

125 FERC ¶ 61,154  
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.

Docket No. ER08-1512-000

ORDER ACCEPTING, WITH CONDITIONS, PROPOSED INSTALLED CAPACITY  
REQUIREMENT, HYDRO QUÉBEC INTERCONNECTION CAPABILITY  
CREDITS, AND RELATED VALUES

(Issued November 7, 2008)

1. On September 9, 2008, ISO New England Inc. (ISO-NE) filed proposed values for the Installed Capacity Requirement, Hydro Québec Interconnection Capability Credits (Hydro Québec Capability Credits), and related values for the 2011-2012 Capability Year. These 2011-2012 Capability Year values will be used as part of the second auction under New England's Forward Capacity Market, which will be held in December 2008. In this order, we accept, with conditions, ISO-NE's proposed values for the Installed Capacity Requirement, Hydro Québec Capability Credits, and related values, effective November 8, 2008, as discussed below.

**I. Background and Summary of Filing**

2. As part of the Forward Capacity Market, ISO-NE is preparing to conduct the second Forward Capacity Auction for the 2011-2012 Capability Year,<sup>1</sup> to be held in December 2008. The December 2008 Forward Capacity Auction will satisfy the capacity-related reliability obligations of all New England market participants within ISO-NE's control area. In this filing, ISO-NE submits the 2011-2012 Capability Year values for the Installed Capacity Requirement, Local Sourcing Requirements, and Maximum Capacity Limit, all of which are key inputs in the Forward Capacity Auction. The Filing Parties also submit the proposed value for the Hydro Québec Capability Credits, which is a key input in the calculation of the Installed Capacity Requirement.

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<sup>1</sup> The 2011-2012 Capability Year extends from June 1, 2011 to May 31, 2012.

**A. Installed Capacity Requirement**

3. The Installed Capacity Requirement 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 Installed Capacity Requirement 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) no more than one day every ten years. The methodology for calculating the Installed Capacity Requirement is set forth in section III.12 of Market Rule 1.

4. The Installed Capacity Requirement for the 2011-2012 Capability Year is the amount of installed capacity to be procured in the Forward Capacity Auction that will be held in December 2008. Consistent with prior years, ISO-NE states that the values for this year's filing are based on three essential components: load forecast, unit availability, and tie benefits. Further, ISO-NE states that the methodologies for determining projected load and resource outage rates are the same as those used in previous years' filings, adjusted due to the need under the new Forward Capacity Market to project the Installed Capacity Requirement three years in advance. However, ISO-NE explains that the methodology for determining tie benefits differs from that used in previous filings as ISO-NE adopted a new methodology submitted on July 31, 2008 in Docket No. ER08-41-002 (July 31 Filing).<sup>2</sup>

**Assumptions****a. Load Forecast**

5. ISO-NE states that the forecasted peak loads of the entire New England Control Area for the 2011-2012 Capability Year were used to develop the corresponding annual Installed Capacity Requirement detailed in this filing. ISO-NE's ten-year load forecast, covering the years 2008 through 2017, was published in April 2008 in ISO-NE's "2008-2017 Forecast Report of Capacity, Energy, Loads, and Transmission" (2008 Forecast Report). ISO-NE states that the 2008 Forecast Report was developed by ISO-NE using the same methodology used previously to develop Commission-approved Installed Capacity Requirement values,<sup>3</sup> reflecting economic and demographic assumptions as

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<sup>2</sup> This filing was accepted by the Commission on September 29, 2008. *ISO New England Inc.*, 124 FERC ¶ 61,298 (2008) (September 29 Order).

<sup>3</sup> ISO-NE Filing at 10 (citing, e.g., *ISO New England Inc.*, 119 FERC ¶ 61,161 (2007) (accepting ISO-NE-proposed Installed Capacity Requirements for the 2007-2008

reviewed and agreed to by the New England Power Pool (NEPOOL) Load Forecast Committee.

6. ISO-NE states that the projected New England Control Area 50/50 peak load<sup>4</sup> (summer) for the 2011-2012 Capability Year is 29,405 MW, representing a compound annual growth rate of 1.7 percent from the forecasted 50/50 peak load of 27,970 MW for the summer of 2008. The corresponding 90/10 peak load for the 2011-2012 Capability Year is 31,525 MW, representing a compound annual growth rate of 1.8 percent from the forecasted 90/10 peak load of 29,895 MW for the summer of 2008. The forecasted net annual energy for 2008 and 2011 is 135,000,000 megawatt hours (MWh) and 139,195,000 MWh, respectively, and the corresponding energy growth for the calendar years 2008 through 2011 is forecasted to be at a compound annual growth rate of 1 percent.

**b. Resource Capacity Ratings**

7. ISO-NE states that the 2011-2012 Installed Capacity Requirement is based on ratings of Qualified Existing Capacity Resources that have cleared the Forward Capacity Auction for the 2010-2011 Commitment Period. Resource additions and attritions are not assumed in the calculation of the Installed Capacity Requirement for the 2011-2012 Capability Year because there is no certainty that new resource additions or existing resource attritions will clear the Forward Capacity Auction.

**c. Unit Availability**

8. ISO-NE states that the proposed 2011-2012 Installed Capacity Requirement reflects unit availability assumptions based on historical scheduled maintenance and forced outages of the capacity resources. Individual generating unit maintenance assumptions are based on each unit's historical five-year average of scheduled maintenance or North American Electric Reliability Corporation (NERC) average scheduled maintenance data for the same class of unit, if five-year average data are not available. ISO-NE states that individual generating unit forced outage assumptions are based on the unit's historical forced outage data or NERC average data for the same class

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Power Year); *ISO New England Inc.*, 115 FERC ¶ 61,149 (2006) (accepting ISO-NE-proposed Installed Capacity Requirements for the 2006-2007 Power Year)).

