PSEG Companies' Comments

6. The PSEG Companies explain that the basis for its concern regarding Franklin Power and GLE Trading participation in NEPOOL is that they might default on their obligations to NEPOOL since they are both affiliates of Power Edge LLC (Power Edge). Power Edge, a financial marketer in PJM Interconnection, LLC (PJM)'s financial trading markets, defaulted on its required payments in PJM for November 2007. The PSEG Companies state that Power Edge's default was in excess of the collateral of \$1.5 million provided to PJM. The PSEG Companies further state that Power Edge's accrued charges in PJM for the month of December are estimated at \$17-19 million dollars. Franklin Power, GLE Trading, and Power Edge apparently are all managed by Tower Research Capital LLC (Tower Research), a New York City hedge fund. PSEG Companies express the need for exercising due care in applying commercially reasonable creditworthiness standards in the assessment of new applicants to ensure financial stability and viability of markets in ISO New England (ISO-NE).

7. The PSEG Companies request the Commission to hold the membership applications for Franklin Power and GLE Trading in abeyance pending a more complete accounting of ISO-NE's review process. The PSEG Companies further question if NEPOOL gave any consideration to the recent default by Franklin Power and GLE Trading's affiliate, Power Edge, or the nature of the affiliate interrelationships among the PJM and NEPOOL trading entities.

C. NEPOOL's Answer

8. On February 7, 2008, NEPOOL submitted an answer to the pleading by the PSEG Companies. While NEPOOL harbors no opposition to the PSEG Companies' intervention in the instant proceeding, NEPOOL states that it does not agree that there is any reason at this point to hold Franklin Power and GLE Trading membership applications in abeyance.

9. NEPOOL has submitted an explanation of the Membership Application process for entities desiring participation in the New England Markets. NEPOOL states that absent any concerns identified or raised following the membership subcommittee review, an application is conditionally approved subject to the satisfaction of two routine conditions: (1) that the application is complete, including receipt of an ISO-NE issued financial viability report and (2) that the applicant execute the SCWRs acceptance letter.

10. NEPOOL explains that the membership application is concurrently subject to the ISO-NE Credit Group, which undertakes a review of the financial information and documentation submitted by the Applicant to establish proof of its financial viability and ability to meet obligations under the ISO-NE Tariff, the Participants Agreement, and the Second Restated NEPOOL Agreement. NEPOOL states that unless the financial viability report raises a concern with the applicant's ability to meet its obligations or with its financial viability, and so long as the applicant has satisfied any other conditions of approval, the request is filed with the Commission.

11. Additionally, NEPOOL states a participant is required to margin its market positions at the 75th percentile, i.e., the ninth worse month over the past three years, which provides better protection to other participants from risk of payment default than PJM's averaging approach. Secondly, while NEPOOL admits this process does not offer total protection, it claims that it is, however, a more exacting process than that of PJM. NEPOOL further states that additional financial assurances recently proposed by PJM have been in place in New England for several years.

12. NEPOOL and ISO-NE have identified specific areas that warrant improvements or enhancements to the current FTR Financial Assurance methodology.² ISO-NE's Budget & Finance Subcommittee is currently looking at integrating risk management methodology commonly used in commodities markets as well as modifying mark-to-model approach and improving market participant protections from exposure to FTR

² NEPOOL Answer, Attachment 1 at 8.

Participant bankruptcies.³ ISO-NE is also extensively reviewing opportunities for improving FTR market design with an eye toward minimizing default risk with the introduction of more frequent auctions.⁴ Further, ISO-NE has initiated a process of evaluating improvements to overall margin methodology which began in November 2007.⁵

13. NEPOOL acknowledges that the PSEG Companies' concerns are shared by others in the New England market as a result of the developments in the PJM financial transmission rights market as they pertain to the affiliation of Franklin Power and GLE Trading to Power Edge, but also notes that the applications of these two entities were complete, with final subcommittee approval on December 20, 2007 (nearly a week before the first PJM FERC filing covering the power default⁶ was made known). As of January 1, 2008, both entities have been treated as full market participants by NEPOOL.

14. Finally, NEPOOL states that there has been an on-going ISO-NE review of Franklin Power's and GLE Trading's ability to meet their New England obligations. ISO-NE has received current financial statements from both entities which are being reviewed. As it currently stands, according to NEPOOL, both entities are cooperating fully with the ISO-NE Credit Group and are presently in good standing under the ISO-NE Financial Assurance and Billing Policies. Therefore, NEPOOL concludes, ISO-NE has indicated there is no reason at this time to view these two entities as elevated default risks.

III. Commission Determination

15. The Commission agrees with NEPOOL that the Franklin Power and GLE Trading applications are acceptable for reasons given by NEPOOL above. In particular, the Commission notes that since NEPOOL and ISO-NE have committed to undertake a more comprehensive long-term look at potential improvements to the RTO arrangements based on what has been learned from the PJM experience and will apply any changes,

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ See PJM Interconnection, L.L.C., Docket No. ER08-376-000 (December 26, 2007).

membership requirements or improvements to Franklin Power and GLE Trading, as well as every other member participant, we are not convinced that there is a need to grant the PSEG Companies' request to hold the applications in abeyance.

16. We will accept the filing, effective January 1, 2008, as requested.⁷

The Commission orders:

The NEPOOL Membership filing is hereby accepted for informational purposes, effective January 1, 2008, as discussed in the body of this order.

By the Commission. Commissioner Moeller concurring with a separate statement attached.

(S E A L)

Kimberly D. Bose,
Secretary.

⁷ *Central Hudson Gas & Electric Corp.*, 60 FERC ¶ 61,089 (1992).

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MOELLER, Commissioner *concurring*:

As this Commission has previously stated, we must balance the goals of allowing the ISOs and RTOs to reduce their risk of exposure in the event of payment defaults while at the same time ensuring that the credit requirements are not so stringent that they unnecessarily inhibit access to the marketplace.¹

The recent defaults in the PJM's FTR market are deeply troubling. I believe that market participants are not entitled to structure their transactions with an expectation that they could default and impose a burden on other market participants (and ultimately, the ratepayers) to cover their outstanding charges and losses. I concur with this order based on the understanding that Franklin Power and GLE Trading have satisfied the NEPOOL requirements. Moreover, I support NEPOOL and ISO-NE's commitment to a comprehensive examination of their arrangements for the benefit of all market participants.

In this proceeding, NEPOOL and ISO-NE have committed to improving market participant protection from exposure to FTR defaults, and I take them at their word. I would request that other RTOs and ISOs, as applicable, assure us that adequate measures are in place to minimize or prevent future FTR-related defaults.

Philip D. Moeller
Commissioner

¹ *Policy Statement on Electric Creditworthiness*, 109 FERC ¶ 61,186 (2004); *Sw. Power Pool, Inc.*, 114 FERC ¶ 61,222 at P 1, 20, *order on technical conference, reh'g and compliance filing*, 116 FERC ¶ 61,162 at P 5 (2006), *order on reh'g and compliance filing*, 118 FERC ¶ 61,035 (2007); and *PJM Interconnection, L.L.C.*, 104 FERC ¶ 61,309 at P 19 (2003), *order on reh'g and compliance filings*, 109 FERC ¶ 61,286 (2004), *order granting clarification*, 111 FERC ¶ 61,201 (2005).