

150 FERC ¶ 61,066
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Chairman;
Philip D. Moeller, Tony Clark,
Norman C. Bay, and Colette D. Honorable.

ISO New England Inc.

Docket No. ER14-463-001

ORDER DENYING REHEARING AND CLARIFICATION

(Issued January 30, 2015)

1. By order issued January 24, 2014, the Commission accepted, subject to condition, ISO New England Inc.'s (ISO-NE) proposed revisions to its Transmission, Markets and Services Tariff (Tariff) affecting the administrative pricing provisions of the Forward Capacity Market (FCM) rules.¹ The New England Power Generators Association, Inc. (NEPGA) seeks rehearing of the Commission's January 24, 2014 Order. For the reasons discussed below, we deny NEPGA's request for rehearing or clarification.

I. Background

2. ISO-NE administers the FCM, in which eligible resources compete in an annual Forward Capacity Auction (FCA), to provide capacity three years in advance of the relevant delivery year.² To determine the amount of capacity that ISO-NE needs to procure in an FCA, the New England region is modeled both as a whole, i.e., as the system-wide New England Control Area, and by Capacity Zone.³

3. Under normal conditions, an auction should produce a single clearing price for all cleared resources at the point where the demand curve and the supply curve intersect. However, under certain conditions the prices paid to cleared resources may be administratively determined by the Tariff and differ based on whether a resource is new

¹ *ISO New England Inc.*, 146 FERC ¶ 61,038 (2014) (January 24, 2014 Order).

² ISO-NE has held eight FCAs to date, with FCA 1 held in February 2008.

³ The zones for the eighth FCA were: Maine, Connecticut, Northeastern Massachusetts/Boston (NEMA/Boston), and Rest-of-Pool.

or existing. Two such conditions and their associated Tariff provisions are at issue in this proceeding: (1) when low supply triggers the Inadequate Supply provisions;⁴ and (2) when low competition triggers the Insufficient Competition provisions.⁵

4. Relevant here, the Tariff provides for administratively-set prices in the above-mentioned circumstances as follows. In general, if the Inadequate Supply or Insufficient Competition rules are triggered, existing resources receive either a Tariff-set administrative price or the Capacity Clearing Price, with the Tariff-set administrative price serving as a price ceiling. New resources receive the FCA Starting Price if the Inadequate Supply rule is triggered and the Capacity Clearing Price if the Insufficient Competition rule is triggered.

5. On November 25, 2013, ISO-NE submitted proposed Tariff revisions in this proceeding, pursuant to section 205 of the Federal Power Act,⁶ to change the administrative pricing provisions of the FCM rules, including the Inadequate Supply and Insufficient Competition rules. ISO-NE stated that the provisions were necessary in light of the abrupt change in supply and demand in New England, which shifted from many years of a capacity surplus to a potential for a capacity shortage in FCA 8. Based on these conditions, ISO-NE determined that the Inadequate Supply and Insufficient Competition administrative pricing provisions were likely to be invoked in FCA 8. ISO-NE stated that, due to changes in the amount of resources expected to participate in FCA 8, it undertook analyses of the potential application of the Inadequate Supply and Insufficient Competition rules. In the course of doing so, ISO-NE stated that it also identified a logical flaw in the trigger of the Insufficient Competition rule. ISO-NE stated that this flaw and the existing administrative pricing formulas contained in the Inadequate Supply and Insufficient Competition rules could result in unjust and unreasonable prices in FCA 8. ISO-NE sought to remedy these concerns prior to FCA 8 by raising the Tariff-set administrative prices to \$7.025/kW-month.

6. Additionally, shortly before ISO-NE submitted its proposed Tariff revisions, on October 31, 2013, NEPGA filed a complaint against ISO-NE alleging that several of the

⁴ ISO-NE Tariff section III.13.2.8.1. In general, the Inadequate Supply provisions are triggered if, at the FCA Starting Price, the amount of new resources available is less than the amount of new capacity required.

⁵ *Id.* section III.13.2.8.2. In general, the Insufficient Competition provisions are triggered if there are less existing resources than capacity required and not enough qualified new resources to assure adequate competition in the auction.

⁶ 16 U.S.C. § 824d (2012).

Tariff provisions relevant to the FCM were unjust and unreasonable and unduly discriminatory because they produce administrative prices for existing resources that are far below the prices paid to new resources and that do not reflect the outcome of a competitive market. NEPGA proposed specific revisions to these Tariff provisions, including raising the Tariff-set administrative prices to an even higher level – to be equal to 1.1 times the Offer Review Trigger Price (ORTP) for a combustion turbine.⁷

7. In the January 24, 2014 Order, the Commission accepted ISO-NE's proposed Tariff revisions, revising the administrative pricing provisions for FCA 8, subject to condition. Specifically, in light of ISO-NE's statements in both this proceeding and the NEPGA Complaint proceeding that it intended to submit a sloped demand curve in the near future as a long-term solution to the issues raised, the Commission required ISO-NE to submit its proposed sloped demand curve by April 1, 2014 in order to allow sufficient time for implementation prior to FCA 9.⁸

8. On May 30, 2014, in Docket No. ER14-1639-000, the Commission accepted, subject to condition, ISO-NE's proposal to implement a system-wide sloped demand curve starting in FCA 9 (Demand Curve Changes).⁹ Relevant here, the Demand Curve Changes eliminated the use of the Inadequate Supply and Insufficient Competition rules at the system-wide level. The Demand Curve changes also revised the Tariff-set administrative price established under the Inadequate Supply and Insufficient Competition rules at the zonal level to equal the higher of net cost of new entry (Net CONE)¹⁰ or the Capacity Clearing Price for the Rest-of Pool Capacity Zone.