<sup>4</sup> The 50/50 peak load figure implies that this value has a 50 percent chance of being exceeded; a 90/10 peak load implies that this value has a 10 percent chance of being exceeded.

of unit. ISO-NE also explains that the Passive Demand Response Resources are assumed 100 percent available, while the performance assumptions for the Active Demand Resources are based on actual responses.

**d. Tie Benefits**

9. ISO-NE states that New England's Commission-approved method for establishing the Installed Capacity Requirement requires certain assumptions regarding the tie benefits value to be used as an input in the formula. Specifically, ISO-NE explains that tie benefits from neighboring control areas reduce the Installed Capacity Requirement and thus the need to buy capacity within New England. The tie benefits from neighboring control areas reflect the amount of emergency assistance that New England could rely on, without jeopardizing reliability in New England or its neighboring control areas, in the event of a capacity shortage in New England.

10. ISO-NE explains that the Installed Capacity Requirement for the 2011-2012 Capability Year reflects tie benefits calculated in accordance with a new methodology proposed in revisions to ISO-NE's tariff, submitted in the July 31 Filing to comply with the Commission's directives in its 2010-2011 Installed Capacity Requirements order. ISO-NE states that its Hydro Québec Capability Credits values are established using the results of a probabilistic (rather than deterministic) calculation of tie benefits, while total tie benefits for the Québec, New Brunswick, and New York Control Areas are calculated using a probabilistic multi-area reliability model as used previously. According to ISO-NE, the neighboring control areas continue to be modeled using "at criteria" modeling assumptions,<sup>5</sup> consistent with applicable Commission-approved tariff provisions, i.e. section III.12.9 of Market Rule 1. The allocation methodology for calculating individually calculated capacity equivalents for New Brunswick and New York is applied for determining the tie benefits from Québec as well. ISO-NE explains that if the sum of the individually calculated capacity equivalents 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 will be adjusted in a pro rata manner

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<sup>5</sup> Under the "at criteria" modeling assumption, ISO-NE assumes that the neighboring control areas will, at the very least, meet the one day in ten years Loss of Load Expectation reliability standard mandated by the Northeast Power Coordinating Council. By comparison, the "as is" standard seeks to model the neighboring control areas to reflect known and planned resource availabilities, forecast load, imports, and exports for the Capacity Commitment Period.

based on a ratio of the tie benefits from each individual control area to the sum of the tie benefits from all control areas.

11. ISO-NE states that the Installed Capacity Requirement calculations for the 2011-2012 Capability Year reflects total tie benefits of 1,800 MW, allocated among New England's interconnections with its neighboring control areas as follows: 911 MW from the Québec interconnections; 716 MW from New Brunswick (i.e., Maritimes) interconnections; and 173 MW from the New York interconnections.

**e. Hydro Québec Capability Credits**

12. ISO-NE proposes a Hydro Québec Capability Credits value of 911 MW for each month of the 2011-2012 Capability Year, which was calculated using the allocation methodology proposed in the July 31 Filing. ISO-NE states that the Hydro Québec Capability Credits values were developed in consultation with NEPOOL through the Power Supply Planning Committee process.

**B. Local Sourcing Requirement and Maximum Capacity Limit**

13. ISO-NE states that under the Forward Capacity Market, it must also calculate Local Sourcing Requirements and Maximum Capacity Limits to be used, if necessary, in each Forward Capacity Auction. A Local Sourcing Requirement is the minimum amount of capacity that must be electrically located within an import-constrained Load Zone; a Maximum Capacity Limit is the maximum amount of capacity that can be procured in an export-constrained Load Zone to meet the Installed Capacity Requirement. ISO-NE notes that the general purpose of Local Sourcing Requirements and Maximum Capacity Limits is to ensure that capacity resources are geographically distributed within the New England Control Area in a manner that helps to ensure that capacity is located where it is needed. ISO-NE states that the calculation of the Local Sourcing Requirements and the Maximum Capacity Limits used the same load and resource assumptions that were used to calculate the Installed Capacity Requirement for 2011-2012, except that they are distributed to the Load Zones according to their electrical connection.

14. ISO-NE states that for the 2011-2012 Capability Year, the Local Sourcing Requirements for Connecticut and Northeast Massachusetts/Boston Load Zones are 6,817 MW and 2,016 MW, respectively. The Maximum Capacity Limit for the Maine export-constrained Load Zone is 3,395 MW. ISO-NE explains that this is the amount of capacity resources that the second Forward Capacity Auction can procure from the Maine Capacity Zone, including capacity resource imports over the New Brunswick ties. ISO-NE avers that if the price floor is reached in the second Forward Capacity Auction, there could be more capacity resources located in Maine than the Maximum Capacity Limit, which would require "double pro ration" of capacity resources electrically located in the Maine Load Zone – once for meeting the Maximum Capacity Limit, and if necessary,

once for meeting the total New England Installed Capacity Requirement. ISO-NE explains that assuming that all of the available resources remain in the auction to the floor price, Maine's market participants will need to elect whether to keep their full Capacity Supply Obligation with a reduced payment rate or to reduce their Capacity Supply Obligation and maintain the original Capacity Clearing Price because without such proration the Maine Maximum Capacity Limit would be exceeded.

**C. Proposed Values**

15. ISO-NE proposes that the Installed Capacity Requirement for the 2011-2012 Capability Year be 33,439 MW. It notes that the 33,439 MW value accounts for tie benefits assumed obtainable from New Brunswick and New York of 716 MW and 173 MW, respectively, but it does not reflect a reduction in capacity requirements relating to Hydro Québec Capability Credits that are allocated to the Interconnection Rights Holders. Rather, the proposed Hydro Québec Capability Credits value of 911 MW per month is applied to reduce the portion of the Installed Capacity Requirement that is allocated to the Interconnection Rights Holders, leaving a net amount of 32,528 MW of capacity to be purchased in the Forward Capacity Auction to meet the Installed Capacity Requirement.

