

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

New England Power Pool

Docket No. ER04-335-000

ORDER CONDITIONALLY ACCEPTING CHANGES TO  
NEPOOL MARKET RULE 1

(Issued February 27, 2004)

1. In this order, the Commission conditionally accepts the New England Power Pool (NEPOOL) Participants' Committee's revisions to NEPOOL Market Rule 1, which allow ISO New England, Inc. (ISO-NE) to issue "Gap RFPs" and enter into contracts with winning bidders—subject to prior Commission approval. This order benefits customers by providing a mechanism under which ISO-NE will be able to contract for demand response resources and supplemental generating resources to maintain near-term reliability, while ensuring Commission oversight of the process and of the resulting contracts.

**Background**

2. On December 23, 2003, the NEPOOL Participants Committee filed changes to NEPOOL Market Rule 1 - NEPOOL Standard Market Design. The proposed changes to Market Rule 1 added a new Section 10 entitled, "Gap RFPs for Reliability Purposes." Specifically, the proposed changes to Market Rule 1 would apply whenever ISO-NE determines the need for requests for proposals (RFPs) to address near-term reliability concerns while long-term solutions are being implemented. New Section 10 would allow ISO-NE to issue RFPs and enter into contracts awarded pursuant to the Gap RFP process. The NEPOOL Participants Committee requests an effective date of March 1, 2004.

3. Section 10 would give ISO-NE the authority to issue a Gap RFP, after first consulting with the NEPOOL Reliability Committee, if ISO-NE determines that a region may face potential near-term reliability problems for which no Participant has either proposed, or committed to implement, a viable solution; ISO-NE will be responsible for determining whether a solution is viable based on various factors such as the timeliness of the solution as well as its financial soundness. While Section 10 requires ISO-NE to

consult with the Reliability Committee before issuing an RFP, Section 10 does not require NEPOOL approval of that RFP. Section 10 also requires ISO-NE to make an informational filing with the Commission that includes the RFP's proposed terms and conditions and ISO-NE's views as to why no viable solution exists to address the near-term reliability problem. Section 10 would require that this informational filing with the Commission be made at least 30 days prior to the issuance of the RFP.

4. After the required informational filing has been made and the Gap RFP has been issued, Section 10 authorizes ISO-NE to enter into contracts awarded pursuant to the competitive RFP process. Section 10.1(b) requires ISO-NE to file with the Commission each of the contracts that are awarded as a result of Gap RFPs for informational purposes.

5. All costs paid under contracts awarded pursuant to a Gap RFP would be charged each month to the Reliability Region with the near-term reliability problem. Each Participant and Non-Participant with Network Load in the affected Reliability Region will be allocated the same share of such monthly costs as its share of Network Load compared to total Network Load for that Reliability Region during that month. Accordingly, Transmission Customers in the Reliability Region with the near-term reliability problem will be the Transmission Customers who pay the costs of the contracts awarded pursuant to a Gap RFP.

### **Notice of Filing and Responsive Pleadings**

6. Notice of the NEPOOL Participants Committee filing was published in the Federal Register, 69 Fed. Reg. 2132 (2004), with comments, protests, or interventions due on or before January 14, 2004. Timely motions to intervene were filed by ISO-NE, Pinpoint Power, LLC (Pinpoint Power), the NRG Companies (NRG), Northeast Utilities Service Company on its own behalf and that of Northeast Utilities Operating Companies and Select Energy, Inc. (collectively, NU), and PSEG Energy Resources and Trade, LLC (PSEG). ISO-NE, Pinpoint Power, and PSEG also filed comments in support of the filing.

### **Discussion**

7. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. ' 385.214 (2003), the timely, unopposed motions to intervene filed by ISO-NE, Pinpoint Power, NRG, NU, and PSEG make them parties to this proceeding.

8. The Commission is concerned that as filed the proposed language is very broad and could lead to ISO-NE becoming the entity that contracts for new supplies whenever new resources are needed to meet the reliability needs of the region. Additionally, these changes would occur without Commission review, since all filings would be made as informational filings that do not require prior Commission approval. We are currently

examining the issue of whether ISOs and RTOs should be responsible for procuring new supplies.<sup>1</sup> Consequently, while we are examining this issue, we are unwilling to authorize such a broad program for ISO-NE to acquire resources. Rather, we believe the proposed authority to obtain necessary resources must be reviewed by the Commission on a case by case basis, rather than left to the discretion of ISO-NE after consultation with the NEPOOL Reliability Committee. Therefore, we will condition our acceptance on revisions to the language of new Section 10 to provide that ISO-NE will obtain Commission approval to issue a Gap RFP at least 60 days prior to the date it intends to issue the RFP. For the same reasons, and consistent with Section 205 of the Federal Power Act, 16 U.S.C. § 824d (2000), we will also require the successful bidder to file for approval of the rates to be charged under the supply arrangement to the extent that such contracts are for jurisdictional services.

10. As noted in the transmittal letter and Attachment 2 to its December 23, 2003 filing, ISO-NE has issued an RFP to address reliability concerns in Southwest Connecticut (SWCT RFP) for the summer of 2004; ISO-NE is seeking approximately 300 MW of quick-start capacity in southwest Connecticut through generation and demand response resources. Since ISO-NE has already issued the SWCT RFP and the contracts would be for reliability needs this summer, we will allow this process to go forward. Consistent with Section 205 of the Federal Power Act, we will also require the successful bidder to file for approval of the rates to be charged under the supply arrangement to the extent that such contracts are for jurisdictional services. However, for all future Gap RFPs, ISO-NE must file for approval of the RFP 60 days before it is issued.

The Commission orders:

Proposed new Section 10 of Market Rule 1 is hereby conditionally accepted for filing, to be effective March 1, 2004, subject to the filing of modifications to new Section 10 to provide for Commission review, as discussed in the body of this order. ISO-NE is hereby directed to make a compliance filing with such modifications within 30 days of the date of this order.

By the Commission.

( S E A L )

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<sup>1</sup> See *Compensation for Generating Units Subject to Local Market Power Mitigation in Bid-Based Markets*, 105 FERC ¶ 61,312 (2003).

Linda Mitry,  
Acting Secretary.