

124 FERC ¶ 61,298
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.

ISO New England Inc. and New England Power Pool Docket No. ER08-41-002

ORDER ACCEPTING COMPLIANCE FILING

(Issued September 29, 2008)

1. On July 31, 2008, ISO New England Inc. (ISO-NE) and the New England Power Pool (NEPOOL) (together, the Filing Parties) submitted a filing in compliance with the Commission's December 10, 2007 order directing the Filing Parties to revisit the methodologies for calculating tie benefits and allocating Hydro Québec Interconnection Capacity Credits (HQICC).¹ We will accept the compliance filing as discussed below.

I. Background

2. In support of the first Forward Capacity Auction on October 11, 2007, the Filing Parties submitted the Installed Capacity Requirement (ICR),² Local Sourcing Requirement (LSR), Maximum Capacity Limit (MCL), tie benefits, and HQICC values for the 2010/2011 Capacity Commitment Period. In light of several issues that were raised during the stakeholder process to develop these values, the Filing Parties also

¹ *ISO New England Inc.*, 121 FERC ¶ 61,250 (2007) (December Order), *order on reh'g*, 123 FERC ¶ 61,129 (2008) (May 6 Rehearing Order).

² The ICR is a measure of the installed resources that are projected to be necessary to meet reliability standards in light of total forecasted load requirements for the New England Control Area and to maintain sufficient reserve capacity to meet reliability standards. Specifically, the ICR is the amount of resources needed to meet the New England Control Area reliability requirements of disconnecting non-interruptible customers (i.e., the Loss of Load Expectation or LOLE) no more than once every ten years (or 0.1 LOLE criterion). The methodology for calculating the ICR is set forth in section III.12 of Market Rule 1.

sought Commission guidance and support for a stakeholder process to review the methodologies for calculating and allocating tie benefits.

3. Under the Forward Capacity Market (FCM), the tie benefit contribution allocations are included in the calculation of LSRs and MCLs for import-constrained and export-constrained Load Zones, respectively, within New England. Thus, the use of the deterministic methodology for calculating HQICCs and the approach to allocating tie benefits with HQICCs has a direct impact on the locational capacity values in the FCM. Several parties have expressed concern over the accuracy of a deterministically calculated HQICC value derived upon capacity/load data from Québec up to four years in the future. As noted in the December Order, some parties are also concerned about the inherent assumption in the HQICC determination that all of that surplus capacity will be available for New England in the event of an emergency, when it is likely that any circumstances requiring the need for emergency assistance in New England are likely to occur in neighboring control areas as well.

4. In the December Order, the Commission approved the proposed values and directed the Filing Parties to undertake stakeholder review of the current methodologies for calculating and allocating tie benefits now that the locational FCM is in place. The Commission noted its concern that the calculation of tie benefits, while not an issue for the first Forward Capacity Auction (FCA), has the potential to affect capacity prices under FCM.³ As such, the Commission stated that it would support a stakeholder process to establish a long-term methodology for determining and allocating tie benefits “that is consistent among all interconnections with external control areas, consistent with the locational aspect of the FCM, and does not reflect an overly aggressive estimate of tie benefits based on unrealistic assumptions, i.e., that total New England tie benefits do not exceed the amount determined probabilistically.”⁴

5. The instant filing responds to the Commission’s directive that the Filing Parties submit a filing in July 2008 summarizing the results of the stakeholder process and outlining any proposed changes to the tie benefit methodology for the December 2008 FCA.

II. The Filing

6. The Filing Parties explain that, as discussed in the December Order, tie benefits from neighboring control areas reflect the amount of emergency assistance that New England can rely on, without jeopardizing reliability in New England or its neighboring

³ December Order, 121 FERC ¶ 61,250 at P 51-54, 88-90.

⁴ *Id.* P 90.

control areas, in the event of a capacity shortage in New England. The Filing Parties note that the tie benefits value used in determining the ICR is not based on firm capacity contracts with resources. They also note that this value is used to directly displace an equivalent amount of native installed capacity plus reserve that would otherwise be needed in New England to meet the one day in ten years LOLE resource planning reliability criterion.

A. Present Methodology

7. The Filing Parties state that consistent with section 12.9 of Market Rule 1, tie benefits are currently calculated for New England's three directly interconnected neighboring Control Areas—Québec, New Brunswick, and New York—probabilistically, using a Monte Carlo simulation.⁵ For purposes of calculating New England's total tie benefits, each of those neighboring control areas is assumed to be “at criteria,” i.e., with assumption that the capacity of each interconnected control area is adjusted so that each will have a LOLE of one day in ten years simultaneously, rather than “as is,” i.e., modeling actual capacity in each interconnected control area regardless of the resulting LOLE. The Filing Parties maintain that the “at criteria” assumption approximates the planning process that each control area will undertake in determining the amount of resources the respective control area will need, assuming that, at a minimum, each control area will have adequate installed capacity to meet the 0.1 LOLE criterion. The Filing Parties state that this approach helps to prevent overestimating or understating available tie benefits because it does not rely on assumptions about exact system conditions of the neighboring control areas, which conditions are often difficult to know so far in advance of a Capacity Commitment Period.