16. ISO-NE proposes that the 2011-2012 Capability Year Local Sourcing Requirements for the Connecticut and Northeast Massachusetts/Boston Load Zones should be 6,817 MW and 2,016 MW, respectively. They propose a Maximum Capacity Limit for the Maine export-constrained Load Zone of 3,395 MW.

**D. Development/Stakeholder Process**

17. ISO-NE states that in consultation with NEPOOL and other interested parties, it developed the proposed Installed Capacity Requirement and related values for the 2011-2012 Capability Year through an extensive stakeholder process over a period of eight months. It notes that ISO-NE used the methodologies and assumptions for determining the Installed Capacity Requirement and related values that are set out in section III.12 of

Market Rule 1, which were approved by the Commission.<sup>6</sup> ISO-NE states that the Hydro Québec Capability Credits values were developed through the tie benefits study.

18. ISO-NE remarks that NEPOOL supports the Hydro Québec Capability Credits values. However, the NEPOOL Reliability and Participants Committees failed to pass a motion to support the Installed Capacity Requirement and related values. ISO-NE notes that generally, some stakeholders supported a higher Installed Capacity Requirement and some supported a lower requirement.

**E. Requested Effective Date**

19. In order to support the December 2008 Forward Capacity Auction, ISO-NE requests an effective date 60 days after the date of submission.

**II. Notice of Filings and Responsive Pleadings**

20. Notice of the Filing Parties' filing was published on September 12, 2008, with interventions and protests due on or before September 30, 2008. Timely motions to intervene were filed by Dominion Resources Services, Inc.; Dynegy;<sup>7</sup> H.Q. Energy Services (U.S.), Inc.; New England Power Generators Association; FirstLight Hydro Generating Company; the IRH Management Committee; and Northeast Utilities Service Company on behalf of the NU Companies.

21. NEPOOL Participants Committee (NEPOOL) filed a timely motion to intervene and comments. The Maine Public Utilities Commission (Maine PUC) filed a timely notice of intervention and comments.

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<sup>6</sup> *ISO New England Inc.*, 118 FERC ¶ 61,157, *reh'g denied*, 120 FERC ¶ 61,234 (2007) (the ICR Rules Order), *appeal docketed sub nom. Conn. Dep't of Pub. Util. Control v. FERC*, No. 07-1375 (D.C. Cir. Sept. 21, 2007). The Filing Parties note that the appeal challenges the Commission's jurisdiction to approve the Installed Capacity Requirement but does not challenge the actual technical provisions of the market rules reflected in section III.12 of Market Rule 1, which were approved by the Commission in the ICR Rules Order and which were used to calculate the Installed Capacity Requirement and related values that are the subject of this filing.

<sup>7</sup> Dynegy includes Dynegy Power Marketing, Inc., Casco Bay Energy Company, LLC and Bridgeport Energy, LLC (collectively, Dynegy).

22. NRG Companies;<sup>8</sup> the Long Island Power Authority and Long Island Lighting Company (collectively LIPA); NSTAR Electric Company (NSTAR) and the Massachusetts Attorney General (collectively the Intervenors); and the Generating Parties,<sup>9</sup> filed timely motions to intervene and protest.

23. On October 15, 2008, ISO-NE and the NEPOOL Participants Committee filed answers to the comments and protests. On October 30, 2008, LIPA filed an answer to ISO-NE's answer.

### **III. Discussion**

#### **A. Procedural Matters**

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

25. 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 the answers because they have provided information that assisted us in our decision-making process.

#### **B. Analysis**

26. We accept, with conditions, ISO-NE's proposed Installed Capacity Requirement value of 33,439 MW, the Hydro Québec Capability Credit value of 911 MW per month, and the related values for the 2011-2012 Capability Year. The calculations performed by ISO-NE to develop the Installed Capacity Requirement value, the Hydro Québec

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<sup>8</sup> NRG Companies include NRG Power Marketing LLC, Connecticut Jet Power LLC, Devon Power LLC, Middletown Power LLC, Montville Power LLC, Norwalk Power LLC, and Somerset Power LLC.

<sup>9</sup> This includes Boston Generation, LLC; Mystic I, LLC; Mystic Development, LLC; and Fore River Development, LLC (collectively, the Boston Gen Companies), FPL Energy, LLC, on behalf of its operating subsidiaries in ISO New England; Mirant Energy Trading, LLC; Mirant Canal, LLC; Mirant Kendall, LLC (collectively, the Mirant Parties), and PSEG Energy Resources & Trade LLC and PSEG Power Connecticut LLC (collectively, the PSEG Power Companies).

Capability Credit value, and related values are consistent with its tariff. Below, we address the specific issues raised by the protesters.

**1. Installed Capacity Requirement**

**a. NEPOOL's Comments**

27. NEPOOL filed comments in support of the Hydro Québec Capability Credits, but does not support or oppose the Installed Capacity Requirements and related values. NEPOOL explains that the Participants Committee considered both ISO-NE's proposed Installed Capacity Requirements and related values and an alternative set of values offered by a market participant, but neither motion passed. NEPOOL provided examples of the various discussion points in the consideration of both proposed values, including concerns over the filed rate in changing the method for calculating the Installed Capacity Requirement, adjustment of the reserve margin, inadequate consideration of tie benefits, and overstatement of demand resource capacity.

**b. Maine PUC's Comments**

28. While supportive of the filing, the Maine PUC explains that ISO-NE's assumptions for active demand response performance in the Forward Capacity Market based on the resources' historic performance in a completely different program should be reconsidered because the availability metric for demand response affects the Installed Capacity Requirement. According to the Maine PUC, if the performance of demand response is underrated, consumers will be required to purchase more capacity than is necessary to meet the one-day-in-ten Loss of Load Expectation standard. Further, the Maine PUC states that based on its discussions with demand response providers, it has learned that the greater relative penalties for non-performance under Forward Capacity Market have led to conservative bidding practices. The Maine PUC requests that ISO-NE undertake further study of the assumptions underlying the determination of demand response performance data to determine whether the current performance rating methodology for active demand response should be further refined for the next capability year. The Maine PUC notes that in making these comments it does not waive its arguments regarding whether the Commission has the authority to undertake the installed capacity determination.<sup>10</sup>

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<sup>10</sup> See, e.g., *ISO New England Inc.*, 121 FERC ¶ 61,125, at P 33-39 (2007).

