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. Docket No. ER05-1531-000

ORDER ACCEPTING HYDRO-QUEBEC
INTERCONNECTION CAPABILITY CREDIT VALUES

(Issued January 20, 2006)

1. On September 30, 2005, pursuant to section 205 of the Federal Power Act and Part 35 of the Commission's Regulations,[1] ISO New England Inc. (ISO-NE) submitted its Hydro-Quebec Interconnection Capability Credit (Capacity Credit) values for the 2006/2007 Power Year (September 30, 2005 Filing).[2] This order accepts the proposed Capacity Credit values and the methodology used to calculate them, effective June 1, 2006, as requested.

Background

2. This proceeding involves the determination of Installed Capacity Credits associated with the Phase I/II high voltage direct current transmission facilities on the United States side of the border interconnecting the systems of New England and the province of Quebec, Canada (the HQ Interconnection). Capacity Credit values, monthly values reflective of the annual installed capacity benefits of the HQ Interconnection, are allocated to Interconnection Rights Holders, which have executed agreements with the four companies owning the HQ Interconnection. The agreements provide each Interconnection Rights Holder with long-term use rights to a portion of the HQ Interconnection directly proportional to the Interconnection Rights Holder's financial support for the HQ Interconnection.[3]

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[1] *See* 16 U.S.C. § 824d (2000) and 18 C.F.R. Part 35 (2005).

[2] The 2006/2007 Power Year is the period from June 1, 2006 through May 31, 2007.

[3] *See New England Power Pool*, 111 FERC ¶ 61,132 at P 2-3 (2005) (April 29, 2005 Order).

3. In an order issued May 25, 2005, the Commission accepted for filing a new contractual arrangement and tariff rate schedule applicable to the HQ Interconnection submitted by ISO-NE, the New England Transmission Owners, the Asset Owners of the United States portion of the HQ Interconnection, and the Interconnection Rights Holders Management Committee (the IRH Management Committee).[4] Under that arrangement, operational authority over the HQ Interconnection was transferred from the Asset Owners to ISO-NE for an initial term of five years.

The Filing

4. In the September 30, 2005 Filing, ISO-NE submitted materials which establish the Capacity Credit values for the 2006/2007 Power Year.[5] ISO-NE states that these proposed values are based on its "evaluation of the Capacity Potentially Available For Sales (CPAS) from Quebec based on a deterministic evaluation of the projected capacity situation in Quebec during the 2006/2007 Power Year."[6] ISO-NE states that in order to calculate CPAS using the deterministic approach, it must collect forecast monthly load and capacity data for the Hydro-Quebec Control Area in order to assess expected system conditions during the applicable time period. ISO-NE asserts that the load and capacity data was used to determine the available surplus capacity in the Hydro-Quebec Control Area after serving internal demand. According to the September 30, 2005 Filing, the load and capacity data used to calculate CPAS include: (i) installed capacity; (ii) scheduled maintenance; (iii) forced outage amounts; (iv) purchases and sales; (v) the monthly forecasted load; and (vi) operating reserve requirements.

5. ISO-NE proposes to establish Capacity Credit values of 1,200 MW from June 2006 to November 2006 and March 2007 to May 2007. ISO states that, based on its CPAS calculations, there is sufficient surplus capacity in the Hydro-Quebec Control Area to support 1,200 MW of Capacity Credits for these months. ISO-NE proposes to

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[4] *ISO New England, Inc.*, 111 FERC ¶ 61,244 at P 1 (2005).

[5] In the April 29, 2005 Order, the Commission required that, in the event ISO-NE, the New England Power Pool (NEPOOL) Participants Committee, and stakeholders were unable to agree on the Capacity Credit values for the 2006/2007 Power Year, ISO-NE must file supporting studies and details on a proposal no later than October 1, 2005. April 29, 2005 Order, 111 FERC ¶ 61,132 at P 37.