8. The Filing Parties state that once the total tie benefits value for a Capacity Commitment Period has been established, the total tie benefits value must then be allocated among each of New England's directly interconnected neighboring control areas. The results of this allocation are used in the modeling of LSR and MCL, and to calculate the amount of capacity that may be purchased over each tie in a Forward Capacity Auction. The Filing Parties state that under sections 12.9.1 and 12.9.2 of Market Rule I, tie benefits are allocated first to Québec, by deducting from the total tie benefits value calculated for all neighboring control areas the full amount of the HQICCs.⁶ HQICCs are calculated using a deterministic methodology that employs

⁵ A Monte Carlo simulation employs a stochastic model to generate a large number of outputs in order to study a variety of scenarios.

⁶ HQICCs are capacity credits that are allocated to the Interconnection Rights Holders, which are entities that hold certain rights over the Hydro Québec (HQ) Interconnection. As discussed in the December Order, HQICCs are calculated using a deterministic methodology that employs forecasted load and capacity for the Québec
(continued...)

forecasted load and capacity for the Québec control area and the assumed HQ Interconnection transfer limit.

9. Importantly, and as discussed in the December Order, the Filing Parties reiterate that under the FCM construct—in contrast to the pre-FCM period—the use of the deterministic methodology for calculating HQICCs and the approach to allocating tie benefits with HQICCs can affect the allocation of total tie benefit contributions among the various interconnections.

B. Stakeholder Review

10. The Filing Parties state that, in addressing the Commission's request, the stakeholders (i.e., NEPOOL Power Supply Planning Committee or PSPC) considered four different proposals. According to the Filing Parties, one of the four proposals was to retain the status quo determination and allocation of tie benefits. They state that proponents of this proposal argued for the continued use of the deterministic approach for calculating HQICCs, given the conservatism of the current analysis. Further, the Filing Parties state that proponents of the current methodology noted that under the present allocation methodology, the sum of the currently allocated tie benefits does not exceed the gross tie benefit value for all control areas. The Filing Parties remark that opponents of the current proposal expressed concern over the impact this methodology has on the MCL for the Maine Load Zone and, potentially, on the capacity price in Maine.

11. The Filing Parties state that the second proposal (offered by ISO-NE) proposed to retain the current methodology for calculating total tie benefits (probabilistic) while changing the allocation methodology. They explain that this method would allocate tie benefits to the control areas based solely on the results of the probabilistic calculation, eliminating the use of the deterministic calculation to calculate tie benefits for Québec.

Control Area (i.e., Capacity Potentially Available For Sales or CPAS) and the assumed HQ Interconnection transfer limit. The CPAS analysis pre-dates the implementation of the FCM. *See, e.g.*, December Order, 121 FERC ¶ 61,250 at P 12, 22-24. After deducting the HQICCs, the remaining megawatts of the total tie benefits are allocated to New Brunswick and New York *pro rata*, based on a ratio of the individual control area's tie benefits to the sum of the tie benefits from these two control areas—thus, the tie benefits that were calculated for the New Brunswick and New York control areas on a probabilistic basis are each reduced due to the deterministic HQICC calculation making their ultimate allocations highly dependent on the HQICC value. Tie benefits from the New Brunswick and New York control areas are determined based on the LOLE calculated before and after removing the direct interconnection between New England and each control area, respectively.

The Filing Parties note that the Participants Committee overwhelmingly supported ISO-NE's proposal.⁷

12. The Filing Parties present the third proposal, which was similar to the second one but recommended the use of "as is" modeling rather than "at criteria" modeling. They explain that under this proposal, instead of assuming that each control area would meet the one day in ten year LOLE standard, neighboring control areas would be modeled to reflect known and planned resource availabilities, forecast load, imports, and exports for the Capacity Commitment Period (as long as the LOLE for the control area does not exceed 0.1). The Filing Parties note that the proponent of this methodology found that the "as is" methodology properly recognizes the available resources to meet New England's needs while the current "at criteria" analysis is overly conservative, ignoring potentially available surplus capacity in neighboring control areas. Opponents of this revision argued, according to the Filing Parties, that the "as is" methodology would create the risk of overstating tie benefits, requiring assumptions about the eventual availability of resources that are still in the planning stages and also about the availability of current resources in the future (including whether they might deactivate).

13. The Filing Parties state that the fourth and final proposal called for the expansion of modeling to include the Ontario and PJM Interconnection, LLC (PJM) control areas, as well as transmission constraints internal to each control area and sought to allocate tie benefits to individual interconnections rather than by control area. They state that opponents of this proposal cited concerns over the methodology for modeling internal Load Zones to a LOLE of 0.1 simultaneously and for the calculation of individual tie line benefits between control areas. The Filing Parties also state that opponents voiced concerns over the knowledge required to accurately model load, resources, and transmission issues for Ontario and PJM, including the impact on tie benefits from other control areas interconnected to Ontario and PJM.