**c. Generating Parties' Protest**

29. The Generating Parties assert that in 2007, market participants identified a potential flaw in the way the Installed Capacity Requirement is calculated and ISO-NE senior staff recently completed an analysis of the problem and agreed that it presented a market flaw. The Generating Parties explain that due to the interaction of the Forward Capacity Market rules, which include a reserve margin gross-up for Demand Resources,<sup>11</sup> and the assumptions in developing the Installed Capacity Requirement, the Forward Capacity Auction would procure 386 MW less than the amount of resources needed to meet the Installed Capacity Requirement, even though the Forward Capacity Market rules require ISO-NE to purchase 100 percent of the Installed Capacity Requirement in the Forward Capacity Auction. According to the Generating Parties, ISO-NE senior staff proposed to either increase the Installed Capacity Requirement to account for the reserve margin gross-up for Demand Resources or eliminate the reserve margin gross-up from the market rules, but neither modification would be made for the 2011-2012 Capability Year.

30. The Generating Parties explain that the 2011-2012 Installed Capacity Requirement is calculated in part based on the Qualified Existing Capacity Resources that cleared the 2010-2011 Forward Capacity Auction and the Installed Capacity Requirement reflects unit availability assumptions based on historical scheduled maintenance and forced outages of resources. Further, Passive Demand Response Resources are assumed 100 percent available in the Installed Capacity Requirement calculations, while the performance assumptions for Active Demand Resources are based on actual responses during all historical OP 4 events and ISO-NE performance audits. The Generating Parties argue that this is significant because once high availability resources clear in the prior year's Forward Capacity Auction, these high availability resources reduce the Installed Capacity Requirement calculated for all future Forward Capacity Auctions in which they are classified as existing resources. According to the Generating Parties, the benefit is undermined by a double count of what in essence are phantom megawatts, which will result in the 2011-2012 Forward Capacity Auction not purchasing the amount of resources needed to meet the Installed Capacity Requirement. Therefore, the

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<sup>11</sup> The "reserve margin gross-up" is the practice of increasing the Demand Reduction Value of Demand Resources by a reserve margin factor as part of a Demand Resource's participation in the FCM. The reserve margin factor equals the summer Installed Capacity Requirement divided by the 50/50 summer system peak load forecast as determined by ISO-NE for the FCA immediately preceding the Forward Capacity Auction in which the Demand Resource clears.

Generating Parties assert that while the new, high availability demand resources result in fewer resources that are needed to meet the Installed Capacity Requirement, the Forward Capacity Market rules provide for an additional credit to demand resources that makes it impossible for ISO-NE to purchase 100 percent of the Installed Capacity Requirement in the Forward Capacity Auction.

31. The Generating Parties argue that because of the under-purchasing of the Installed Capacity Requirement and the double-count of the reserve margin gross-up,<sup>12</sup> the Forward Capacity Auction will not clear properly. If the second Forward Capacity Auction does clear normally, then the resulting clearing price will be artificially depressed by the 386.7 MW of phantom megawatts included in the gross-up. On the other hand, the Generating Parties argue that, if the second Forward Capacity Auction clears with a surplus above the Installed Capacity Requirement, the price no longer is at the intersection of the supply and demand curves, but instead rests at the floor price, which means the Forward Capacity Market rules require that payments to all supply resources are reduced pro-rata by the amount of the surplus. Thus, the Generating Parties assert that the existence of phantom megawatts could affect decisions by Existing Capacity Resources during the Forward Capacity Auction on whether to dynamically delist individual units between rounds of the Forward Capacity Auction, since the reserve margin gross-up results in additional phantom megawatts participating in the Forward Capacity Auction.

32. The Generating Parties state that if ISO-NE does not make a voluntary filing to eliminate the reserve margin gross-up in time for the 2011-2012 Forward Capacity Auction, the Commission should direct ISO-NE to submit a filing to modify its Installed Capacity Requirement. The Generating Parties argue that deferring acquisition of the deficient MWs until the last reconfiguration auction (as ISO-NE proposed to stakeholders in the Markets Committee) will (1) violate the Forward Capacity Market settlement principle that ISO-NE must purchase 100 percent of the Installed Capacity Requirement in the auction; and (2) directly harm supply resources in the second Forward Capacity Auction by artificially depressing either the capacity clearing price or inflating the price pro-rata if there is surplus capacity when the Forward Capacity Auction reaches the floor. According to the Generating Parties, any resources that are procured in the reconfiguration auctions to make up for the failure to procure 100 percent of the Installed Capacity Requirement will be paid a different price for capacity, resulting in unduly

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<sup>12</sup> The “double count” refers to reflecting the existing resource treatment for these resources in the Installed Capacity Requirement calculation, and then grossing up those resources again by the reserve margin.

preferential treatment of the demand resources, while being unduly discriminatory and unjust and unreasonable toward other capacity resources. Finally, the Generating Parties state that ISO-NE should not be allowed to take this discriminatory action by arguing the time table is too tight before the second Forward Capacity Auction because increasing the filed Installed Capacity Requirement by 386.7 MW to eliminate the effect of the double-count can be done with no consequence to the Forward Capacity Auction schedule. Alternatively, the Generating Parties state that the demand response reserve margin gross-up could be eliminated immediately.

**d. Answer**

33. In response to Maine PUC, NEPOOL states that, although it would not oppose a Commission order directing the stakeholders to consider Maine PUC's concerns, NEPOOL does not support Maine PUC's request that a stakeholder process be completed in time for the implementation of the 2012/2013 Forward Capacity Auction. ISO-NE explains that its traditional practice is to base resource availability assumptions on historical performance data where available, and that, to date, no party has produced data suggesting that the performance of demand resources in future capacity commitment periods would differ from historical performance. ISO-NE states that it and its stakeholders will continuously review the assumptions regarding the performance of demand resources and revise them as deemed appropriate with available updated performance data.

