

123 FERC ¶ 61,071
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.

ER07-1289-006

ORDER ON REHEARING AND CLARIFICATION

(Issued April 22, 2008)

1. On February 4, 2008, the Commission issued an order¹ establishing settlement judge procedures to resolve issues regarding the “MEPCO Roll-in Proposal” (Roll-in Proposal). PPL Companies² has requested rehearing, asking the Commission to address PPL Companies’ pending issues, or, in the alternative, clarify that these issues must be addressed in the ongoing settlement discussions. For the reasons discussed below, we deny the request for rehearing and clarification.

I. Background

2. In an October 29, 2007 Order,³ the Commission conditionally accepted MEPCO’s proposed tariff revisions designed to accommodate a change in New England’s transmission system that will result from the addition and operation of the North East Reliability Interconnection. ISO-NE’s filing and the Roll-in Proposal are discussed at greater length in the October 29, 2007 Order.⁴ Casco Bay Energy Company (Casco Bay) protested the Roll-in Proposal, arguing that it effectively terminated Casco Bay’s 25-year, 500 MW transmission service agreement (TSA). Casco Bay argued that its TSA serves as a hedge against congestion. The Commission held that, although it was conditionally accepting the Roll-in Proposal, ISO-NE and MEPCO were required to provide Casco Bay with a grandfathering option similar to that offered to MEPCO’s external transmission

¹ *ISO New England Inc.*, 122 FERC ¶ 61,093 (2008) (February 4, 2008 Order).

² For purposes of its pleading, PPL Companies states that it is comprised of PPL EnergyPlus, LLC; PPL Maine, LLC; PPL Great Works, LLC; and PPL Wallingford Energy, LLC.

³ *ISO New England Inc.*, 121 FERC ¶ 61,097 (2007) (October 29, 2007 Order).

⁴ *Id.* P 2-8.

customers, i.e., one that would preserve all of Casco Bay's existing rights, with the exception that Casco Bay's rights will become subject to the same scheduling and curtailment provisions.

3. Following the October 29, 2007 Order, parties filed multiple pleadings including requests for rehearing, revised tariff sheets, and a request to extend the effective date and convene a technical conference. The Commission found in the February 4, 2008 Order that the issues presented in the case may be amenable to settlement and that appointment of a settlement judge might assist the parties in reaching a mutually agreeable resolution of the case. Accordingly, the Commission directed the appointment of a settlement judge. The Commission expressed no opinion on the merits of the issues in that order, and deferred the effective date for the Roll-in Proposal to a future date yet to be determined in order to allow parties the flexibility in their settlement discussions to choose a workable effective date.

II. Request for Rehearing

4. PPL Companies argues that the Commission failed to address several issues that it raised in its December 12, 2007 answer to ISO-NE's motion to delay the effective date and to hold a technical conference.⁵ The PPL Companies had urged the Commission to, inter alia, ensure that customers who made elections and commitments based upon the previously-announced effective date are held harmless as a result of the delay or cancellation of the Roll-in Proposal; find that PPL EnergyPlus must have the opportunity to maintain its existing contractual rights by reconsidering its decision to elect grandfathered service in light of changes to the proposal; find that market participants should have at least 45 days advanced notice of a revised Roll-in Date; and reconsider its decision to alter the pre-existing rights of pre-existing long-term firm external rights holders on the MEPCO transmission line.

5. PPL Companies contends that if settling parties focus on the Casco Bay issues to the exclusion of the PPL Companies' issues, the PPL Companies may not have any further opportunity to have their pending issues resolved. PPL Companies argues that the Commission must either address PPL Companies' issues or require these issues to be considered in the settlement discussions.

III. Discussion

A. Procedural Matters

6. On March 20, 2008, ISO-NE and MEPCO jointly filed an answer to PPL Companies' request for rehearing. On April 7, 2008 PPL Companies filed an answer to

⁵ PPL Companies Dec. 12, 2007 Answer, Docket No. ER07-1289-005.

ISO-NE and MEPCO's answer. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2007), prohibits an answer to an answer or to a request for rehearing unless otherwise ordered by the decisional authority. We are not persuaded to accept the answers submitted in this proceeding and will, therefore, reject them.

B. Commission Determination

7. We deny PPL Companies' request for clarification. While PPL Companies is correct that the February 4, 2008 Order did not restrict the issues that may be addressed in the settlement proceedings to those raised by Casco Bay in its initial protest, we decline to *require* parties to address the issues raised by PPL Companies, as PPL Companies requests. The primary impetus for implementing the settlement judge procedures was, in fact, to resolve issues raised by Casco Bay that were preventing implementation of the MEPCO Roll-in Proposal. Nevertheless, we encourage parties to resolve all outstanding issues during the settlement discussions, although partial agreements are acceptable to (and routinely accepted by) the Commission.⁶

8. We also decline to address the issues raised by PPL Companies in its December 12, 2007 motion at this time. The Commission established settlement judge procedures for this proceeding over two months prior to the issuance of this order. It would make little sense for the Commission to step in at this point and possibly undo or reverse progress that parties have made during their negotiations. Further, the Commission has broad discretion on how and when to address any remaining issues. Should the settlement judge procedures fail to resolve all the issues in this proceeding, the Commission will make a determination on any outstanding issues at that time.

The Commission orders:

Rehearing and clarification are denied as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

⁶ See, e.g., *Xcel Energy Services, Inc.*, 122 FERC ¶ 61,202 (2008) (order approving uncontested partial settlement).