C. Proposed Revised Methodology

14. Under the Filing Parties' instant proposal: (1) the tie benefit value for Québec would be established using the results of the probabilistic calculation of tie benefits with Québec rather than using a deterministic calculation methodology; (2) ISO-NE would continue using the existing probabilistic methodology and a multi-area reliability model for calculating total tie benefits from the Québec, New Brunswick, and New York control areas; and (3) New England's directly interconnected neighboring control areas would continue to be modeled using "at criteria" modeling assumptions. The Filing Parties propose that, unlike the current methodology, tie benefits from Individual control areas

⁷ The Filing Parties note that one party expressed its opposition while five others abstained from the vote.

would be determined using an allocation approach based on the results of individual probabilistic calculations performed for each of the three neighboring control areas, eliminating the need for a deterministic calculation of HQICCs or to reduce the tie benefit values from the New Brunswick and New York control areas to account for the deterministically calculated HQICCs.⁸

15. The Filing Parties contend that the proposed methodology addresses the Commission's previously mentioned directives from the December Order to establish a stakeholder process to develop a long-term methodology for determining and allocating tie benefits.

1. Consistent among all interconnections with external control areas

16. The Filing Parties contend that unlike the current methodology, which arbitrarily sets aside the tie benefits from Québec that are allocated based on the deterministically calculated HQICCs and directs the remainder solely to tie benefits from New Brunswick and New York, the proposed approach preserves the relative contributions of tie benefits from each control area on a non-discriminatory basis. The Filing Parties note that there is no conceptual basis for setting aside the deterministic HQICCs as representative of tie benefits from Québec while correspondingly reducing the probabilistically calculated tie benefits from New Brunswick and New York.⁹

2. Consistent with the locational aspect of the FCM

17. The Filing Parties argue that the locational aspect of the FCM is reflected in the calculation of the LSR and MCL values for the Load Zones. The calculation of each of these values is dependent on tie benefit values. However, the Filing Parties contend that because the current methodology reduces the tie benefits allocated between New York

⁸ The Filing Parties state that in the event that the sum of the calculated tie benefits from each of the three neighboring control areas does not equal the total tie benefits calculated using the multi-area reliability model, tie benefits from each control area would be adjusted in a *pro rata* manner based on a ratio of the tie benefits from each individual control area to the sum of the tie benefits from all control areas. This situation can be caused by the different assumptions necessary for modeling total tie benefits (with all control areas disconnected, and thus emergency assistance unavailable) versus one control area disconnected, where only the direct interconnections between New England and the target control area removed. This allows for the possibility that capacity will reach New England from other interconnected paths.

⁹ Filing, Attachment 3 (Wong testimony) at 18.

and New Brunswick in order to retain the deterministically calculated HQICCs from the total tie benefits, the calculated LSR and MCL values may not properly reflect the tie benefits assumed available under the probabilistic calculation of total tie benefits from each of New England's three directly interconnected neighboring control areas.¹⁰

3. Does not reflect an overly aggressive estimate of tie benefits based on unrealistic assumptions

18. The Filing Parties maintain that the "at criteria" assumption requires the ISO-NE to rely on the reasonable assumption that the neighboring control areas will, at the very least, meet the one day in ten years LOLE reliability standard mandated by the Northeast Power Coordinating Council, Inc. The Filing Parties state that this probabilistic methodology avoids producing results that fail to account for future load and capacity conditions in Québec, including whether resources in Québec are being shared with other control areas in an emergency.

D. Effective Date

19. The Filing Parties request that the Commission accept the proposed revisions with an effective date of September 30, 2008. The Filing Parties state that they anticipate utilizing the revised tie benefit allocation methodology proposed herein in determining the ICR, LSR, and MCL values for the 2011/2012 Capacity Commitment Period, to be filed with the Commission in August 2008 and implemented in the December 2008 FCA. The Filing Parties also note that a number of reconfiguration auctions for the 2010/2011 Capacity Commitment Period are scheduled to be held following the effective date for the proposed rule changes. However, for purposes of consistency in recalculating the 2010/2011 ICR Values as part of any reconfiguration auction, the Filing Parties state that ISO-NE will continue to utilize the current methodology for calculating and allocating tie benefits for each reconfiguration auction for the 2010/2011 Capacity Commitment Period, and will apply the methodology reflected in the proposed rule changes prospectively to capacity-related calculations for the 2011/2012 Capacity Commitment Period and all future Capacity Commitment Periods thereafter.

E. Future Stakeholder Process

20. The Filing Parties state that several additional issues were raised during the discussion of the tie benefit methodology, but by consensus agreement these issues have been reserved for future discussion and potential future revisions to the tie benefit methodology. For example, as discussed previously, during the stakeholder process a

¹⁰ See Maine Protest, Docket No. ER08-41-000 (Nov. 1, 2007); see also December Order, 121 FERC ¶ 61,250 at P 48-54.

proposal was offered for the tie benefit calculation to model internal transmission limits that create export and import-constrained Load Zones within New England and in neighboring control areas. The Filing Parties state that they agree that further review of the issue is necessary to understand the impact of applying different techniques to model internal control area transmission constraints on tie benefits and ICR.

