112 FERC ¶ 61, 301
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Nora Mead Brownell, and Suedeen G. Kelly.

ISO New England, Inc. and New England Power Pool — Docket Nos. ER05-870-000, ER05-870-001

ORDER ACCEPTING AMENDMENTS TO THE MINIMUM GENERATION EMERGENCY CREDITS AND CHARGES RULES AND GRANTING WAIVER

(Issued September 16, 2005)

1. On April 26, 2005, ISO New England, Inc. (ISO-NE) and New England Power Pool (NEPOOL) (collectively, Filing Parties) jointly submitted for filing revised tariff sheets to provide for Minimum Generation Emergency Credits and Charges. The Filing Parties also requested waiver of the Commission's 60-day prior notice requirement. In this order, the Commission will grant the Filing Parties' request for waiver and accept the revised tariff sheets for filing, effective April 27, 2005, as requested.

I. Background and Description of Filing

2. Under Market Rule 1, which is section III of ISO-NE's Transmission, Markets and Services Tariff, ISO-NE will declare a Minimum Generation Emergency when it "anticipates requesting one or more generating Resources to operate at or below Economic Minimum Limit, in order to manage, alleviate, or end the Emergency."[1] Minimum Generation Emergency situations generally arise when the non-dispatchable generation operating in an area of the transmission system would, without transmission operator action, exceed transmission system limits.

[1] ISO-NE Tariff, § III. 1.

3. Generating resources in New England have both an Emergency Minimum Limit[2] and an Economic Minimum Limit.[3] During a Minimum Generation Emergency, ISO-NE uses a generator's Emergency Minimum Limit, instead of its Economic Minimum Limit, as the lowest output level at which the generator may be dispatched. According to the Filing Parties, as a result of this change in output levels, new blocks of energy are available for dispatch. ISO-NE then re-dispatches generation in the area according to its dispatch algorithm solutions, which may result in certain generating units being instructed to increase their output above their Economic Minimum Limits, while others are instructed to decrease their output, sometimes as low as their Emergency Minimum Limits.

4. Additionally, under ISO-NE's currently-effective tariff provisions, when a Minimum Generation Emergency is declared, the affected nodal Real-Time Prices are administratively set to zero. According to the Filing Parties, the prices are set to zero to "reflect the fact that there is too much generation on the system and to provide an incentive for generation Resources to submit low Economic Minimum Limits."

5. The Filing Parties state that this current system creates an inequity for generation resources that are dispatched at levels above their Economic Minimum Limits during a Minimum Generation Emergency. Specifically, the Filing Parties explain that because the Locational Marginal Prices (LMPs) during a Minimum Generation Emergency are zero, a generator that is dispatched by ISO-NE above its Economic Minimum Limit will not receive any compensation for the energy it provides above this limit, even though it incurs additional fuel and operating costs.

6. The Filing Parties further explain that while such generating units are eligible for Operating Reserve compensation, because this compensation is calculated daily, the generator's economic losses during the Minimum Generation Emergency hours must exceed its revenues (in excess of costs) during all other hours of the day before it can be paid such compensation. The Filing Parties state that this situation disadvantages generators that provide economic savings to the region by operating at

[2] The Emergency Minimum Limit is the minimum generation amount, in MWs, that a generating unit can deliver for a limited period of time without exceeding specified limits of equipment stability and operating permits.

[3] The Economic Minimum Limit is the maximum of the following values: (i) the Emergency Minimum Limit; (ii) a level supported by environmental and/or operating permit restrictions; or (iii) a level that addresses any significant economic penalties associated with operating at lower levels that cannot be adequately represented by three-part bidding (Start-Up Fee, No-Load Fee and incremental energy price).

levels higher than their Economic Minimum Limits, and creates a disincentive for these generators to follow ISO-NE dispatch instructions during a Minimum Generation Emergency.

