UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

ISO New England Inc. Docket No. ER06-1464-000
New England Power Pool Participants Committee

ORDER ACCEPTING FILING

(October 20, 2006)

1. On September 1, 2006, ISO New England Inc. (ISO-NE) and the New England Power Pool (NEPOOL) Participants Committee jointly submitted pursuant to section 205 of the Federal Power Act (FPA),[1] proposed changes to Market Rule 1[2] (Appendix H) concerning ISO-NE's operating procedures during cold weather conditions to be effective on or after December 8, 2006 (September 1 Filing). In this order, we will accept the proposed changes as discussed below.

2. ISO-NE's September 1 Filing proposes to reinstate Appendix H, which is patterned on special rules for operations during cold weather that occurred in January 2004, and that were adopted on an interim basis in early 2005 pursuant to settlement procedures.

Background

3. On October 12, 2004, ISO-NE issued a final report (Cold Snap Report) on the January 2004 New England Cold Snap – a period in January 2004 featuring extremely low temperatures and record demand for electric and natural gas systems. From October 2004 to November 2004, ISO-NE developed proposed operating procedures for future cold weather periods.

4. The Cold Snap Report found that many of the generators, fueled by natural gas, purchase and sell their fuel and gas transportation in the natural gas market based on their

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[1] 16 U.S.C. § 824d (2000).

[2] Section III of the ISO-NE Transmission, Markets, and Services Tariff, FERC Electric Tariff No. 3.

assessment of the relative value of such fuel and transportation in the gas and electric markets. The Cold Snap Report concluded that volatile gas prices subjected participants to high costs and substantial penalties for acquiring gas to run their units. Furthermore, to the extent that a generator had already arranged gas purchases, the Cold Snap Report found that the high market price for gas suggested that the gas was more valued for uses other than generating electricity. Unit outages due to the cold weather further complicated matters.

5. On January 28, 2005, ISO-NE introduced "Cold Weather Event Procedures"[3] with a proposed a sunset date of April 15, 2006. The January 28 Filing was developed in response to the 2004 Cold Snap. The January 28 Filing proposed to change Market Rule 1 by implementing certain procedures that were designed to avoid "OP4," an operating procedure in New England that can lead to voltage reductions or rotating blackouts. The proposed procedures: (1) defined a set of criteria to identify cold weather conditions; (2) set specific communication timelines and protocols; and, in defined cold weather events would allow ISO-NE to (3) request dual-fuel generators to switch to a non-gas fuel; (4) cancel generator economic outages; and (5) notify load response programs to be prepared to interrupt.

6. On March 2, 2005, the Commission determined that the record was insufficient to decide material issues of fact, and set the matter for hearing, encouraging the disputing parties to settle.[4]

7. On September 28, 2005, ISO-NE submitted a partial settlement that resolved all but one issue at stake in the proceedings. That issue, ISO-NE's proposal of a Last Resort Requirement that would require de-listed resources to make their Best Efforts to return from economic outage and produce energy, was addressed in a November 17, 2005 Order (November 17 Order).[5]

8. On October 28, 2005, ISO-NE submitted its 2005-2006 proposed revisions to Market Rule 1 for operations during cold weather conditions (2005-2006 Winter Package). In the November 17 Order, the Commission accepted the September 28, 2005 partial settlement, and on November 30, 2005, the Commission conditionally accepted

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[3] A "Cold Weather Event" is defined in Market Rule 1 as days when cold weather conditions are forecasted and the capacity margin is forecasted at less than or equal to 0 MW for an operating day.

[4] *ISO New England, Inc.*, 110 FERC ¶ 61,202 (2005).

[5] *ISO New England, Inc.*, 113 FERC ¶ 61,175 (2005).

the 2005-2006 Winter Package (November 30 Order).[6] Constellation Energy Commodities Group, Inc. and Constellation NewEnergy, Inc. sought rehearing of November 30 Order, which the Commission denied in an order issued on May 5, 2006 (May 5 Order on Rehearing).[7]

September 1, 2006 Filing

9. The September 1 Filing proposes to reinstate Appendix H (Operations During Cold Weather Conditions) to Market Rule 1and to remove the Effective Offer Price Cap during Emergency Conditions.[8]

10. The September 1 Filing contains provisions similar to those in the previously accepted 2005-2006 Winter Package, including: (1) ISO-NE will continue to coordinate with the gas industry to ensure adequate pipeline capacity; (2) market participants will be responsible for reporting to the ISO the anticipated availability of their resources (including details on ability to procure fuel and any physical limitations of the generating unit); (3) ISO-NE will adjust the short term operable capacity margin calculation to include any anticipated reductions in total operable generating capacity; (4) ISO-NE will post warnings of Cold Weather Events by certain deadlines each day; (5) ISO-NE will take certain escalating actions to avoid emergency operations, including requesting dual-fuel generators to switch to non-gas fuel, canceling outages for Installed Capacity (ICAP) generators, requesting de-listed resources to voluntarily return from outages, and notifying load response program participants to be prepared to interrupt – all to avoid voltage reductions and rolling blackouts; and (6) ISO-NE may also request market participants with de-listed resources to return to service consistent with Good Utility Practice.