21. Similarly, a proposal was made to allocate tie benefits to individual interconnections with neighboring control areas, rather than by control area. Under this proposal, tie benefits for individual interconnection facilities would be calculated by comparing the LOLE of New England on a connected basis with the LOLE for interconnections or grouping of interconnections disconnected from the system. The Filing Parties list calculation of tie benefits associated with individual tie lines and modeling internal transmission limits as reserved issues. They state that they will continue to evaluate calculation methods and stakeholder proposals on how individual tie benefits could be calculated.¹¹

22. Lastly, the Filing Parties state that stakeholders discussed the possibility of modeling capacity and transmission capabilities and constraints for other neighboring control areas (including the Ontario and PJM control areas) that are not directly connected to New England, for use in developing tie benefits. The Filing Parties state that ISO-NE is not prepared to extend the tie benefits modeling beyond the immediately adjacent interconnections at this time because it is not sufficiently familiar with the Ontario and PJM systems to be able to model these systems correctly and understand and interpret the simulation results. Further, the Filing Parties state that ISO-NE and stakeholders will need to determine whether to model and account for other control areas that are connected with Ontario and PJM, which would impact the resource adequacy of Ontario and PJM and thus all the interconnected control areas.

III. Notice and Responsive Pleadings

23. Notice of the filing was published in the *Federal Register*, 73 Fed. Reg. 46,620 (2008), with interventions and protests due on or before August 21, 2008. On August 15, 2008, the PSEG Power Companies¹² filed a motion to intervene. On August 21, 2008, the IRH Management Committee filed a motion to intervene, and the Long Island Power Authority (LIPA) filed a motion to intervene, comments, and a request for continuation of the compliance filing obligation. On the same date, the Connecticut Department of Public Utility Control (Connecticut DPUC) filed a notice of intervention and, in a

¹¹ Filing at 29-30.

¹² In this proceeding, the PSEG Power Companies include: PSEG Energy Resources & Trade LLC and PSEG Power Connecticut LLC.

separate filing, comments. Also on August 21, 2008, H.Q. Energy Services (U.S.), Inc. (HQUS) and the Maine Public Utilities Commission (Maine PUC) filed comments; NSTAR Electric Company (NSTAR) and the Massachusetts Attorney General (Massachusetts AG) jointly filed a motion to intervene and protest.

24. On September 5, 2008, ISO-NE and NEPOOL separately filed motions for leave to answer and answers.

25. On September 23, 2008, NSTAR and the Massachusetts AG jointly filed a motion for leave to answer and answer to ISO-NE's and NEPOOL's answers.

26. Notwithstanding LIPA's support for the adoption of a probabilistic methodology as an initial improvement to calculation of tie benefits for New England, LIPA argues that the Commission should recognize that the Filing Parties' proposal is incomplete and falls short of the directives in the December Order for a long-term methodology for determining and allocating tie benefits, until the methodology accurately accounts for internal transmission constraints.

27. LIPA claims that it is inappropriate to separate modeling of internal ISO-NE transmission constraints from allocating tie benefits among individual interconnections. Rather, LIPA maintains that modeling of internal transmission constraints will illuminate the appropriate allocation of tie benefits to individual interconnections.

28. LIPA faults the present ISO-NE tie benefits methodology, which models New England as a single bus, because the methodology fails to recognize how internal transmission constraints may affect the emergency assistance provision from an external control area. LIPA argues that the ISO-NE tie benefits calculation needs to realize the ability of the Cross Sound Cable and 1385 Cable to provide emergency assistance to New England independent of the remainder of the New York/New England interface, and the ability to provide emergency assistance to an internally, transmission constrained region of southwest Connecticut, as well as its resulting effect on the southwest Connecticut LSR.

29. LIPA requests that the Commission direct a further compliance filing no later than December 31, 2008, to report on the results of pending stakeholder discussions and propose any further revisions to the tie benefits methodology.¹³

30. The Connecticut DPUC refers to its opposition to the Commission's authority to approve a tie benefits calculation methodology that develops, even for purposes of the

¹³ LIPA states that the Cross Sound Cable LLC (CSC) has authorized LIPA to represent that CSC agrees with the positions taken herein.

methodology, an estimate of how much capacity Connecticut needs.¹⁴ The Connecticut DPUC also raises concerns about valuing the reliability benefits of the Cross Sound Cable and 1385 Cable to Connecticut, and particularly to southwest Connecticut. The Connecticut DPUC argues that absent a proper reliability valuation of these lines, Connecticut customers incur expenses through “incentive adders” for transmission and inflated wholesale rates for generation due to cost-of-service contracts that ISO-NE needs for reliability. The Connecticut DPUC notes that it has requested rehearing of the Commission’s determination not to require ISO-NE to fully account for the reliability contribution of the Cross Sound Cable and 1385 Cable.¹⁵ The Connecticut DPUC requests that the Commission establish a firm timetable to assure completion of the stakeholder process and appropriate valuation of the tie benefits from Connecticut to New York.

31. HQUS comments that the current process for allocating tie benefits relies upon internally inconsistent calculation methodologies that result in market inequities and conflict. For this reason, HQUS explains, the Commission endorsed a stakeholder process to reform the methodologies for calculating HQICCs and for allocating tie benefits for power years beyond 2010/2011. According to HQUS, under the current system—which is not able to resolve the discrepancy between the probabilistic and deterministic methodologies for calculating the total tie benefits and HQICCs, respectively—the New Brunswick and New York interties lose tie benefits to HQICCs. HQUS states that the Filing Parties’ joint proposal was overwhelmingly supported by stakeholders and requests the Commission to accept the joint filing.