⁷ NEPGA Complaint, Docket No. EL14-7-000, at 17.

⁸ January 24, 2014 Order, 146 FERC ¶ 61,038.

⁹ *ISO New England Inc. and New England Power Pool Participants Committee*, 147 FERC ¶ 61,173 (2014) (Demand Curve Order) (reh'g pending).

¹⁰ The Tariff defines Net CONE as the estimated gross cost of entry for a new capacity resource net of revenues from energy, reserve, and other markets. ISO-NE Tariff section I.2.2.

II. Request for Rehearing¹¹

9. On rehearing, NEPGA anticipates that, in response to the January 24, 2014 Order, ISO-NE intends to propose a sloped demand curve for pool-wide purposes for FCA 9, but ISO-NE will not implement sloped demand curves for individual capacity zones for FCA 9. NEPGA further alleges that ISO-NE will continue to use administrative prices for intra-zonal capacity price determinations. NEPGA states that the January 24, 2014 Order did not provide for a phased implementation of the sloped demand curve, but rather stated in several instances that the \$7.025/kW-month administrative proxy price should be used for FCA 8 only. Thus, NEPGA requests that the Commission direct ISO-NE to implement a market design utilizing a sloped demand curve for all aspects of the FCM so that ISO-NE will not continue using the administrative pricing rules for Insufficient Competition and Inadequate Supply for FCA 9 on a zonal level.¹² Alternatively, NEPGA requests that, in the event good cause exists to excuse ISO-NE from its obligations under the January 24, 2014 Order, the Commission clarify that the \$7.025/kW-month was authorized for use in FCA 8 only and that it may not be carried forward into FCA 9 for any purpose. NEPGA also requests that if an administrative price mechanism is necessary for FCA 9, such mechanism be based on the pool-wide CONE values used to develop the pool-wide sloped demand curve, as adjusted to account for locational factors.¹³

III. Discussion

10. We deny NEPGA's request for rehearing or clarification. NEPGA's arguments on rehearing relate to what NEPGA anticipated ISO-NE would submit in compliance with the January 24, 2014 Order's directive regarding implementing a sloped demand curve. As noted above, on May 30, 2014, the Commission accepted, subject to condition, ISO-NE's proposal to implement a system-wide sloped demand curve starting in FCA 9.¹⁴ In

¹¹ NEPGA filed one rehearing request regarding the January 24, 2014 Order and the companion order on NEPGA's complaint, *New England Power Generators Association, Inc. v. ISO New England Inc.*, 146 FERC ¶ 61,039 (2014). As the two dockets are not consolidated, we will address the arguments in separate orders. *See New England Power Generators Association, Inc. v. ISO New England Inc.*, 150 FERC ¶ 61,064 (2015).

¹² Rehearing Request at 18, 21.

¹³ *Id.* at 21-22.

¹⁴ Demand Curve Order, 147 FERC ¶ 61,173.

that proceeding, ISO-NE stated that a system-wide sloped demand curve eliminates the need for the Inadequate Supply and Insufficient Competition pricing provisions at the system-wide level because the market will determine price and quantity. However, because there was insufficient time to develop appropriate zonal sloped demand curves for FCA 9, the sloped demand curve proposal retained the zonal administrative pricing mechanism and included revised administrative prices to apply in FCA 9 at the zonal level in the event of either Inadequate Supply or Insufficient Competition.¹⁵ ISO-NE stated that it will implement zonal sloped demand curves for FCA 10, which will eliminate the need for the Inadequate Supply and Insufficient Competition rules at the zonal level.

11. In addition, the sloped demand curve proposal addressed NEPGA's alternative request with respect to administrative prices that could apply in FCA 9 at the zonal level in the event of either Inadequate Supply or Insufficient Competition by providing that the payment rate for existing resources in a zone will be set using the current administrative formulas, but replacing the current fixed price of \$7.025/kW-month with the higher of net CONE (\$11.08/kW-month) or the capacity clearing price for the Rest-of-Pool capacity zone.¹⁶ The Commission accepted this revision, noting that it expects ISO-NE to submit its proposed zonal sloped demand curve changes by January 2, 2015 in order to allow sufficient time for review, approval and implementation for FCA 10.¹⁷

12. On December 2, 2014, ISO-NE filed an informational report updating the Commission on its progress toward developing zonal sloped demand curve changes, indicating that it has made substantial progress in this regard and, while it will not meet the requested January 2, 2015 filing date, it continues to work towards implementing the changes prior to FCA 10.¹⁸ As ISO-NE explained in its informational report, the stakeholder process is well underway and we do not want to interrupt that process or prejudge any issues. However, we emphasize here our expectation that ISO-NE will submit the zonal demand curve changes in time to allow for review, approval, and implementation for FCA 10. Accordingly, we deny NEPGA's request for rehearing or clarification.

¹⁵ NEPGA did not object to that aspect of the sloped demand curve proposal.

¹⁶ *Id.* P 37.

¹⁷ *Id.* PP 40-41.

¹⁸ ISO New England Informational Report, Docket No. ER14-1639-000 (filed Dec. 2, 2014).

The Commission orders:

NEPGA's request for rehearing or clarification is hereby denied, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.