7. To remedy this inequity, the Filing Parties propose in the instant filing to provide Minimum Generation Emergency Credits to generating resources that are dispatched at levels in excess of their Economic Minimum Limits during a Minimum Generation Emergency. The value of the Minimum Generation Emergency Credits will be the generator's Supply Offer price for the energy that it produced above the Economic Minimum Limit during the Minimum Generation Emergency. The Filing Parties state that in ISO-NE's settlement calculations, the revenue and cost data for a resource dispatched above its Minimum Economic Limit during a Minimum Generation Emergency will be removed from the normal Operating Reserve calculations. The Filing Parties explain that the compensation paid via the Minimum Generation Emergency Credits will not impact the regular Operating Reserve calculations performed for the other hours of the day in which there is not a Minimum Generation Emergency.

8. To fund the proposed Minimum Generation Emergency Credits, Filing Parties propose to create a Minimum Generation Emergency Charge, allocated hourly on a *pro rata* basis to the Real-Time Generation Obligation of each Market Participant in the Reliability Region where the Minimum Generation Emergency is declared. The Filing Parties contend that this approach is appropriate because during a Minimum Generation Emergency there is excess generation and insufficient demand, and allocating the charges incurred during the emergency to the Real-Time Generation Obligation up to the Economic Minimum Limit provides an economic signal for generators to submit the lowest possible Economic Minimum Limits. With lower Economic Minimum Limits, there will be less need to declare a Minimum Generation Emergency. The Filing Parties also assert that assessing such charges to load would be inappropriate because it would increase the cost of consuming electricity and provide less incentive for consumption, although consumption would help alleviate the Minimum Generation Emergency.

9. In support of their request for waiver of the Commission's 60-day prior notice requirement, the Filing Parties state that the proposed changes would allow financial credits to become effective sooner, to the extent that Minimum Generation Emergencies may have occurred since the filing date of the instant proposal. The Filing Parties state that the sooner improved economic signals can be sent to generating resources, the sooner the region may see reduced Economic Minimum Limits for such resources, with fewer minimum generation Emergencies as a result.

II. Deficiency Letter

10. On June 20, 2005, the Commission issued a notice to the Filing Parties indicating that their April 26 filing was deficient and that the Filing Parties needed to provide additional information to assist the Commission in making a decision.

11. On July 20, 2005, in Docket No. ER05-870-001, the Filing Parties submitted responses to the questions posed in the deficiency letter. In addition, the Filing Parties expanded on the background provided in the April 26 filing regarding the manner in which the operation of the existing New England bulk power software in Minimum Generation Emergencies spurred the Amendments. The Filing Parties emphasized the manner in which a self-schedule is treated in the market and in system operations software prior to and during Minimum Generation Emergencies in real time.

III. Notice of Filing, Interventions and Protests

12. Notice of the filing was published in the *Federal Register* (70 Fed. Reg. 24,569 (2005)), with protests and interventions due on or before May 16, 2005. Timely motions to intervene were filed by ANP Funding I, LLC (ANP), NRG Companies[4] and Northeast Utilities Service Company on behalf of the NU Companies and of Select Energy, Inc. (NUSCO). Calpine Corporation (Calpine) filed a motion to intervene out-of-time. NUSCO filed comments, while ANP and Calpine filed protests. Answers to the comments and protests were filed by ISO-NE and the NEPOOL Participants Committee. Calpine filed an answer to those answers.

IV. Comments and Protests

13. Calpine supports efforts to compensate generators that provide energy ramping during Minimum Generation Emergencies. However, Calpine does not agree that the proposed measures set forth in the instant filing will achieve a just and reasonable outcome for all generation suppliers during Minimum Generation Emergencies or encourage creation of greater dispatch flexibility to minimize the occurrence of Minimum Generation Emergencies. Calpine believes there is no basis to continue to administratively set the LMP to zero after the transmission constraint is no longer violated. Calpine states that the energy balance under the revised low operating limits (Emergency Minimum Limits) is a least cost dispatch and warrants restoration of the

[4] The NRG companies consist of Connecticut Jet Power, LLC; Devon Power, LLC; Middletown Power, LLC, Montville Power, LLC; Norwalk Power, LLC; and Somerset Power, LLC.

