

111 FERC ¶ 61,132
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

New England Power Pool
and ISO New England, Inc.

Docket Nos. ER05-52-000
ER05-52-001

ORDER ACCEPTING COMPLIANCE FILING

(Issued April 29, 2005)

1. This order accepts for filing the New England Power Pool Participants Committee (NEPOOL Participants Committee) and New England Independent System Operator Inc.'s (ISO-NE) (collectively, Applicants) Hydro-Quebec Interconnection Capacity Credits (Capacity Credit) values developed through a procedural methodology for the 2005/2006 Power Year, effective June 1, 2005. This order benefits customers because it sets Capacity Credit values for the 2005/2006 Power Year, providing adequate time for market participants to make arrangements to satisfy their capacity obligations.

I. Background

2. The Hydro-Quebec Interconnection (HQ Interconnection) is the United States segment of a transmission interconnection between the systems of Hydro-Quebec and NEPOOL. It is currently used for energy and capacity purchases under contracts and for emergency energy transactions between NEPOOL and Hydro-Quebec.

3. Capacity Credit is a monthly value reflective of the annual installed capacity benefits of the HQ Interconnection.¹ Capacity Credits are allocated to Interconnection Rights Holders, which have executed agreements with the four companies owning the HQ Interconnection. The agreements provide each Interconnection Right Holder with long-term use rights to a portion of the HQ Interconnection directly proportional to the Interconnection Right Holder's financial support for the HQ Interconnection.

¹ ISO-NE FERC Electric Tariff No. 3, section 1.2.2(j).

4. On October 18, 2004, Applicants submitted materials providing the Capacity Credit values for the 2005/2006 Power Year,² established by the NEPOOL Participants Committee pursuant to the procedural methodology accepted in a previous Commission order.³ In that order, the Commission stated that if the parties are unable to agree on Capacity Credit values for the 2005/2006 Power Year, NEPOOL is directed to file supporting studies and details no later than October 30, 2004. In the October 18 filing, Applicants state that, utilizing the filed procedural methodology, NEPOOL was able to establish Capacity Credit values for the 2005/2006 Power Year.⁴

5. Applicants requested that the Commission accept these values to become effective June 1, 2005, which is the start of the Power Year. NEPOOL requested that to the extent the Commission declines to accept these Capacity Credit values as filed, that the Commission, before it issues any further order on the merits regarding Capacity Credits, convene a technical session and set the matter for hearing as necessary.

6. On December 13, 2004, the Commission issued a letter order directing ISO-NE to amend the proposed Capacity Credit values to reflect available capacity and load data.⁵ On January 12, 2005, the NEPOOL Participants Committee requested a technical session and an extension of time to respond to the December 13 Letter Order.⁶ The Commission granted the request for an extension of time and the request to convene a technical conference. The technical conference was held on February 14, 2005.

7. On March 14, 2005 Applicants submitted the monthly Capacity Credit values established by the NEPOOL Participants Committee for the 2005/2006 Power Year, in compliance with the December 13 Order. Applicants state that the Participants Committee voted to amend the previously filed monthly values for the months of December 2005 through and including March 2006, and to establish the amended values as the Capacity Credit values for the 2005/2006 Power Year. Applicants request that the

² The Power Year begins June 1 each year and ends May 31 the following year.

³ *New England Power Pool*, 106 FERC ¶ 61,185 (2004).

⁴ 1200 MW from June to November and April to May; 200 MW from December to February; and 500 MW in March.

⁵ *ISO New England, Inc.*, Docket No. ER05-52-000 (Dec. 13, 2004) (unpublished letter order) (December 13 Letter Order).

⁶ We note that the Interconnection Rights Holders Management Committee (IRH Management Committee) submitted a filing on January 14, 2005 supporting the request for a technical session and extension of time.

Commission issue an order accepting the amended values on or before April 30, 2005, to become effective June 1, 2005.

8. ISO-NE used a deterministic approach to calculate the Monthly Capacity Potentially Available for Sales (MCPAS) and the corresponding monthly Capacity Credit values. The deterministic approach requires a set of load and resource assumptions that describes the expected system conditions.⁷ In order to calculate MCPAS, ISO-NE used the “high load” forecast from Hydro-Quebec Distribution and assumed that the winter peak load could occur in any of the winter months of December, January and February. According to ISO-NE, the use of the high load forecast is appropriate because winter cold spells in the Northeast United States and Canada occur at the same time, and therefore it is prudent to use figures reflecting a high demand scenario for Hydro-Quebec for New England winter Capacity Credit levels because that will not overstate the amount of available generation when each region needs it most. Applicants state that this method assesses the availability of generating capacity from Quebec that can be accessed through the HQ Interconnection and not the need for that potential emergency assistance by NEPOOL.