32. In its comments, the Maine PUC supports the revised tie benefit methodology, as it eliminates the “distortion” in the current methodology whereby the tie benefit values calculated for New Brunswick and New York Control Areas are allocated *pro rata*, after accounting for the full deterministic value of the HQICCs. The Maine PUC contends that

¹⁴ See *ISO New England Inc.*, 118 FERC ¶ 61,157, *reh’g denied*, 120 FERC ¶ 61,234 (2007); *ISO New England Inc.*, 119 FERC ¶ 61,161, *reh’g denied*, 121 FERC ¶ 61,125 (2007); *ISO New England Inc.*, 122 FERC ¶ 61,144, *reh’g denied*, 123 FERC ¶ 61,036 (2008); *Conn. Dep’t of Pub. Util. Control v. FERC*, No. 07-1375 (consolidated) (D.C. Cir. Filed Sept. 19, 2007).

¹⁵ Connecticut DPUC, Request for Rehearing, Docket No. ER08-633-001 (filed July 21, 2008).

the current methodology undervalues the New Brunswick and New York tie benefits, directly affecting corresponding LSR and MCL values.¹⁶

33. Although the Maine PUC supports the use of a consistent probabilistic analysis for the tie benefit methodology, the Maine PUC posits that by deducting surplus capacity to bring each adjacent control area to the 0.1 LOLE criterion, ISO-NE may be using an overly conservative metric in calculating tie benefits. The Maine PUC contends that the Filing Parties have not fully explored or explained whether there are approaches that might address ISO-NE's concern that eliminating the "at criteria" methodology would require the use of imperfect assumptions about the conditions in neighboring control areas. The Maine PUC states that, although there is no immediate answer to this issue, it does believe that the issue warrants further discussion and exploration.

34. NSTAR and the Massachusetts AG request that the Commission reject the Filing Parties' proposal given their use of unrealistic assumptions in contrast to guidance from the Commission's December Order (and May 6 Rehearing Order), along with ISO-NE's failure to engage in a comprehensive stakeholder process prior to submitting the instant filing. To begin with, NSTAR and the Massachusetts AG argue that the proposed methodology will result in overly conservative tie benefit estimates since the "at criteria" model fails to account for all existing capacity and planned generation in the neighboring control areas. They contend that it is unrealistic to assume away excess capacity by reducing the area's capacity to meet objective criteria that the area exceeds. NSTAR and the Massachusetts AG argue that the "at criteria" assumption should be a minimum assumption, i.e., that an area meets or exceeds its requirements in order to be considered in the model. NSTAR and the Massachusetts AG argue that it is unrealistic and economically irrational to assume that the control areas will not make their surplus generation available to supply New England during emergency conditions when energy costs are at their highest. In addition, NSTAR and the Massachusetts AG contend that it is unrealistic to exclude generation that is planned to be on line and is under construction in calculating tie benefits. Further, they cite additional conservatism in the methodology, including modeling the HQ line at 1400 MW transfer capacity, notwithstanding it is frequently utilized at higher levels, and the assumption that all control area loads are assumed to peak coincidentally.

35. Additionally, NSTAR and the Massachusetts AG contend that New England has increased its tie capability, yet the overall tie benefits have decreased. In support, they

¹⁶ As discussed in the December Order, Maine PUC argued that the present tie benefit methodology understates the tie benefits available from New Brunswick, directly affecting the MCL for Maine and the subsequent potential for Maine's export constraint to bind, potentially affecting the price of capacity in Maine. *See* December Order, 121 FERC ¶ 61,250 at P 48-54.

note that in December 2007, the Northeast Reliability Interconnection Project was placed in service, which should have increased interregional transfer capacity between New Brunswick and New England by 300 MW, yet overall tie benefits have decreased from 2000 MW to 1860 MW.

36. NSTAR and the Massachusetts AG also contend that the proposed methodology does not determine the total amount of tie benefits available, but instead only calculates the amount of tie benefits needed to return the system back to the one day in ten years LOLE criterion, in violation of Commission precedent. NSTAR and the Massachusetts AG argue that in previous orders related to the HQ Interconnection, the Commission directed ISO-NE to use availability—not need—as the focus of an interconnection’s benefit calculations.¹⁷ Thus, NSTAR and the Massachusetts AG argue that the use of unrealistic assumptions along with a failure to take available capacity into account will result in overly conservative tie benefit calculations that will burden customers with having to commit for additional capacity (that is not required to maintain reliability). As such, NSTAR and the Massachusetts AG request that the Filing Parties’ proposed methodology be revised to take all available capacity into account and not just the capacity needed to return to “at criteria.”

37. Finally, NSTAR and the Massachusetts AG contend that the Commission-initiated stakeholder process established to review and reevaluate the methodology for calculating and allocating tie benefits to the neighboring control areas was unfair and flawed. As evidence, NSTAR and the Massachusetts AG contend that the PSPC, which met ten times to address the tie benefit methodology, is a poorly attended working group, has no formal voting authority, and is unbalanced in stakeholder representation. NSTAR and the Massachusetts AG argue that, because the PSPC is dominated by ISO-NE and generators, the focus of the PSPC is to increase capacity requirements. As a result, NSTAR and the Massachusetts AG maintain that the only proposal that the PSPC thoroughly analyzed was that submitted by ISO-NE which resulted in “nonsensical” assumptions, such as ignoring the availability of additional capacity. Accordingly, they request that the Commission reject the Filing Parties’ tie benefit proposal and order the Filing Parties to reinstate the stakeholder process to thoroughly vet alternative ideas with stakeholders.

