



agreements in response to a Commission staff finding that its submission was deficient with regard to certain cost information.

3. On February 26, 2003, Devon Power LLC, Middletown Power LLC, Montville Power LLC, Norwalk Power LLC and NRG Power Marketing Inc. (collectively NRG) filed in Docket No. ER03-563-000, pursuant to section 205 of the FPA, four cost-of-service RMR agreements covering over 1,700 MWs of capacity located in Southwestern Connecticut. NRG contended in its filing that these facilities were not receiving adequate cost recovery from the market.

4. The Commission rejected the bulk of the RMR agreements filed by NRG in orders issued March 25<sup>3</sup> and April 25, 2003<sup>4</sup> in the Docket No. ER03-563-000 proceedings, and accepted only limited portions of the agreements allowing NRG to collect certain going-forward maintenance costs through a Reliability Cost Tracker mechanism. In the April 25 Order, the Commission rejected the widespread use of RMR agreements, expressing concerns about the effect the agreements have on the competitive wholesale market. The Commission directed ISO-NE to revise NEPOOL Market Rule 1, on an interim basis, to reduce the need for RMR agreements. The revisions to Market Rule 1 directed by the Commission, known as Peaking Unit Safe Harbor (PUSH) bidding, allowed low capacity factor units operating in Designated Congestion Areas to increase their bids to recover their fixed and variable costs. The Commission also directed ISO-NE to file by March 1, 2004, for implementation no later than June 1, 2004, a mechanism implementing location or deliverability requirements in the installed capacity (ICAP) or resource adequacy market, to replace the PUSH mechanism.

5. Consistent with the April 25 Order, the Commission rejected the RMR agreements submitted by PPL Wallingford in an order issued on May 16, 2004 in Docket No. ER03-421-000, and continued with the PUSH mechanism (followed by a permanent location or deliverability requirement in the ICAP or resource adequacy market).<sup>5</sup> On June 13, 2003, PPL Wallingford filed cost-of-service information to revise the initial PUSH bid levels developed for its units by ISO-NE.

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<sup>3</sup> Devon Power LLC, *et al.*, 102 FERC ¶ 61,314 (2003) (March 25 Order).

<sup>4</sup> Devon Power LLC, *et al.*, 103 FERC ¶ 61,082 (2003) (April 25 Order).

<sup>5</sup> PPL Wallingford Energy LLC, 103 FERC ¶ 61,185 (2003) (May 16 Order).

6. In a July 24, 2003 Order<sup>6</sup> on rehearing of the March 25 and April 25 orders, the Commission addressed cost issues specific to NRG's PUSH units and directed ISO-NE to modify the PUSH bid levels proposed for those units to take into account certain cost adjustments. Additionally, the July 24 Order directed NRG to revise certain elements of the cost agreements and escrow arrangements between NRG and ISO-NE related to a Reliability Cost Tracker, addressed the PUSH market rules filed by ISO-NE in compliance with the April 25 Order, and addressed issues on rehearing of the April 25 Order.

7. On August 12, 2003, the Commission issued an order accepting PPL Wallingford's June 13, 2003 filing of cost-of-service information to revise its initial PUSH bid levels, subject to a modification of the rate of return on equity as well as certain other adjustments the Commission directed ISO-NE to make.<sup>7</sup>

8. In the December 22 Order, the Commission addressed requests for rehearing and clarification of the May 16 Order, July 24 Order and August 12 Order, and addressed compliance filings made by ISO-NE and NRG in accordance with the July 24 Order. The Commission found in the December 22 Order that PPL Wallingford, in its June 13, 2003 filing of revised PUSH bid cost inputs, had not provided adequate evidence supporting its proposed allocation of termination costs to Administrative and General (A & G) expenses.<sup>8</sup> Accordingly, the Commission directed PPL Wallingford to submit an explanation justifying its proposed allocation of termination costs.<sup>9</sup> Additionally, the Commission found that PPL Wallingford's "Limited-Term Electric Plant" should be classified as an operating lease rather than as a capital lease, as PPL Wallingford had claimed.<sup>10</sup> The Commission directed ISO-NE modify PPL Wallingford's PUSH bid levels accordingly.<sup>11</sup>

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<sup>6</sup> Devon Power Company *et al.*, 104 FERC ¶ 61,123 (2003) (July 24 Order).