LMP to the marginal cost of energy under this re-dispatch solution. Under such an approach, if this is the incremental energy price of the unit being ramped up in that interval, Calpine states that each unit's generation would be paid that LMP and no new uplift mechanism needs to be created.

14. Calpine states that while the proposed administrative compensation is both inadequate and incomplete, market oriented solutions are appropriate and available. Calpine believes the solution is to begin recalculation of the LMP using the Emergency Minimum Limit as the Economic Minimum Limit in the ISO-NE model and price energy under standard procedures utilizing the Emergency Minimum Limits.

15. Calpine adds that ISO-NE's current restriction on bids requires full flexibility in all hours and inadequate ability to manage associated risks. Calpine states that the all-hours methodology provides a very strong signal for certain generator technologies not to volunteer or create any greater dispatch flexibility for use in Minimum Generation Emergency hours. Given the increased cost associated with provision of dispatch flexibility, Calpine states one would expect in a competitive market that a flexible energy call option (real time optionality) would command a premium over a "must take" energy supply (no or low real time optionality).

16. Calpine asserts that the current market fails to reflect any premium for real time optionality and, in fact, numerous bid restrictions actually penalize generators, that as a matter of design, possess this capability. Both flexible and inflexible generation receive the same LMP, and consequently are compensated for only the commodity (energy) supplied, not the real time optionality provided through dispatchability.

17. Calpine recommends the removal of the mandate to provide dispatchability, and the elimination of the existing restriction on bidding of Economic Minimum Limits. Calpine requests the incorporation of hourly values for Economic Minimum Limit and ramp rate, and daily submittal of updates to Start-Up and individual hourly No Load bids (with rebid flexibility in the Rebidding Period where not scheduled in the Day Ahead Energy Market), or permission of real time updates to Incremental Energy bids in real time shortly before the start of each hour. Finally, Calpine requests that generators rebid Economic Minimum Limits downward or ramp rate upwards in real time and receive explicit compensation for load following service.

18. Calpine requests that if these recommendations are not adopted in this proceeding, at a minimum the Commission should require that the cost of redispatch is not allocated to Real Time Generation Obligation but instead to either Real Time Load Obligation or Real Time Load Obligation Deviation.

19. ANP agrees that generators that are dispatched above their Emergency Minimum Limit during a Minimum Generation Emergency should be paid for power they generate at least at the price at which they offered energy into the market. However, ANP finds the proposal to allocate the cost of this additional generation to other generators in the market, unfair and unjust, particularly when the Minimum Generation Emergency is a result of: (1) the ISO scheduling too much power in anticipation of need; (2) the failure of a constraint on the transmission system; and (3) schedule deviations on the part of Load Serving Entities. ANP states that where generators are on-line because they have been committed by the ISO either in the Day Ahead market or in Real-Time and those generators are following dispatch and operational instructions from the ISO, they should not bear the costs of events beyond their control. ANP believes the ISO should revise its proposal so that the costs of additional generation are allocated to load and/or self-scheduled generation and relieve the undue burden from pool-scheduled Generators.

20. NU takes issue with ISO-NE's current method of communicating Minimum Generation Emergencies. As NU describes, a generation-owning Participant currently must review ISO-NE's dispatch orders during a Minimum Generation emergency and file necessary notice to ISO-NE to receive financial compensation. NU believes that this method exposes generation-owning Participants to the possibility of not receiving their rightful financial compensation because Minimum Generation Emergencies are only posted for a brief period of time on ISO-NE's Special Notice page. The practice of posting Minimum Generation Emergencies for only brief periods of time provides for the high probability that they will be overlooked by generation-owning Participants.

21. NU suggests that the Commission order ISO-NE to utilize the same methodology it currently uses to promulgate Operating Procedure 4 events: the creation of a Minimum Generation log that would be accessible from the ISO-NE website, which would allow generation-owning Participants to more effectively monitor Minimum Generation Emergencies and thereby provide greater opportunities for generation owning Participants to take advantage of Minimum Generation Emergency Credits.