11. The September 1 Filing also revises the 2005-2006 Winter Package to allow recovery of Extraordinary Fuel Expenses during Cold Weather Events. However, to recover costs in excess of $1000/MWh, generating resources must: (1) at the start of the

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[6] *ISO New England, Inc.*, 113 FERC ¶ 61,220 (2006).

[7] *ISO New England, Inc.*, 115 FERC ¶ 61,145 (2006).

[8] An Emergency is defined in Market Rule 1 as an abnormal system condition requiring manual or automatic action to maintain system frequency, or to prevent the involuntary loss of load, equipment damage, or tripping of system elements that could adversely affect the reliability of an electric system or the safety of persons or property; or a fuel shortage requiring departure from normal operating procedures in order to minimize the use of such scarce fuel; or a condition that requires implementation of Emergency procedures as defined in the ISO New England Manuals.

winter period, provide copies to ISO-NE of the related fuel contracts and update such contracts as needed; (2) notify ISO-NE by the close of the applicable day-ahead energy market that a claim for "Extraordinary Fuel Expense"[9] is expected; (3) submit supply offers to ISO-NE, subject to market monitoring and mitigation provisions; (4) within 15 calendar days of submitting the supply offers, submit to ISO-NE documentation specifying the Extraordinary Fuel Expenses requested and the supporting calculations of the requested amounts; and (6) make filings with the Commission pursuant to section 205 of the FPA. In addition, de-listed resources returning to service may seek compensation for "Extraordinary Fuel Expenses" even if fuel supply contracts were not submitted in advance of a Cold Weather Event.

12. The September 1 Filing also proposes to remove the "Effective Offer Price Cap"[10] during Emergency Conditions. Currently, when the total offered price (including energy, start-up and no-load bids) of a generating resource, spread over its scheduled, metered, or requested output, exceeds $1000/MWh, any excess above $1000/MWh will be used to reduce its net commitment period compensation credits. The instant filing proposes to remove this Effective Offer Price Cap and allow generating resources to recover start-up and no-load costs that, together with energy costs, may exceed $1,000/MWh during an Emergency Condition.[11]

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[9] "Extraordinary Fuel Expense" is a newly proposed term introduced to Market Rule 1 which refers to the direct fuel expense incurred during cold weather conditions that exceeds the generating resources energy-related revenues for that day.

[10] The "Effective Offer Price" (in the real-time energy market) is defined as the amount calculated for total offered price (including start-up, no-load and energy bids) for the operating day divided by the lesser of (i) hourly metered output or (ii) requested output as determined by ISO-NE dispatch during the pool-scheduled hours. *See* section 3.2.3(m) of Market Rule 1. The "Effective Offer Price" (in the day-ahead energy market) is defined as the amount calculated for total offered price (including start-up, no-load and energy bids) for the operating day divided by the scheduled MWhs during the pool-scheduled hours. *See* section 3.2.3(n) of Market Rule 1.

[11] We note that ISO-NE is proposing to remove the Effective Offer Cap of $1,000/MWh, not the "Energy Offer Cap" of $1,000/MWh set forth in section III.1.10.1A(d)(viii) of Market Rule 1. The Energy Offer Cap provision stipulates that a generating resource shall not specify an "energy" offer price below $0/MWh or above $1,000/MWh. The Energy Offer Cap considers only the "energy" bids. The Effective Offer Cap considers the "energy" bid as well as start-up and no-load bids; the sum of these offers is averaged by the total MWhs actually dispatched throughout the operating day. The result is an average total cost offer. This "effective" offer can, in principle, exceed $1,000/MWh, unlike the "energy" offer. Prior to the instant filing, if a generating resource's "effective" offer were to exceed $1,000/MWh, ISO-NE would reduce the

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Notices and Responsive Filings

13. Notice of the September 1 Filing was published in the *Federal Register*, 71 Fed. Reg. 54,642 (2006), with protests and interventions due on or before September 22, 2006. Northeast Utilities Service Company on behalf of Northeast Utilities Companies and Select Energy, Inc., on its own behalf, jointly filed a motion to intervene. Dominion Energy Marketing, Inc., Dominion Energy New England, Inc., Dominion Nuclear Connecticut, Inc., Dominion Retail, Inc. jointly filed a motion to intervene. NRG Power Marketing Inc., Connecticut Jet Power LLC, Devon Power LLC, Middletown Power LLC, Montville Power LLC, Norwalk Power LLC, and Somerset Power LLC jointly filed a motion to intervene. ANP Funding I, LLC filed a motion to intervene as did Exelon Corporation. Algonquin Gas Transmission, LLC (Algonquin) filed a motion to intervene and comments.