II. Notice of Filings and Responsive Pleadings

9. Notice of the October 18 filing was published in the *Federal Register*, 69 Fed. Reg. 62,659 (2004) with interventions or protests due on or before November 5, 2004. Motions to intervene were filed by TransCanada Power Marketing Ltd. (TCPM) and Northeast Utilities Service Company, on behalf of Northeast Utilities Operating Companies⁸ (NU) and Select Energy, Inc. Fitchburg Gas and Electric Light Company (Fitchburg) and Unital Power Corporation (Unital Power) filed a motion to intervene out-of-time. H.Q. Energy Services (U.S.), Inc. (HQUS) filed a motion to intervene and protest. The Interconnection Rights Holders (IRH) Management Committee filed a motion to intervene out-of-time and answer in response to the protest filed by HQUS. The NEPOOL Participants Committee and ISO-NE submitted an answer. On November 24, 2004, HQUS submitted an answer in response to the answers of ISO-NE and NEPOOL and the IRH Management Committee. On January 18, 2005, NSTAR Electric & Gas Corporation (NSTAR) submitted a motion to intervene out-of-time and comments.

⁷ ISO-NE and NEPOOL state that under the deterministic approach, the amount of MCPAS is equal to the Monthly HQ Installed Capacity minus the sum of Scheduled Generation Maintenance, Generation Forced Outages, Net of ICAP Purchases and Sales, Forecasted Load, and Operating Reserve Requirement.

⁸ The NU Operating Companies are: The Connecticut Light and Power Company, Western Massachusetts Electric Company, Holyoke Water Power Company, Holyoke Power and Electric Company, and Public Service Company of New Hampshire.

10. Notice of the Technical Conference was published in the *Federal Register*, 70 Fed. Reg. 7,732 (2005).

11. The Commission established February 22, 2005 as the deadline to submit comments on the Technical Conference. Comments were filed by HQUS, Central Vermont Public Service Corporation⁹ (Central Vermont), TCPM, and NSTAR. On February 22, 2005, both the Long Island Power Authority (LIPA) and Con Edison Energy, Inc. (CEE) submitted a motion to intervene out-of-time and comments. On February 24, 2005, the United Illuminating Company (United Illuminating) submitted a motion to intervene out-of-time and comments. The NEPOOL Participants Committee and ISO-NE did not submit further comments, but submitted slides from the Technical Conference.

12. Notice of Applicants' March 14 filing was published in *the Federal Register*, 70 Fed. Reg. 10,577 (2005), with interventions or protests due on or before March 30, 2005. HQUS filed a protest and NSTAR filed comments. On April 8, 2005 the IRH Management Committee filed an answer to the protest of HQUS. On April 13, 2005 the NEPOOL Participants Committee filed an answer to the protest and comments of HQUS and NSTAR.

III. Discussion

A. Procedural Matters

13. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2004), the timely, unopposed motions to intervene and notice of intervention, serve to make the entities that filed them parties to the proceeding. We accept the motions to intervene out-of-time of the IRH Management Committee, Fitchburg, Unutil Power, LIPA, CEE, United Illuminating and NSTAR given their interest in this proceeding, the early stage of this proceeding, and the absence of any undue prejudice or delay. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2004), prohibits an answer to a protest or to an answer unless otherwise ordered by the decisional authority. We will accept answers of the NEPOOL Participants Committee and ISO-NE, the IRH Management Committee, and HQUS because they have provided information that assisted us in our decision-making process.

B. Comments

14. The concerns expressed in the various comments are discussed below and include the following issues: (a) elimination of the Capacity Credit values by setting them to

⁹ Central Vermont is a member of the IRH Management Committee.

zero; (b) treatment of Capacity Credits over the Cross Sound cable in manner consistent with the Hydro-Quebec Interconnection; (c) roll-in of Hydro-Quebec Interconnection costs; and (d) whether load forecast data should be obtained from publicly-available information.