[6] September 30, 2005 Filing at 4. This methodology was established to determine how much excess capacity there would most likely be in the upcoming Power Years. The method for the allocation of HQ Capacity Credits has been incorporated into the ISO-NE Tariff. *See* ISO New England Inc., Transmission, Markets and Services Tariff, FERC Electric Tariff No. 3, section I.2.2(j), Original Sheet No. 11.

establish Capacity Credit values of 0 MW from December 2006 to February 2007. ISO-NE states that during this time period, the results of the CPAS analysis show that the Hydro-Quebec Control Area will not have surplus capacity and, therefore, ISO-NE proposes Capacity Credit values of 0 MW for these three months.

6. ISO-NE reports that the proposed 2006/2007 Capacity Credit values were determined using the same methodology used to establish Capacity Credit values for the 2005/2006 Power Year and accepted by the Commission for that purpose in the April 29, 2005 Order. ISO-NE also states that the monthly Capacity Credit values proposed in the September 30, 2005 Filing are the same as those established for the 2005/2006 Power Year.

7. ISO-NE states that it worked with NEPOOL Participants to develop the Capacity Credit values for the 2006/2007 Power Year. ISO-NE notes that "there continues … to remain a substantial disagreement among the Participants regarding the methodology for and policy underlying the establishment of Capacity Credit values now that the [Firm Energy Contract (a long-term contract for importing energy over the HQ Interconnection)] has expired."[7] ISO-NE states that a motion at the Participants Committee to support the proposed values as "compliant with currently effective Commission directives regarding [Capacity Credits] garnered a 65.50% vote in favor."[8] ISO-NE states that the IRH Management Committee reported unanimous support for the proposal.

8. ISO-NE also asserts that it is in the midst of a stakeholder process which will re-evaluate the current methodology for determining the annual Installed Capacity (IC) Requirement with the NEPOOL Participants Committee and the New England Conference of Public Utility Commissioners. Accordingly, ISO-NE urges that, to the extent intervenors raise issues related to the IC Requirement, those broader issues be addressed through the comprehensive reassessment of the IC Requirement and not through the instant proceeding.

Notice of Filing and Responsive Pleadings

9. Public notice of ISO-NE's filing was published in the *Federal Register*, 70 Fed. Reg. 59,334 (2005), with interventions, comments and protests due on October 21, 2005. The following parties filed a timely motion to intervene: the Northeast Utilities

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[7] September 30, 2005 Filing at 6.

[8] *Id*.

Companies,[9] by their agent Northeast Utilities Service Company and Select Energy, Inc.; NSTAR Electric & Gas Corporation; the Long Island Power Authority and LIPA; H.Q. Energy Services (U.S.), Inc.; and Fitchburg Gas and Electric Light Company and Unitil Power Corp. The IRH Management Committee and the NEPOOL Participants Committee each filed a motion to intervene and comments. Consolidated Edison Energy, Inc., Indeck Maine Energy, L.L.C., Ridgewood Rhode Island Generation, LLC, Ridgewood Maine Hydro Partners, L.P., and Blackstone Hydro, Inc. (collectively, ConEd and Small Generators) filed a joint timely motion to intervene and protest. On October 31, 2005, ISO-NE filed an answer to the protest of ConEd and Small Generators. On November 14, 2005, ConEd and Small Generators filed a reply to the ISO-NE answer.

Discussion

A. Procedural Matters

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2005), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

11. The IRH Management Committee and ConEd and Small Generators failed to include in their pleadings a timely Statement of Issues as required by Order No. 663.[10] Order No. 663 applies to all pleadings, including comments and protests, and requires that any issues that a movant wishes the Commission to address must be specifically identified in a section entitled "Statement of Issues" that must list each issue presented to the Commission in a separately enumerated paragraph that includes representative Commission and court precedent on which the party is relying. Any issues not so listed in a separate section will be deemed to have been waived. Order No. 663 became effective September 23, 2005. The comments of the IRH Management Committee and protest of ConEd and Small Generators, each filed on October 21, 2005, omitted the Statement of Issues. For this reason, we deem the IRH Management Committee and ConEd and Small Generators to have waived the issues raised in their filings.

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[9] The Northeast Utilities Companies include The Connecticut Light and Power Company, Western Massachusetts Electric Company, and Public Service Company of New Hampshire.

[10] *Revision of Rules of Practice and Procedure Regarding Issue Identification*, Order No. 663, 70 Fed. Reg. 55,723 (Sept. 23, 2005), FERC Stats. & Regs. ¶ 31,193 (2005).