14. In its comments, Algonquin explains that it supports the proposed market rule changes to reinstate Appendix H of Market Rule 1. However, Algonquin notes that the proposed changes in the instant filing do not appear to address the question of whether power generators need to obtain firm natural gas pipeline capacity, and if so, how they are compensated for costs related to such firm pipeline capacity. Algonquin points out that the industry participants in the North American Energy Standards Board (NAESB) have identified this as one of several gas-electric interface issues for which regulatory policy guidance is needed before additional NAESB work can be performed. Algonquin claims that it will work with ISO-NE to assure effective and timely communication as ISO-NE and Algonquin endeavor to maintain the reliability of their respective electric and gas grids.

Discussion

15. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2006), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

16. As discussed below, we will accept ISO-NE’s proposed revisions to reinstate Appendix H (Operations During Cold Weather Conditions) to Market Rule 1 and to remove the Effective Offer Price Cap during emergency conditions effective on or after

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generating resource’s Net Commitment Period Compensation (NCPC) credits – an uplift payment – by a sufficient amount so that the generating resource’s actual compensation would not exceed $1,000/MWh. The instant filing does not permit generating resources to submit “energy” offers in excess of $1,000/MWh; rather, the instant filing proposes to allow recovery of energy costs in excess of $1,000 through Extraordinary Fuel Expense procedures.

December 8, 2006. ISO-NE shall give written notice to the Commission and the New England Power Pool (NEPOOL) no later than two weeks prior to the implementation of the proposed revisions. This notice will be for informational purposes only and not require any Commission action.

17. As ISO-NE points out in its filing, the 2004 Cold Snap Report concluded that the unique circumstances of the New England market – namely, that New England relies heavily on natural gas-fired generating units – combined with extremely cold temperatures can expose New England market participants to unusually high natural gas prices. Since the Cold Snap Report was issued on October 12, 2004, ISO-NE has worked to design specific and temporary market rule changes to address the potential market complications that can occur in New England during extremely cold weather. The September 1 Filing represents another positive step by ISO-NE in response to the Cold Snap Report.

18. Consistent with the Commission's November 30 Order and May 5 Order on Rehearing, the Commission finds that the proposed revisions to Market Rule 1 in the September 1 Filing are just and reasonable. The provisions reinstated in the September 1 Filing from the 2005-2006 Winter Package provide for coordination among ISO-NE, market participants and gas pipeline operators and provide ISO-NE with sufficient authority to address the negative effects of extreme cold weather in New England, including exposure to high natural gas prices. The proposed revisions are sufficiently narrow in that they are applicable only to specifically-defined, extreme cold weather conditions.

19. Additionally, the newly proposed revisions that were not found in the 2005-2006 Winter Package add to the effectiveness of proposed Appendix H to Market Rule 1. Specifically, market participants with generating resources will have reasonable assurance of recovery of their verifiable fuel costs during Cold Weather Events, even if they result in Energy Offer Prices in excess of $1,000, provided that they comply with ISO-NE's substantiation requirements. Such assurance should substantially reduce a potential disincentive for generators to secure adequate fuel supplies during extreme cold weather conditions and thereby facilitate adequate generation during such events.

20. Additionally, the removal of the Effective Offer Price Cap to allow generators to recover costs that exceed $1,000/MWh during emergency conditions represents a structural market improvement for generators that now may not be fully compensated during emergency conditions when fuel prices for the fuel, including fuel for start up and no load operation, may be high.

21. The proposal is also fair to ratepayers. Generating resources must provide ISO-NE with cost support and supporting calculations in order to realize compensation in excess of $1000/MWh; further, any request for recovery of Extraordinary Fuel Expenses

must be filed with the Commission for review. The Commission will approve requests for Extraordinary Fuel Expense compensation only if such requests are just and reasonable and properly supported.

22. The Commission also finds that the proposal to permit de-listed resources that return to service to seek compensation for Extraordinary Fuel Expense, even if fuel supply contracts were not submitted in advance, is a reasonable and effective incentive for de-listed resources to return to operation. Ideally, in a Cold Weather Event, all de-listed resources would return to service to maintain reliability in the market. However, absent incentives, de-listed resources may not find it economically prudent to take such an action. The proposed revision provides a targeted incentive and should result in an increase in the number of de-listed resources returning to operation during Cold Weather Events.

23. Finally, the Commission recognizes Algonquin's concerns regarding the question of whether power generators need to obtain firm natural gas pipeline capacity, and if so, how they are compensated for costs related to such firm pipeline capacity. This issue is broader, however, than the issues raised in the instant filing. ISO-NE states that it will communicate with the natural gas pipeline industry and market participants to ensure adequate pipeline capacity, and we encourage ISO-NE and Algonquin to address this issue through their respective stakeholder processes.

The Commission orders:

(A) The ISO-NE's filing is accepted, as discussed in the body of this order, effective on or after December 8, 2006.

(B) ISO-NE shall give written notice to the Commission and NEPOOL no later than two weeks prior to the implementation of the proposed revisions.

By the Commission.

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Magalie R. Salas,
Secretary.