34. ISO-NE generally agrees with the assertion in the Generating Parties' protest that the design of the Forward Capacity Market is intended to procure 100 percent of the Installed Capacity Requirement in the primary auction for each capacity commitment period. However, ISO-NE argues that the market rules require that "each Forward Capacity Auction shall procure one hundred percent of the Installed Capacity Requirement *approved by the Commission* for the associated capacity commitment period."<sup>13</sup> ISO-NE argues that it correctly calculated the Installed Capacity Requirement in accordance with the existing Commission-approved rules for establishing Installed Capacity Requirements.

35. According to ISO-NE, reconfiguration auctions were specifically made a part of the Forward Capacity Market design in order to take into consideration the inevitable changes to the Installed Capacity Requirement that occur when the primary auction is held three years in advance. ISO-NE states that the following provision in the rules addresses this situation:

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<sup>13</sup> ISO Tariff, Market Rule 1, Section 13.2.2 (emphasis added).

The ISO shall offer and/or bid in reconfiguration auctions to address year-to-year changes in the Installed Capacity Requirement (including Local Sourcing Requirements for Capacity Zones for which price separation occurred in the Forward Capacity Auction for that capacity commitment period) for the associated capacity commitment period....<sup>[14]</sup>

ISO-NE argues that the Forward Capacity Market design is not unjust and unreasonable simply because the Installed Capacity Requirement that is procured in the primary auction may later be adjusted as the associated capacity commitment period draws nearer or because ISO-NE and stakeholders may decide that it is appropriate to review and potentially revise some component of the Installed Capacity Requirement methodology during the three years prior to a capacity commitment period.

36. ISO-NE states that the Installed Capacity Requirement and related values should not be modified in response to the concerns raised in the Generating Parties' protest because the issue raised is the subject of an ISO-initiated rule change that has been under consideration through New England's Commission-approved stakeholder process. However, ISO-NE states that the stakeholder review process relating to the reserve margin gross-up and its relationship to the calculation of the Installed Capacity Requirement was not completed until October 10, 2008. Given the timing of the stakeholder process, ISO-NE concluded that, for the second Forward Capacity Auction, it would not be appropriate to change either the already filed Installed Capacity Requirement in the instant filing or the qualified Capacity Value determinations filed in Docket No. ER08-1513. The ISO determined that any change to the reserve margin gross-up for the second Forward Capacity Auction would unduly disrupt market expectations in general and the specific capacity value determinations that demand resource providers have justifiably relied on under the existing market rules.

37. According to ISO-NE, it has concluded that the reserve margin gross-up should be eliminated for the third Forward Capacity Auction and that any changes to the Installed Capacity Requirement for the first and second Forward Capacity Auctions will be captured in the applicable reconfiguration auctions. NEPOOL and ISO-NE both voted in favor of the rule change becoming effective for the third Forward Capacity Auction, and will file a proposed rule change in the next few weeks. By contrast, both ISO-NE and NEPOOL state that a motion to eliminate the reserve margin gross-up for the second Forward Capacity Auction, made by FPL Energy, failed to pass.

38. ISO-NE argues that the filed Installed Capacity Requirement value was calculated

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<sup>14</sup> ISO Tariff, Market Rule 1, Section 13.4.3.

in accordance with the existing provisions of Market Rule 1, section 12 and, with respect to the reserve margin gross up, was calculated in the same manner as the Installed Capacity Requirement value that was approved by the Commission and used in the first Forward Capacity Auction. Section 12.7.2 requires that the capacity ratings of “demand resources and other demand resources in existence during the ICAP Transition Period shall be the summer Qualified Capacity value reduced by any reserve margin adjustment factor that is otherwise included in the summer Qualified Capacity value.” To the extent that the Generating Parties’ protest seeks to have the Commission modify the provisions of the existing market rules, the protest is a procedurally improper and untimely attack on the Commission’s prior acceptance of those rules. Both ISO-NE and NEPOOL states that the procedurally appropriate path to change existing market rules is for ISO-NE to submit a filing pursuant to section 205 of the FPA or, alternatively, for the protesting parties to submit a complaint under section 206 of the FPA.

**e. Commission Determination**

39. The Commission notes Maine PUC’s concern regarding the assumptions underlying the determination of demand resources performance data. However, the Maine PUC has provided no evidence that the availability metric understates the performance of active demand response. Therefore, the Commission encourages the Maine PUC to bring this to the attention of ISO-NE through the stakeholder process to consider if any changes to the determination of demand resources performance data are necessary. We also note that the Maine PUC reaffirms its position with respect to the Commission’s jurisdiction to establish Installed Capacity Requirement for New England by reference to its arguments in other pending proceedings. While the Commission maintains that it has jurisdiction over the Installed Capacity Requirement because it is a component of jurisdictional wholesale rates, Maine PUC’s arguments will be addressed in the other proceeding.<sup>15</sup>

40. We deny the Generating Parties’ request to direct ISO-NE to eliminate the reserve margin gross-up in time for the 2011-2012 Forward Capacity Auction. ISO-NE agrees that the reserve margin gross-up should be eliminated and states that it intends to file to do so “in the next few weeks,” in time for the 2012-2013 Forward Capacity Auction. Since the auction for the 2011-2012 Capability Year will be held in December 2008 – only a few weeks from the date of this order – the Commission agrees with ISO-NE that there is not adequate time for ISO-NE to prepare such a filing and for the Commission to adequately consider the public comments on that filing and issue an order. However, we

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<sup>15</sup> See, e.g., *ISO New England Inc.*, 121 FERC ¶ 61,125, at P 33-39 (2007).

understand the importance of this matter to many parties, and we encourage a resolution before any subsequent Forward Capacity Auction. Therefore, we accept ISO-NE's offer to file to address the reserve margin gross-up, and we note that on October 31, 2008, ISO-NE submitted such a filing in Docket No. ER09-209-000.