<sup>7</sup> PPL Wallingford Energy LLC, 104 FERC ¶ 61,199 (2003) (August 12 Order).

<sup>8</sup> December 22 Order at P 45.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at P 46.

<sup>11</sup> *Id.*

9. Since the issuance of the December 22 Order and the submission of compliance filings by PPL Wallingford and ISO-NE, the Commission has considered a March 1, 2004 filing that ISO-NE made in compliance with the April 25 Order and July 24 Order. In that filing, ISO-NE proposed a locational installed capacity (LICAP) mechanism. In a June 2, 2004 Order, the Commission accepted the broad framework of ISO-NE's proposed LICAP market, but set the specific parameters of the proposal for hearing and also directed further filings from ISO-NE and the parties.<sup>12</sup> Additionally, the Commission delayed the implementation date of the proposed LICAP mechanism from June 1, 2004, to January 1, 2006. In the interim, the Commission extended the PUSH mechanism and stated that it would consider one-term RMR agreements, as necessary, to ensure that market participants are appropriately compensated for reliability services in the short-term.<sup>13</sup>

**PPL Wallingford Compliance Filing – Docket Nos. ER03-421-007, ER03-563-026**

10. In the December 22 Order, the Commission found that PPL Wallingford's June 13, 2003 filing of PUSH bid cost-of-service information did not provide adequate evidence supporting its allocation of \$407,700 in termination costs to PPL Wallingford.<sup>14</sup> The Commission noted that while such expenses are generally allocated to A & G, "PPL Wallingford's proposed allocation of these costs without documentation or explanation would exempt PPL Wallingford from the burden of supporting these claims."<sup>15</sup> The Commission directed PPL Wallingford to submit a further explanation justifying its proposed allocation.

11. On January 2, 2004, PPL Wallingford submitted a compliance filing in accordance with the December 22 Order. In its filing, PPL Wallingford notes that the termination costs at issue were associated with the costs of pension and post-retirement benefits for employees of PPL Services Corporation (PPL Services) and PPL Generation, LLC (PPL Generation). PPL Wallingford explains that these costs were incurred by PPL Services and PPL Generation as the result of an Operational Effectiveness Review, which was

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<sup>12</sup> Devon Power LLC, *et al.*, 107 FERC ¶ 61,240 (2004) (June 2 Order), *reh'g pending*.

<sup>13</sup> *Id.* at P 4, 72.

<sup>14</sup> December 22 Order at P 45.

<sup>15</sup> *Id.*

undertaken to “improve the operational efficiency of all the functions and services offered within the PPL corporate family.”<sup>16</sup> According to PPL Wallingford, these costs were allocated to the subsidiaries of PPL Corporation, including PPL Wallingford, because the subsidiaries will “benefit on a going forward basis from the future savings related to the efficiencies achieved by the resulting staffing reductions.”<sup>17</sup> PPL Wallingford argues that such an allocation of costs incurred by a corporate parent or services corporation, through various formulas, has been approved by the Commission.<sup>18</sup> Additionally, PPL Wallingford explains in its compliance filing that an outside actuarial firm calculated the costs of the pension and post-retirement benefits provided to the employees whose positions were eliminated based on the Operational Effectiveness Review, and determined that the costs to PPL Corporation were \$75 million. Of that \$75 million, \$19 million was allocated to PPL Services and PPL Generation, and from that amount, \$407,700 was allocated to PPL Wallingford. PPL Wallingford notes that this allocation was made using a three-factor methodology recommended by the Pennsylvania Public Utility Commission (PPUC) in its audit of PPL Corporation. Finally, the compliance filing included a chart intended to show the calculations explained in the filing.

### **Notice of Filing and Comments**

12. Notice of PPL Wallingford’s compliance filing was published in the *Federal Register*,<sup>19</sup> with comments, protests or interventions due on or before January 23, 2004. Comments were filed by ISO-NE.

13. In its comments, ISO-NE argues that PPL Wallingford has again failed to adequately justify its proposed allocation of termination costs. ISO-NE notes that PPL Wallingford did not provide the formula that was used to allocate the termination costs to PPL Wallingford, and did not provide any workpapers or supporting documentation concerning the calculation of termination costs for PPL Corporation by an outside actuarial firm. Additionally, ISO-NE contends that the compliance filing provides insufficient detail regarding the three factor methodology recommended by the PPUC,

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<sup>16</sup> Compliance Filing of PPL Wallingford at 3.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at 1-2.