38. In response to the NSTAR and the Massachusetts AG’s protest, ISO-NE and NEPOOL note in their answers that NSTAR and the Massachusetts AG do not challenge the justness and reasonableness of the proposed tie benefit revisions themselves. Instead, both ISO-NE and NEPOOL argue that NSTAR and the Massachusetts AG contest aspects of the calculation and allocation that are not before the Commission in this proceeding. For example, in contrast to NSTAR and Massachusetts AG’s argument that

¹⁷ NSTAR and the Massachusetts AG cite *New England Power Pool*, 104 FERC ¶ 61,204, at P 2, 29 (2003).

the proposed revisions employ a “new” tie benefits calculation and allocation methodology that relies on unrealistic “at criteria” assumptions, ISO-NE states that the proposed tie benefits revisions do not alter or even address the manner that the “at criteria” assumptions are used to calculate or allocate tie benefits. ISO-NE and NEPOOL both state that section 12.9 of Market Rule 1 specifically notes that ISO-NE must calculate tie benefits using “at criteria” assumptions. They also state that the proposed methodology simply extends the current probabilistic methodology, applying it to all three directly interconnected control areas and eliminating the use of the deterministic methodology to calculate tie benefits for Québec. Further, ISO-NE and NEPOOL state that NSTAR seeks to impose changes here that it failed to achieve in either past proceedings or as part of the recently completed stakeholder process where the PSPC specifically evaluated the use of “as is” rather than “at criteria” modeling. As such, ISO-NE and NEPOOL argue that the Commission should reject the protest and accompanying request that a further stakeholder process be initiated.

39. In its answer, NEPOOL states that it opposes the use of this compliance/section 205 filing as a forum for NSTAR and the Massachusetts AG to seek changes to existing and unchanged provisions of the Market Rule. NEPOOL argues that the Commission may not adopt or approve alternative proposals offered by NSTAR and the Massachusetts AG, even if those alternatives are just and reasonable. NEPOOL adds that it would not oppose Maine PUC’s interest in future voluntary stakeholder consideration of refinements in the Installed Capacity Requirement methodology.

40. In response to NSTAR and the Massachusetts AG concern that overall tie benefits have decreased from 2000 MW (2008/2009) to 1860 MW (2010/2011) despite the addition of the Northeast Reliability Interconnection Project in December 2007, ISO-NE answers that NSTAR and the Massachusetts AG are making an argument that the Commission-approved probabilistic calculation methodology is flawed. ISO-NE states that this argument represents a collateral attack on section 12.9 of Market Rule 1 and reflects a misunderstanding of how tie benefits are calculated.¹⁸ Further, ISO-NE states that the specific tie benefits value for any particular Power Year is not at issue in this proceeding and should be addressed in that specific stakeholder process and/or after its eventual submission to the Commission.

¹⁸ NEPOOL maintains that in the determination of tie benefits for the 2010/2011 and 2011/2012 Capability Years, ISO-NE’s calculation reflected the additional capability represented by the Northeast Reliability Interconnection Project, which increased the total transfer capability from 700 to 1000 MW. NEPOOL states if this import capability had not been explicitly modeled, total tie benefits from the neighboring control areas would have been lower than the results from the 2010/2011 and 2011/2012 simulations.

41. Addressing NSTAR and the Massachusetts AG's concerns about the stakeholder process, ISO-NE argues that their comments represent an inappropriate attack on the Commission-approved stakeholder review process and should be rejected. ISO-NE contends that NSTAR and the Massachusetts AG ignore that the PSPC is the committee charged with responsibility for analyzing capacity-related matters for formal review by the Reliability and Participants Committees. In addition, ISO-NE maintains that NSTAR and the Massachusetts AG failed to voice their offered concerns in the actual stakeholder proceedings. Similarly, NEPOOL contends that the NSTAR and the Massachusetts AG portrayal of the stakeholder process that led to the instant filing is "factually wrong, unjustified and procedurally improper, and should be summarily rejected."¹⁹ NEPOOL provides details on the stakeholder process, pointing out the ability for all participants (including NSTAR and the Massachusetts AG) to present their concerns to the stakeholders, including at the PSPC. Explaining that the Committee meetings are publicly noticed and open to all, NEPOOL states that this stakeholder process has been used in New England "for decades." Further, in contrast to NSTAR and the Massachusetts AG's accusation that the PSPC is largely comprised of ISO-NE and generators, NEPOOL states that review of the meeting minutes of the PSPC shows that "load constituencies were well represented with respect to the tie benefits issues."²⁰

42. ISO-NE disagrees that any firm deadlines should be established for the stakeholder process. These issues were reserved, ISO-NE explains, because it is not clear that market rule changes are warranted and ISO-NE does not have a specific proposal to resolve these issues. ISO-NE states that none of the proponents of change has developed detailed proposals to resolve the issues and that, given the complexity of the issues, additional studies will be necessary before stakeholders can complete proposals to resolve these issues. Because no stakeholders have committed to complete studies or proposals, ISO-NE concludes that it is premature to set deadlines for completing stakeholder discussions or filing further market rule revisions.²¹

43. NEPOOL submits that the Commission should direct the ISO and NEPOOL, in consultation with LIPA, the Connecticut DPUC, and others, to determine an acceptable timetable and to report to the Commission on the results of pending stakeholder discussions within 45 days of this order.²² NEPOOL points out that the December 31, 2008 date requested by LIPA would require the stakeholder process to develop a proposal

¹⁹ NEPOOL Answer at 13.