V. ISO-NE and NEPOOL Answers

22. In response to Calpine, ISO-NE states that while other market solutions may indeed be possible given sufficient resources and budget, they are certainly not more appropriate at this time. ISO-NE and NEPOOL state that the proposal at issue here was supported unanimously by the NEPOOL Participants Committee with few abstentions. ISO-NE and NEPOOL agree that Calpine's protest goes far beyond the Minimum Generation Emergency proposal at issue here and seeks radical and far-

ranging market redesigns, including elimination of restrictions on bidding of Economic Minimum Limits, accommodation of daily updates to Start-Up and individual hourly No-Load bids, and compensation for load following service. ISO-NE states that rather than support this simple and reasonable fix within the current market framework, Calpine urges significant overhaul of the market framework.

23. ISO-NE states that while Calpine's suggestions may warrant consideration, this proceeding is not the proper forum for that consideration. NEPOOL states that Calpine's proposal needs to be addressed in the Stakeholder process and considered in the context of other initiatives that are ongoing, such as Locational Installed Capacity and the Ancillary Services Markets projects. ISO-NE also states that Calpine's recommendations are not necessary to address the Minimum Generation Emergency issues raised in the April 26 Filing.

24. In response to the suggestions of Calpine and ANP that that Minimum Generation Emergencies occur as a result of the ISO over-estimating demand in its load forecast or scheduling too much power, ISO-NE states that such arguments ignore the realities of the market rules and procedures, as well as ISO-NE's mandate to ensure reliability, and improperly suggest that generators have no role in causing Minimum Generation Emergencies. According to ISO-NE, generators have the ability to react to any perceived excess commitment by requesting that they no longer be committed. ISO-NE states that generator offers and day-ahead schedules drive the need to declare Minimum Generation Emergencies, and ISO-NE believes it is appropriate that the costs incurred during these events flow to those who are best positioned to resolve the excess generation conditions.

25. In response to Calpine's argument that when a Minimum Generation Emergency occurs, there is no need to administratively set the LMP to zero, ISO-NE states that using a price other than zero would send price signals that are inconsistent with the emergency procedures to allow the use of the Emergency Minimum Limits, that is, price signals that inappropriately suggest that the value of power is greater than zero. Until it is able to cancel the Minimum Generation Emergency declaration, ISO-NE states there is too much power to allow operation under normal conditions, and the proper value of electricity is zero or lower.

26. In response to NU's suggestion that ISO-NE use for Minimum Generation Emergencies the same methodology ISO-NE uses to promulgate Operating Procedure No. 4 events and create a Minimum Generation Emergency log accessible on ISO-NE's website, ISO-NE and NEPOOL agree that the details should be discussed and developed with participants and ISO-NE staff in the stakeholder process before any required implementation to ensure the feasibility and usefulness of such a product.

VI. Discussion

A. Procedural Matters

27. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,[5] the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Additionally, pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, we will grant the motion to intervene out-of-time of Calpine, given its interest in the proceeding, the early stage of the proceeding, and the absence of any undue prejudice or burden. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2005), prohibits an answer to a protest or to an answer unless otherwise ordered by the decisional authority. We will accept the answers of ISO-NE and NEPOOL and Calpine's answer to their answers because they have provided information that assisted us in our decision-making process.

B. Substantive Matters

28. We will accept the Filing Parties' proposal. Under the existing market rules, a generator dispatched above its Economic Minimum Limit during a Minimum Generation Emergency will not receive any compensation specifically for the energy it provides above this limit (because the LMP is administratively set to $0), even though the generator incurs additional fuel and operating costs. We agree with the Filing Parties that this result is not just and reasonable, and that it creates a disincentive for those resources to follow ISO-NE's dispatch instructions. The Filing Parties' proposal to provide Minimum Generation Emergency Credits to such generators is one reasonable way to ensure that they are compensated for their additional fuel and operating costs.

29. We are not persuaded by the arguments of Calpine and ANP that the costs of the Minimum Generation Emergency Credits should be recovered from loads, rather than from generators (as the Filing Parties propose). ANP argues that it would be unfair to allocate the costs to generators where the emergency is due to overscheduling by the ISO or scheduling deviations on the part of load serving entities. However, ISO-NE states in its July 20, 2005 response to Question 2 of our deficiency letter that during the vast majority of Minimum Generation Emergency hours, the load scheduled in the day-ahead market was *less* than the actual, real-time load for the hour. Thus,

[5] 18 C.F.R. § 385.214 (2005).

overscheduling has not been the cause of the Minimum Generation Emergencies in the vast majority of cases.