41. We find that ISO-NE's proposed Installed Capacity Requirement is reasonable because ISO-NE has calculated the value in accordance with the methodology in its tariff, which the Commission has approved. Even, *arguendo*, if the Commission eventually finds that the reserve margin gross-up unjust and unreasonable, failure to eliminate the gross-up in time for the 2011-2012 Forward Capacity Auction should not endanger reliability because ISO-NE has authority to procure the additional capacity needed in a subsequent reconfiguration auction prior to the 2011-2012 Capability Year. Further, we agree with ISO-NE that the Forward Capacity Market design is not unjust and unreasonable just because the Installed Capacity Requirement that is procured in the primary auction may later be adjusted when ISO-NE and stakeholders decide that it is appropriate to review and potentially revise some component of the Installed Capacity Requirement methodology during the three years prior to a capacity commitment period.

## **2. Tie Benefits**

### **a. Maine PUC's Comments**

42. The Maine PUC states that it supports the identified Installed Capacity Requirements insofar as they incorporate the proposals made by ISO-NE and NEPOOL, which were accepted by the Commission in the September 29 Order. The Maine PUC believes that ISO-NE's incorporation of the tie benefits methodology accepted by the Commission in the September 29 Order should eliminate the distortion inherent in the prior methodology, and thus allow the locational features of the Forward Capacity Market to function properly.

### **b. The Intervenors' Protest**

43. The Intervenors state that they take issue with ISO-NE's proposed tie benefit values associated with the directly connected neighboring control areas, including New York, New Brunswick, and Québec. The Intervenors argue that the new tie benefits methodology that ISO-NE proposes to use in the instant filing still remains an open matter under considerable scrutiny by various stakeholders and so request that the Commission defer ruling on the instant filing until a final determination is made on the appropriate tie benefits methodology in Docket No. ER08-41-002. According to the Intervenors, even though the filing for the new tie benefits methodology was recently accepted by the Commission, the Intervenors have every intention of filing a request for rehearing on the September 29 Order. Therefore, the Intervenors state that no action should be taken in the instant proceeding until the parties have exhausted all their rights

under the Commission's Rules of Practice and Procedure to challenge the proposed new tie benefits methodology in Docket No. ER08-41-002.

44. The Intervenors filed a joint protest against the proposed new tie benefits methodology due to ISO-NE's use of "unrealistic assumptions" in calculating tie benefits and the adoption of the "at criteria" assumption for use under its proposed probabilistic methodology. The Intervenors believe that the proposed methodology will result in overly conservative tie benefit estimates given that the "at criteria" model fails to account for all existing capacity and planned generation in the neighboring control areas. According to the Intervenors, ISO-NE admits that the new methodology results in a decrease of total tie benefits of 60 MW, and that there has been a significant change in tie benefits attributed to each individual neighboring control area. The Intervenors explain that it is the assumptions under the tie benefits methodology that are driving overall tie benefits down and so ISO-NE's proposed new tie benefits methodology is simply unreasonable in that it grossly reduces the potential reliability assistance from neighboring control areas even after additional interregional transfer capabilities have been constructed.

45. The Intervenors assert that the Commission stated in its September 29 Order that the Intervenors' presumption on the understated tie benefit values likely to result under the proposed tie benefits methodology was premature and invited comments on the appropriateness of values as filed as part of the instant proceeding.

**c. LIPA's Protest**

46. LIPA explains that it remains concerned with the failure of ISO-NE to separately calculate and recognize the tie benefits provided to New England from the controllable facilities connecting Long Island and Connecticut. LIPA states that as separately scheduled, controllable lines, the Cross Sound Cable and 1385/Northport Norwalk Cable have the ability to provide emergency assistance to New England independent of the remainder of the New York/New England interface, and their connection to Connecticut allows these facilities to provide direct emergency assistance to an internally transmission-constrained region.

47. LIPA asserts that since both the Cross Sound Cable and 1385/Northport Norwalk Cable are controllable transmission facilities, similar to the Hydro Québec interconnection, it is possible to calculate their individual tie benefit on a comparable probabilistic basis. LIPA explains that it has developed a methodology, using the same simulation model that ISO-NE uses in its probabilistic analysis, that will allow for segregation of the emergency assistance benefits provided to New England by the Cross Sound Cable and the 1385/Northport Norwalk Cable and support the calculation of an individual tie benefit for these facilities on a consistent basis with the Hydro Québec interconnection. LIPA states that it has presented its proposed methodology to ISO-NE,

and at this time is not requesting that the Commission take any action regarding this proposal, but wanted to make the Commission aware that it is methodologically possible.

48. LIPA acknowledges that ISO-NE and NEPOOL have committed to continue consideration of the issues related to the modeling of internal transmission limits, calculation of tie benefits associated with individual ties, and modeling of additional neighboring control areas for further stakeholder discussion, and to revisit, as necessary, possible further revisions to the tie benefits calculation methodologies. However, LIPA argues that the continuing stakeholder process does not remedy the immediate failings in the instant filing, in particular with the calculation and treatment of the 173 MW of tie benefits associated with the New York Control Area. To address the “inequity” caused by the delay in implementing separately calculated tie benefits, LIPA requests that the Commission direct ISO-NE to administratively allocate the 173 MW of New York/New England tie benefits between: (1) the Upstate Interties; (2) the 1385/Northport Norwalk Cable tie, with application to the Connecticut Local Sourcing Requirement; and (3) an allocation of capacity credits to the Cross Sound Cable. LIPA states that ISO-NE should administratively allocate the 173 MW of tie benefits based on the summer MW Total Transfer Capability of each individual New York/New England scheduling interface divided by the total summer MW Total Transfer Capability of all individual scheduling interfaces. LIPA also states that the Commission should direct ISO-NE to implement this interim tie benefit allocation methodology for the 2011-2012 Capacity Commitment Period.

