

121 FERC ¶ 61,185
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

November 19, 2007

In Reply Refer To:
University of New Hampshire
Docket No. ER08-20-000

Paul D. Chamberlin, P.E.
Assistant Vice President
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Ritzman Lab
22 Colovos Road
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Dear Mr. Chamberlin:

On October 2, 2007, you requested that the Commission void (or direct ISO New England Inc. to void) the designation of the University of New Hampshire's (the University) cogeneration facility (the Facility)¹ as a settlement-only generator,² or in the alternative, that the Commission waive Market Rule 1. The University states that granting this request would allow the University to participate in the ICAP Transition Period (Transition) as an Other Demand Resource and to participate in the Forward

¹ The Facility is a 7.9 MW cogeneration facility located at the University's Durham, New Hampshire campus and is used to meet a significant portion of the University's 12 MW peak load. Two units make up the Facility: a 7.5 MW unit operating in conjunction with an existing 400 kW unit.

² Settlement-only generators are generally connected to the distribution system of the host utilities and run as price-takers in the Real-Time Energy Market. They provide energy to the market when available. The Market Rules do not allow settlement-only generators to participate in the Forward Capacity Market as Demand Resources. Generation resources cannot participate in the Forward Capacity Market as Demand Resources unless they meet the definition of Distributed Generation. *See infra* note 8.

Capacity Market auctions as a Distributed Generation Demand Resource, which the University states is consistent with the Facility's intended use and would contribute to the greatest public benefit.³

The University entered into an operating agreement for the Facility with the Public Service Company of New Hampshire (PSNH) on November 30, 2005, which permitted the interconnection of generation while providing for backup and supplemental electric service from PSNH. On April 28, 2006, PSNH registered the 400 kW unit of the Facility with ISO New England as a settlement-only generator in the event that inadvertent energy flows on PSNH's system were to occur. Following the settlement-only generator registration, UNH placed into service the 7.5 MW unit to operate in conjunction with the existing 400 kW unit.

From mid-December 2006 through early January 2007, inadvertent quantities of electricity were exported to PSNH's system for which the University received appropriate compensation. Notably, the Facility exported energy into the electric grid in amounts exceeding the output of the 400 kW unit, which implies that both units of the Facility participated in ISO-administered energy markets as a settlement-only generator, and both were settled as such by ISO New England. The University states that it had no intention of selling inadvertent excess energy or receiving revenue from this excess energy production and cites inadequate communication with PSNH as the reason for this misunderstanding.⁴ As evidence of its intentions, the University points to the Qualifying Facility Application and Facility registration,⁵ which demonstrate that the University planned for the Facility to supplement the University's energy consumption, and that there were no plans to sell excess energy.⁶ In addition, after learning of the excess energy

³ University Filing at 2. Consistent with the FCM rules for demand resources, the output of the Facility will only serve the University's load and therefore will not flow onto PSNH's system.

⁴ *Id.* at 3.

⁵ *See* University Filing, Attachments A and B.

⁶ Although the University did not make this clear in its filing, ISO New England states that ISO New England has confirmed with counsel for the University that the University intends to leave the 400 kW unit designated as a settlement-only generator. Presumably, the University intends to sell the output of the 400 kW unit in the Real-Time Energy Market.

exported onto PSNH's system, the University installed automatic controls that provide an instantaneous reading of the University's campus load to allow even tighter control of its production,⁷ which will minimize the potential for inadvertent energy flows in the future.

The University states that its current designation as a settlement-only generator bars it from participating in both the Transition and the Forward Capacity Market, and accordingly, the University instead would like to designate the Facility as an Other Demand Resource for the Transition and as a Distributed Generation Demand Resource for the Forward Capacity Market.⁸ According to Market Rule 1, Distributed Generation resources are not eligible for energy payments from ISO-administered energy markets. Further, generation resources cannot participate in the FCM as Demand Resources unless they meet the definition of Distributed Generation.⁹ If allowed to void the designation as a settlement-only generator (or if granted the alternative waiver of Market Rule 1), the University states that ISO New England will be able to accept the University's application for designation as an Other Demand Resource, which will qualify the Facility to participate in the Forward Capacity Market.

Notice of the filing was published in the *Federal Register*, with protests and interventions due on or before October 17, 2007.¹⁰ On October 12, 2007, New Hampshire Public Utilities Commission filed a motion to intervene and comments in support of the University's request. On October 17, 2007, New England Power Pool Participants filed a motion to intervene, and Northeast Utilities Service Company (NUSCO), on behalf of PSNH, filed a motion to intervene with comments in support. On the same day, ISO New England filed a motion to intervene with comments. ISO New

⁷ University Filing at 9.

⁸ On May 18, 2007, ISO New England notified the University that the 7.5 MW unit did not qualify as an Other Demand Resource because it was registered as a settlement-only generator. On October 3, 2007, ISO New England further notified the University that the unit did not meet the requirements to participate in the Forward Capacity Market as a Demand Resource.

⁹ FERC Electric Tariff No. 3, 3rd Rev. Sheet Nos. 7240-41, section III.8.3.6.2.1.3 ("Distributed Generation shall mean generation resources directly connected to end-use customer load and located behind the end-use customer's billing meter, which reduce the amount of energy and capacity that would otherwise have been drawn from the electricity network in the New England Control Area....").

¹⁰ 72 Fed. Reg. 58,653 (2007).

England takes no position regarding whether the Commission should grant or deny the University's request. However, ISO New England notes that the 7.9 MW Facility is, in actuality, two generators working in conjunction with each other: a 7.5 MW Demand Resource unit operating in conjunction with an existing 400 kW unit. Since the 400 kW unit will remain a settlement-only generator,¹¹ ISO New England states that the University must have the proper ISO New England Operating Procedure No. 18 (OP-18) metering in place to ensure that the two units can be distinguished as a settlement-only generator and a Demand Resource.¹² ISO New England also requests that any Commission order approving the University's request be effective prospectively and not require future waivers.¹³

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2007), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

Due to the unique facts presented in the instant filing, the Commission will grant the University's request to void the Facility's 7.5 MW unit designation as a settlement-only generator, effective December 1, 2007.¹⁴ The Commission agrees that the designation of the Facility as a settlement-only generator and the payments for excess energy were unintentional and the consequences unforeseen. As noted by ISO New England in its comments, the 400 kW unit shall remain designated as a settlement-only generator. In addition, the University should ensure that the proper OP-18 metering is in place in order to distinguish between the 7.5 MW Demand Resource unit and the 400 kW settlement-only generator.

¹¹ *See supra* note 6.

¹² ISO New England Comments at 5.

¹³ *Id.* at 6.

¹⁴ The University did not provide a justification for its requested retroactive effective date of May 18, 2007. ISO New England states in its comments that the 7.5 MW unit will be eligible to qualify for Transition payments as an Other Demand Resource and for the first FCA as a Demand Resource if the Commission grants the requested relief, and thus there is no need for a retroactive effective date. The effective date of December 1, 2007 reflects the first day of the month following the issuance of this order, as consistent with Other Demand Resource reporting requirements.

This decision shall not establish any precedent concerning a generator's ability to request waiver of the requirements to qualify as Other Demand Resources, Demand Resources, and/or Distributed Generation as defined in the Market Rules.

By direction of the Commission.

Kimberly D. Bose,
Secretary.