30. Calpine recommends rejecting the Filing Parties' proposal in favor of several major changes to Market Rule 1. We will not adopt Calpine's suggestions here. As discussed above, we find that the Filing Parties' proposal is a reasonable means of addressing the problem of inadequate compensation for generators dispatched above their Economic Minimum Limits during Minimum Generation Emergencies. We must accept a just and reasonable proposal filed under section 205, as the Filing Parties have submitted here, even if other just and reasonable proposals are available.

31. However, the Filing Parties state that Calpine's suggestions may warrant consideration, and we encourage ISO-NE and its stakeholders to consider Calpine's suggestions. For example, Calpine criticizes the rule that administratively sets the LMP to zero whenever a Minimum Generation Emergency is declared. Calpine argues that when one or more generators are dispatched above their Economic Minimum Limits, the LMP should be set at the highest offer price associated with such production because such offer price reflects the marginal cost of meeting load at that time. We are not yet prepared to agree with Calpine that the price during such emergencies should reflect the highest offer price associated with production above a resource's Economic Minimum Limit. But it may be that the marginal cost of serving load during such emergencies is not zero (as is implied by the existing market rule). We encourage ISO-NE and its stakeholders to consider whether, during such emergencies, the marginal cost of meeting load is greater than zero and whether a price greater than zero may be appropriate.

32. With respect to NU's suggestion that ISO-NE create a Minimum Generation Emergency log accessible on ISO-NE's website, we agree with the Filing Parties that this should be discussed and developed in the stakeholder process before implementation.

33. With respect to the Filing Parties' request for waiver of the Commission's 60-day prior notice requirement, the Commission finds that the Filing Parties have provided the Commission with good reason to grant the request for waiver of the 60-day prior notice requirement.[6]

[6] *Central Hudson Gas & Electric Corporation*, 60 FERC ¶ 61,106, *reh'g denied*, 61 FERC ¶ 61,089 (1992).

The Commission orders:

(A) The Filing Parties' proposed tariff revisions are hereby accepted for filing, to become effective April 27, 2005, as discussed in the body of this order.

(B) The Filing Parties' request for waiver of the Commission's 60-day prior notice requirement is hereby granted, as discussed in the body of this order.

By the Commission. Commissioner Brownell dissenting in part with a separate statement attached.

(S E A L)

Magalie R. Salas,
Secretary.

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

ISO New England, Inc. and New England Power Pool	Docket Nos. ER05-870-000 and ER05-870-001

(Issued September 16, 2005)

BROWNELL, Commissioner, dissenting in part:

During a Minimum Generation Emergency, the LMPs are administratively set at zero in the affected area. Consequently, a generator that is dispatched by ISO-NE above its Economic Minimum Limit will not receive any compensation for the energy it provides above this limit, even though it incurs additional fuel and operating costs. I agree with my colleagues that the result is not just and reasonable.

The proposal is to provide these generators a Minimum Generation Emergency Credit that reflects the generator's Supply Offer price for the energy that it produced above its Economic Minimum Limit. I view this administrative solution as reasonable as a stop-gap solution. My preference is to develop appropriate market oriented solutions. Therefore, I join with my colleagues to strongly encourage ISO-NE and its stakeholders to consider Calpine's suggestions.

To fund the credits, the applicants propose to assess a charge on a *pro rata* basis to the other generators in the market in the affected area. A Minimum Generation Emergency can be caused by the ISO scheduling too much power in anticipation of need; the failure of or constraint on the transmission system; or schedule deviations on the part of load serving entities. In each of these situations, it is not the conduct of the generators that is causing the Minimum Generation Emergency. Therefore, I do not believe generators should bear this cost responsibility.

For these reasons, I respectfully dissent in part.

_____

Nora Mead Brownell
Commissioner