<sup>19</sup> 69 Fed. Reg. 2710 (2004).

and that the three factors used by PPL Wallingford in its compliance filing (invested capital, number of employees, and revenue produced) do not appear to correlate to the three factors recommended by the PPUC. Further, ISO-NE asserts that the third factor listed by PPL (revenue produced) was expressly excluded from the PPUC audit because it could “skew cost allocations.”<sup>20</sup> Finally, ISO-NE argues that the chart provided by PPL Wallingford does not provide additional support or sufficient detail, and that its calculations appear to be internally inconsistent.

### **Discussion**

14. The Commission agrees with ISO-NE that PPL Wallingford has not provided information in sufficient detail in its compliance filing to justify its allocation of termination costs. While PPL Wallingford explains that an outside actuarial firm calculated the costs associated with PPL Corporation’s Operational Effectiveness Review and resulting staff reductions, it has not provided the study for review by the Commission and ISO-NE. Additionally, PPL Wallingford has not provided any analysis or support for the allocation factors it used in allocating corporate termination costs to PPL Wallingford. As a result, the Commission will reject PPL Wallingford’s compliance filing.

### **ISO-NE Compliance Filing – Docket Nos. ER03-421-008, ER03-563-028**

15. In the December 22 Order, the Commission found that ISO-NE, in its request for rehearing, had provided sufficient information showing that PPL Wallingford’s “Limited Term Electric Plant” in its revised PUSH bid cost-of-service information should be classified as an operating lease, rather than as a capital lease. The Commission directed ISO-NE to adjust PPL Wallingford’s PUSH bid levels in accordance with this finding. Additionally, the Commission denied a request for rehearing by NRG regarding the Commission’s use of an 18 percent proxy to limit A & G costs, and accepted an errata filing by NRG with revisions to its rate model.

16. On January 7, 2004, ISO-NE submitted a compliance filing in accordance with the December 22 Order. In that filing, ISO-NE removed the \$407,000 in termination costs from PPL Wallingford’s PUSH bid levels, effective December 25, 2003, in accordance with the Commission’s finding that the allocation of such costs had not been adequately supported by PPL Wallingford. Additionally, ISO-NE reclassified PPL Wallingford’s “Limited Term Electric Plant” as an operating lease, also effective December 25, 2003, consistent with the Commission’s ruling in the December 22 Order. Further, in

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<sup>20</sup> Comments of ISO-NE at 6.

accordance with the Commission's denial of rehearing regarding the 18 percent proxy for NRG's A & G expenses, ISO-NE removed Environmental/Remediation Projects and Fixed Fuel expenses from the A & G calculation, effective January 7, 2004. ISO-NE states that it made this adjustment because the directive in the December 22 Order "indicates clearly that the 18 percent proxy should be applied only to Total Fixed Production Expenses."<sup>21</sup> Finally, ISO-NE incorporated into the PUSH bid levels for NRG the revised rate model included in NRG's errata filing and accepted by the Commission in the December 22 Order.

### **Notice of Filing**

17. Notice of ISO-NE's compliance filing was published in the *Federal Register*,<sup>22</sup> with comments, protests or interventions due on or before January 28, 2004. None was filed.

### **Discussion**

18. The Commission will accept ISO-NE's compliance filing because it satisfies the directives of our December 22 Order. We note that PPL Wallingford did not object to ISO-NE's removal of the disputed termination costs, and therefore we will accept the PUSH bid levels without the inclusion of such costs.

### **The Commission orders:**

(A) The compliance filing submitted by PPL Wallingford is hereby rejected, as discussed in the body of this order.

(B) The compliance filing submitted by ISO-NE is hereby accepted, with effective dates of (1) December 25, 2003 for the removal of termination costs and reclassification of "Limited-Term Electric Plant" in PPL Wallingford's PUSH bid levels,

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<sup>21</sup> Compliance Filing of ISO-NE at 3, *citing* December 22 Order at P 25.

<sup>22</sup> 69 Fed. Reg. 2710.

and (2) January 7, 2004 for the adjustments to NRG's PUSH bid levels to include the revised rate model accepted in the December 22 Order, as discussed in the body of this order.

By the Commission. Commissioner Kelly not participating.

( S E A L )

Magalie R. Salas,  
Secretary.