²⁰ *Id.* at 15.

²¹ ISO-NE Answer at 10-12.

²² NEPOOL Answer at 9-11.

before the end of November so that the NEPOOL participants committee may act at its December 12, 2008 meeting.

44. In their response to ISO-NE's and NEPOOL's answers, NSTAR and the Massachusetts AG contend that the issues they raise are within the scope of this proceeding. They aver that the Commission's previous approval of the "at criteria" assumption under the former tie benefits methodology does not prohibit a challenge under the new methodology. They reiterate that, having exhausted the stakeholder process, NSTAR and the Massachusetts AG's "at criteria" issue is now properly raised before the Commission. They maintain that the stakeholder process, as detailed in their protest, was "entirely flawed and unfairly conducted."²³ Finally, NSTAR and the Massachusetts AG maintain that ISO-NE intentionally misinterpreted their position on the increase transfer capability afforded by the Northeast Reliability Interconnection Project.

IV. Discussion

A. Procedural Matters

45. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2008), the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

46. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2008), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept ISO-NE's and NEPOOL's answers because they have provided information that assisted us in our decision-making process. We will also accept NSTAR and the Massachusetts AG's answer because it has provided information that assisted us in our decision-making process.

B. Substantive Matters

47. NSTAR and the Massachusetts AG urge the Commission to reject the proposal offered by the Filing Parties and require an additional stakeholder process to again address the tie benefit methodology. As discussed below, we reject the request of NSTAR and the Massachusetts AG and we do not require an additional stakeholder process.

48. NSTAR and the Massachusetts AG argue that the Filing Parties "have proposed a new tie benefits calculation and allocation methodology that relies on unrealistic 'at

²³ NSTAR and the Massachusetts AG Answer at 6.

criteria' assumptions."²⁴ However, as noted in both the ISO-NE and NEPOOL answers, section 12.9 of Market Rule 1 specifically states that "the ISO shall calculate tie benefits using 'at-criteria' assumptions for purposes of modeling the adjacent Control Areas."²⁵ As such, under the current tie benefit methodology, ISO-NE properly models the interconnected neighboring control areas using the "at criteria" assumption in the tie benefit determination. We note that in the December Order we stated that the "at criteria" assumption was just and reasonable as it "recognizes that the exact system conditions of neighboring control areas are unknown three years in advance and therefore builds a conservative margin of safety into its calculation of tie benefits available."²⁶ By seeking to include the consideration of resources beyond those necessary to meet the one day in ten year LOLE standard (including those that are planned), NSTAR and the Massachusetts AG are essentially seeking to extend the use of the deterministic methodology.

49. Moreover, we agree with NEPOOL and ISO-NE that the "at criteria" assumption is not before us in this compliance filing. Thus, with their argument that the "at criteria" assumption is overly conservative, NSTAR and the Massachusetts AG seek to expand the scope of the issues before us. The issue presently before the Commission is whether the proposed revisions to the tie benefit methodology and corresponding tariff changes (which do not include modifications to the "at criteria" assumption) are just and reasonable, and not whether the proposal is more or less reasonable than other alternatives.²⁷

50. What has changed under the instant proposal is not the "at criteria" assumption but the replacement of the deterministic allocation of the HQICC value with a probabilistic calculation, consistent with the calculations performed for the New Brunswick and New York control areas. We agree with the Filing Parties that the proposed tie benefits revisions are just and reasonable and are in compliance with our directives from the December Order. The revised methodology calculates tie benefits consistently across the Control Areas and thus results in MCL and LSR values that more accurately reflect the actual tie benefits that are assumed to be available under the probabilistic analysis. We

²⁴ NSTAR and the Massachusetts AG Protest at 6.

²⁵ ISO-NE, FERC Electric Tariff, Vol. No. 3, § III.12.9 (Market Rule 1: Tie Benefits), 1st Rev. Sheet No. 7307T.

²⁶ December Order, 121 FERC ¶ 61,250 at P 73.

²⁷ *ISO New England Inc.*, 114 FERC ¶ 61,315, at P 33 & n.35 (2006) (citing *Pub. Serv. Co. of New Mexico v. FERC*, 832 F.2d 1201, 1211 (10th Cir. 1987), and *Cities of Bethany v. FERC*, 727 F.2d 1131, 1136 (D.C. Cir. 1984).

find the proposed revisions to be acceptable in support of the 2011/2012 (and subsequent) Capacity Commitment Periods.