**d. Answers**

49. In response to the Intervenors’ arguments, ISO-NE states that the new tie benefits methodology has already become effective as of September 30, 2008, as directed by the Commission and requested by ISO-NE and NEPOOL. Thus, contrary to the assertions of the Intervenors, ISO-NE states that its implementation of the tie benefits methodology is entirely appropriate. ISO-NE states that the Intervenors’ claim, styled as a procedural argument, has no basis in the Commission’s Rules of Practice and Procedure and is without merit. NEPOOL argues that the appropriate forum for resolution of these issues is in Docket No. ER08-41, not the instant proceeding. In addition, ISO-NE explains that as the Intervenors know, ISO-NE will be addressing unresolved issues regarding the tie benefits methodology through the stakeholder process, and will be submitting a further filing with the Commission in this regard. Accordingly, the Commission should reject the Intervenors’ request that the Commission defer ruling on the installed capacity requirement filing in the instant proceeding.

50. In response to LIPA, ISO-NE states that the tie benefits represented by the Cross Sound Cable and 1385/Northport Norwalk Cable facilities were accurately represented in ISO-NE’s tie benefits study with the neighboring control areas because those

transmission facilities can be used to transfer emergency assistance. When ISO-NE conducted a sensitivity study and removed the Cross Sound Cable from the interconnected system, the results showed the same level of tie benefits from New York with or without that facility. Based on the Cross Sound Cable sensitivity study results, ISO-NE maintains that removal of the 1385/Northport Norwalk Cable also would not change the same total tie benefits.

51. ISO-NE argues that, to account for LIPA's expected surplus generation capacity would be in violation of the "at criteria" methodology specified by the market rules governing the tie benefits calculation methodology because such a practice would instead reflect "as-is" system conditions. As the Commission recognized in its September 29 Order accepting ISO-NE's tie benefits calculation methodology compliance filing, "section 12.9 of Market Rule 1 specifically states that 'ISO-NE shall calculate tie benefits using 'at criteria' assumptions for purposes of modeling the adjacent control areas.'"<sup>16</sup> The Commission further stated that it has found ISO-NE's "'at criteria' assumption [to be] 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.'" <sup>17</sup> Thus, use of the "at criteria" modeling assumption does not reflect an overly aggressive estimate of tie benefits based on unrealistic assumptions. Rather, ISO-NE argues that LIPA's argument that ISO-NE should account for expected future surplus of generating capacity presents the very kind of risk factors that the required "at criteria" methodology seeks to avoid, and which section 12.9 of Market Rule 1 prevents. Thus, ISO-NE states that LIPA's request with respect to its projected surplus must be rejected.

52. Regarding an interim, administrative allocation of tie benefits among the ties between New York and New England, ISO-NE and NEPOOL state that, as LIPA has admitted, these issues are being addressed through the stakeholder process. While LIPA may prefer to have the Commission impose a LIPA-developed tie benefits methodology regarding the installed capacity requirement filing in this proceeding, ISO-NE and NEPOOL assert that such a course of action would inappropriately circumvent the stakeholder process.

53. In its answer, LIPA contends that ISO-NE relies on a flawed with/without sensitivity study to claim that neither the Cross Sound Cable nor the 1385/Northport Norwalk Cable provides tie benefits to ISO-NE. It asserts that ISO-NE fails to disclose

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<sup>16</sup> September 29 Order, 124 FERC ¶ 61,298 at P 48.

<sup>17</sup> *Id.*

that removing any single tie from the NYISO/ISO-NE interface would always show the same result for any one of the ties between control areas. LIPA maintains that ISO-NE's conclusion that removing a single line at a time from the NYISO/ISO-NE interface will not have any impact on the New York tie benefit does not mean that there are not individual tie line benefits from the Cross Sound Cable and the 1385/Northport Norwalk Cable.

54. In fact, according to LIPA, the 1385/Northport Norwalk Cable and Cross Sound Cable interconnections themselves significantly enhance the reliability of both interconnected areas through the ability to share generation and spread risk over a larger pool of resources when an outage occurs in one interconnected area but not the other. LIPA further argues that ISO-NE's claims regarding the lack of individual tie benefits is contradicted by its own past statements and others within New England.<sup>18</sup>

55. In addition, LIPA argues that ISO-NE mischaracterizes LIPA's position regarding the use of "at criteria" assumptions. LIPA states that it fully supports the use of "at criteria" modeling assumptions to determine the tie benefits for the control areas. In fact, LIPA notes that the methodology that LIPA has developed and presented to the ISO-NE stakeholder process unequivocally calls for use of "at criteria" assumptions. LIPA states that, at no time in its protest did it state or imply that ISO-NE did or should use "as is" criteria. Rather, LIPA maintains that the point of its discussion of its surplus capacity was to eliminate ISO-NE's claims about the availability of surplus capacity from Long Island.

**e. Commission Determination**

56. The Commission does not agree with the Intervenors that we should defer ruling on the instant filing to allow them the opportunity to take further action on the September 29 Order. The Intervenors are correct that we stated in the September 29 Order that their presumption on the understated tie benefit values likely to result under the proposed tie benefits methodology was premature and they would have the opportunity to comment on the appropriateness of the tie benefit values in the instant proceeding.<sup>19</sup> However, the Intervenors do not dispute the actual tie benefit values in the

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<sup>18</sup> See LIPA Answer, Appendix A and B. See also, Northeast Utilities Service Company, February 26, 2004 Application, TX04-1-000 at 21.