12. 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 another answer unless otherwise ordered by the decisional authority. We are not persuaded to accept ISO-NE's answer or ConEd and Small Generators' reply and will, therefore, reject them.[11]

B. Comments

13. The NEPOOL Participants Committee filed comments consistent with statements submitted by ISO-NE regarding the development of Capacity Credit values for the 2006/2007 Power Year. The NEPOOL Participants Committee urges the Commission to limit the scope of the instant proceeding to whether the proposed Capacity Credit values are just and reasonable and compliant with currently effective Commission directives, and asks the Commission to resist efforts to address issues that arose in prior Capacity Credit value proceedings, such as: "(1) the cost treatment of the HQ Interconnection; (2) whether [Capacity Credits] should continue to be awarded and, if so, how they should be calculated; or (3) the interrelationship between [Capacity Credit] value- and IC value-related policy and methodology issues."[12]

C. Commission Determination

14. We find that the deterministic approach used to develop the Capacity Credit values for the 2006/2007 Power Year is consistent with our holding in the April 29, 2005 Order to base the Capacity Credit values on the potential availability of resources from Hydro-Quebec that can be accessed through the HQ Interconnection and consistent with the Commission's objective to use availability of generation resources rather than need.[13] Accordingly, we approve ISO-NE's Capacity Credit values for the 2006/2007 Power Year as set forth in the September 30, 2005 Filing.

15. With respect to the comments of the NEPOOL Participants Committee, the Commission is not expanding the scope of this proceeding.

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[11] We note that the answer of ISO-NE, filed on October 31, 2005, and reply of ConEd and Small Generators filed on November 14, 2005, each omit a Statement of Issues section as well. In the event that ConEd and Small Generators had not waived all issues in their protest, the issues raised in ISO-NE's answer and ConEd and Small Generators' reply would have been deemed waived pursuant to Order No. 663.

[12] Comments of the NEPOOL Participants Committee at 9.

[13] *See* April 29, 2005 Order, 111 FERC ¶ 61,132 at P 30-32.

16. We find that the proposed Capacity Credit values represent ISO-NE's and the stakeholders' best efforts to meet our mandate to establish a methodology to develop Capacity Credit values using the latest load forecast data from Hydro-Quebec, and we will accept them for filing effective June 1, 2006, as discussed herein. If the parties are unable to agree on Capacity Credit values for the 2007/2008 Power Year, ISO-NE is directed to file supporting studies and details no later than October 2, 2006. To the extent parties are able to agree on Capacity Credit values for the 2007/2008 Power Year, ISO-NE is directed to file the Capacity Credit values no later than December 29, 2006.

The Commission orders:

(A) The Hydro-Quebec Interconnection Capability Credit values for the 2006/2007 Power Year are hereby accepted, effective June 1, 2006, as discussed in the body of this order.

(B) ISO-NE is directed to file Capacity Credit values for the 2007/2008 Power Year no later than December 29, 2006; to the extent that the parties are unable to agree on such values, ISO-NE is directed to file supporting studies and details for the 2007/2008 Power Year no later than October 2, 2006.

By the Commission. Commissioner Kelly 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. Docket No. ER05-1531-000

(Issued January 20, 2006)

KELLY, Commissioner, *dissenting in part*:

While I agree with the substantive outcome of this order I must take issue, once again, with the strict application of Order No. 663 so soon after its enactment. Order No. 663 became effective, essentially without prior notice because it related to a matter of agency procedure, on September 23, 2005; a little less than one month before comments and protests were due in this proceeding. Three sets of comments were filed in this proceeding but this order waives the issues raised by all but one intervenor because of non-compliance with a procedural rule issued less than one month earlier. This soon after issuance of Order No. 663, I believe it would have been more appropriate for the Commission to have either addressed the intervenors' issues, while advising them that future pleadings would be waived if they did not comply with this rule; or issued a public notice to the intervenors that they would need to resubmit their pleadings in the proper format. Moreover, to further assure that all participants to Commission proceedings meet these formatting requirements, I continue to believe that the Commission should prominently post Order No. 663 on its website.

Therefore, I respectfully dissent in part from this order.

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Suedeen G. Kelly