51. Regarding NSTAR and the Massachusetts AG's argument that New England has increased its tie capability, notwithstanding the overall decrease in tie benefits, we find that NSTAR and the Massachusetts AG have not demonstrated that ISO-NE has improperly performed its tie benefits analysis in violation of the ISO-NE Tariff.²⁸ While we concede that the methodology for performing the analysis for the 2011/2012 Capability Year will be derived from the Commission's action in this order, any judgment on the conservatism involved in that specific analysis is premature. NSTAR and the Massachusetts AG will have a chance to comment on the appropriateness of those tie benefit values when they are filed in support of the December 2008 FCA.

52. Regarding NSTAR and the Massachusetts AG's arguments that the proposed methodology does not determine the total amount of tie benefits available (consistent with the deterministic methodology for HQICCs), in violation of Commission precedent, we note that our December Order specifically established a stakeholder process to consider whether the deterministic methodology was still appropriate under FCM. We stated that it was "not clear that the current deterministic tie benefit allocation for Hydro Québec takes into account uncertainties with future load and capacity or the sharing of the Québec resources with other control areas, especially in support of an auction that takes place three years in advance of the Control Year."²⁹ NSTAR and the Massachusetts AG want the Commission to find that the result of the stakeholder process—elimination of the deterministic HQICC calculation—is in violation of our precedent. However, the examination of this issue was the precise reason for the establishment of the stakeholder process. Thus, we reject NSTAR and the Massachusetts AG's argument.

53. Finally, NSTAR and the Massachusetts AG want the Commission to reject the Filing Parties' proposal because they contend that the aforementioned stakeholder process was flawed and unfair. However, they provide no support for this claim, beyond describing the NEPOOL stakeholder process. NSTAR was able to present its proposal to the PSPC but chose not to present its proposal to the Reliability Committee or Participants Committee. NSTAR and the Massachusetts AG have not provided any evidence that the Commission-approved stakeholder process was violated, and their assertion of an unfair stakeholder process is strongly contested by the answers of both

²⁸ Further, in this case it appears that NSTAR and the Massachusetts AG are alluding to values for the 2011/2012 Capability Year which as of the July 31, 2008 filing date are not before this Commission.

²⁹ December Order, 121 FERC ¶ 61,250 at P 89.

NEPOOL and ISO-NE. As such, the Commission has no basis for overturning the results of the stakeholder process or reinitiating a stakeholder process on this issue.

54. With respect to the IRH Management Committee's request for clarification of the calculation of the HQICC value, the Commission clarifies as follows. Under the current deterministic methodology used in the December Order, the Commission approved an HQICC value for the 2010/2011 Capability Year of 1400 MW for all months except December 2010-February 2011, when the HQICC value is 0 MW. The IRH Management Committee states that, by employing the proposed methodology from the instant filing for the 2011/2012 Capability Year, the NEPOOL Reliability Committee has recommended an HQICC value of 911 MW for all twelve months of the year. As such, the IRH Management Committee requests that the Commission clarify that the HQICC value applies to all twelve months in each Power Year and/or direct that ISO-NE revise the Tariff to reflect that the HQICC value applies to all twelve months in each Power Year.

55. In its answer, ISO-NE states that it does not disagree with the interpretation offered by the IRH Management Committee. However, ISO-NE states that it does not believe that revisions to the market rules are necessary. Rather, ISO-NE states that it would not object to a clarification that the HQICC values produced by section 12 of the tariff apply to all twelve months in each Power Year. Similarly, NEPOOL states that it does not object to the requested clarification.

56. We agree that no formal tariff revision is necessary and clarify that the HQICC value proposed under the revised methodology presented in the instant filing applies to all twelve months in each Power Year.

57. As ISO-NE, NEPOOL, and LIPA note, modeling of internal transmission limits and calculation of tie benefits associated with individual tie lines are not requirements of the December Order; rather, these issues were raised during the stakeholder review process, and by consensus agreement, further discussions were deferred and not resolved in this filing.³⁰

58. The Commission agrees that the stakeholder process should continue to explore resolution of the reserved issues. We recognize the complexity of the issues and studies. We agree with ISO-NE and NEPOOL that the December 31, 2008 date requested by

³⁰ See Filing, Section X (Addressing Reserved Issues). The Filing Parties agree there is a need to further review these issues and state their commitment to continuing discussions through the stakeholder process. See *id.*, Section XII (Conclusion). The Filing Parties likewise affirm their commitment to analyze the outstanding issues, and as necessary, to further refine the tie benefits calculation and allocation methodologies.

LIPA does not allow enough time to adequately study the issues and develop proposals to resolve them. Therefore, we direct ISO-NE and NEPOOL, in consultation with stakeholders, to develop a timetable for a stakeholder process to study modeling of internal transmission constraints and tie benefits associated with individual lines and develop proposals to resolve these issues. We direct the parties to file a report on this timetable within 60 days of the date of this order.

The Commission orders:

(A) The Filing Parties' compliance filing is hereby accepted, to be effective September 30, 2008, as discussed in the body of this order.

(B) ISO-NE and NEPOOL are hereby directed to develop, in consultation with stakeholders, a timetable for a stakeholder process to study modeling of internal transmission constraints and tie benefits associated with individual lines and develop proposals to resolve these issues, as discussed in the body of this order, and to file a report on this timetable within 60 days of the date of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.