<sup>19</sup> September 29 Order, 124 FERC ¶ 61,298 at P 51 (noting that intervenors "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") (emphasis added).

instant filing. Instead, they again protest the methodology used to calculate the values, which was approved in the September 29 Order. The Intervenor reiterates their position that the Commission-approved methodology will result in overly conservative tie benefit estimates given that the “at criteria” model fails to account for all existing capacity and planned generation in the neighboring control areas. But in the September 29 Order we noted that “ISO-NE properly models the interconnected neighboring control areas using the ‘at criteria’ assumption in the tie benefit determination.”<sup>20</sup> Therefore, ISO-NE calculated the tie benefit values in this proceeding in accordance with the methodology the Commission approved effective September 30, 2008. Inasmuch as the Intervenor’s issue resides with the methodology in calculating tie benefits, they should attempt to resolve their issues in the proceeding resulting from the September 29 Order, not here. The Commission also notes that ISO-NE asserts that it will be addressing unresolved issues regarding the tie benefits methodology through the stakeholder process and so the Intervenor can also raise their concerns in that venue. Thus, the Intervenor’s request for the Commission to defer ruling on the instant filing is rejected.

57. The Commission disagrees with LIPA’s argument that ISO-NE fails to accurately represent the emergency assistance provided to New England from the Cross Sound Cable and 1385/Northport Norwalk Cable facilities. While the Commission notes LIPA’s assertion that it is methodologically possible to calculate the individual tie benefits of the Cross Sound Cable and 1385/Northport Norwalk Cable facilities on a comparable probabilistic basis similar to the Hydro Québec interconnection, we also reiterate our findings that there are key distinctions between the Cross Sound Cable interconnection and the Hydro Québec interconnection.<sup>21</sup> However, in response to LIPA’s statement that it has presented its methodology to ISO-NE, we encourage LIPA to continue with the stakeholder process to raise the issues related to the methodology of calculating tie benefits of the Cross Sound Cable and 1385/Northport Norwalk Cable facilities. Further, we reject LIPA’s unsupported request to direct ISO-NE to administratively allocate 173 MW of New York/New England tie benefits. ISO-NE correctly calculated the tie benefits for the New England region using “at criteria” assumptions for modeling the control areas and LIPA has provided no persuasive information that ISO-NE incorrectly calculated the tie benefits in violation of its tariff. Therefore, LIPA’s request is denied.

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<sup>20</sup> *Id.*

<sup>21</sup> *ISO New England Inc.*, 118 FERC ¶ 61,157, at P 35-37 (2007).

### **3. Local Sourcing Requirements**

#### **a. NRG Companies' Comments**

58. The NRG Companies state that the Installed Capacity Requirement and Local Sourcing Requirement determinations are consistent with ISO-NE's existing tariff, but the NRG Companies urge the Commission not to otherwise endorse the methodology for determining the Local Sourcing Requirement.<sup>22</sup> The NRG Companies argue that the Commission should recognize the deficiencies in the methodology for determining the Local Sourcing Requirement and direct ISO-NE to expeditiously pursue modifications to that methodology. The NRG Companies explain that the Local Sourcing Requirement values are understated because the current methodology ignores the broad-area security requirements that are ultimately enforced as part of the auction results and the Local Sourcing Requirement analysis improperly assumes that surplus capacity from neighboring sub-regions is available to satisfy another sub-region's Local Sourcing Requirements. According to the NRG Companies, ISO-NE has identified these issues and has begun a stakeholder process to address them, but the NRG Companies encourage the Commission not to endorse the Local Sourcing Requirement methodology here, but rather encourage ISO-NE and its stakeholders to move expeditiously to correct these serious flaws.

#### **b. Answer**

59. ISO-NE states that NRG accurately recognizes that the Installed Capacity Requirement and Local Sourcing Requirements in ISO-NE's installed capacity requirement filing "are consistent with ISO-NE's existing tariff, and the Commission can therefore accept them." However, ISO-NE asserts that NRG's argument that the Commission should find the methodology for determining the Local Sourcing Requirements to be flawed is misplaced. According to ISO-NE, NRG raises important issues regarding the role of the transmission security analysis and local sourcing requirements analysis, including the potential interplay between the two analyses, but as NRG correctly recognizes, ISO-NE will be addressing these issues in a stakeholder process. ISO-NE states that it understands that concerns have been expressed with respect to the local sourcing requirements and transmission security analysis, and ISO-NE seeks to have issues pertaining to the Transmission Security Analysis and Local

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<sup>22</sup> The NRG Companies explain that issues relating to the determination of Load Sourcing Requirements are before the Commission in Docket Nos. ER08-633-000 and ER08-1209-000.

Sourcing Requirements resolved in time for the fourth Forward Capacity Auction. To that end, ISO-NE committed to begin addressing the issues in early 2009.

**c. Commission Determination**

60. The Commission agrees with the NRG Companies that ISO-NE's proposed Installed Capacity Requirement and Local Sourcing Requirements are consistent with ISO-NE's tariff. In response to the NRG Companies' assertion that we should direct ISO-NE to move expeditiously to correct any flaws with the Local Sourcing Requirements and Transmission Security Analysis, ISO-NE states that it seeks to have related issues resolved for the fourth Forward Capacity Auction. Commenters in other Forward Capacity Market proceedings have urged the Commission to revisit the issue of the Local Sourcing Requirement and to revise the method for establishing zones. In each case, the Commission has declined to require such revisions, but has encouraged the parties to address concerns related to determining capacity zones as soon as practicable.<sup>23</sup> As we did in a recent order,<sup>24</sup> we reiterate our position that the New England stakeholders should address the capacity zone issue as soon as practicable. We encourage the stakeholder process to focus particularly on situations in which the security requirement for a relatively large area could be met by any resources in that area.

The Commission orders:

The Commission hereby accepts ISO-NE's values for the Installed Capacity Requirement, Hydro Québec Capability Credits, and related values for the 2011/2012 Capability Year, with conditions, effective November 8, 2008, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>23</sup> *ISO New England Inc.*, 123 FERC ¶ 61,290, at P 82 (2008).

<sup>24</sup> *ISO New England Inc.*, 125 FERC ¶ 61,102, at P 114 (2008).