C. Methodology

1. Protests and Comments

15. HQUS argues that the procedural methodology for setting Capacity Credits is unworkable and unlikely to ever calculate the actual reliability benefits of the HQ Interconnection. HQUS contends that ISO-NE and NEPOOL admit that their methodology “does not identify any particular formula or calculation that must be used in establishing Capacity Credit values.” In response to the protest of HQUS, Applicants state that on December 30, 2003, NEPOOL filed a proposed methodology for establishing Capacity Credit values starting with the 2004/2005 Power Year that had been approved by an 89.64 percent vote of the Participants. Applicants state that the vote reflected that the proposed methodology enjoyed the broad support of both IRH and Non-IRH Participants. Additionally, the IRH Management Committee states that HQUS’s disagreement with the consensus does not invalidate the process that led to the Capacity Credit values.

16. United Illuminating and NSTAR support the ISO-NE’s current determination of the Capacity Credit values reached using a deterministic analysis. However, NSTAR urges the Commission to accept ISO-NE’s deterministic availability methodology used for the future Power Years (*i.e.*, 2006/2007 and thereafter), subject to the following: (a) that for each Monthly Capacity Potentially Available for Sale input variable, ISO-NE must either: (i) seek to request, employ and attest to a balanced “mid-range” approach regarding that variable data’s selection, or (ii) generically explain why it chose to use skewed (that is non “mid-range”) data;¹⁰ and (b) that, specifically, regarding the load forecast input data, ISO-NE be required to use a 50/50 load forecast or the equivalent so that “availability” would not be viewed in the context of an extreme outlier scenario but rather would be developed in the context of an expected availability; and (c) that publicly available Monthly Capacity Potentially Available for Sale data from Hydro-Quebec Distribution and/or Hydro-Quebec Production be identified and preferentially used over confidential data.

¹⁰ NSTAR states that for example, regarding generation forced outage data, if a high range of forced outage data is used, then either a low range of forced outage data must also be used (as a balance) or, in the alternative, ISO-NE must explain generically (that is, without revealing any confidential data values), why it chose to only consider the one set over the other.

17. LIPA states that a standard methodology for calculating capacity credits for controllable facilities should be adopted, and the methodology for the HQ interconnection should not be different from others. They further state that in developing a standard methodology, several factors should be included, including the operational history of the controllable tie, forced outage rates within the external control area, transmission transfer capabilities and other factors that will affect the availability of external capacity to be accessed through the controllable tie.

18. NSTAR states that on the issue of establishing a repeatable methodology to apply for future Power Years (*i.e.*, 2006/2007 and thereafter), it supports the deterministic calculation of availability used by ISO-NE in its load-and-capacity formula from Monthly Capacity Potentially Available for Sale from HQ.

2. Commission Determination

19. We find that the deterministic calculation utilized to develop the Capacity Credits for the 2005/2006 Power Year is consistent with the type of standardized approach envisioned by the Commission. Consistent with the December 13 Letter Order requiring ISO-NE to obtain Hydro-Quebec load and capacity data, ISO-NE obtained forecasted monthly load and capacity data for the 2005/2006 Power Year from Hydro-Quebec Distribution and Hydro-Quebec Production. We find that ISO-NE's assumption that Capacity Credit values reflect the amount of capacity available from Hydro-Quebec during certain winter months reasonable.¹¹ ISO-NE and NEPOOL propose to establish Capacity Credit values of 1200 MW from June to November and March to May and 0 MW from December to February. Given that the Capacity Credit values are based on the potential resources available from Hydro-Quebec and are consistent with the Commission's objective to use availability of generation resources rather than need, we will approve the Capacity Credits as proposed for the 2005/2006 Power Year.

20. As to NSTAR's concerns regarding ISO-NE's use of confidential data in the load and capacity formula for MCPAS in future Power Years (*i.e.*, 2006/2007 and thereafter), we find NSTAR's concerns to be premature. We will review any concerns regarding confidential data in future Power Years, if this concern is raised in a future proceeding. We encourage all interested parties to reach agreement regarding the dissemination of non-confidential Hydro-Quebec load and capacity data through the stakeholder process.

¹¹ For example, during the January 14-16, 2004 Cold Snap in the New England region, ISO-NE, New Brunswick and Hydro Quebec all projected deficiencies for the January 15 peak. As a result, the only interface into New England that could support substantial imports was the NYISO interface with a capability of about 600 MW. *See* ISO New England Inc. Market Monitoring Department, Interim Report on Electricity Supply Conditions in New England during the January 14-16 "Cold Snap" at 24-25 (May 10, 2004).

With regard to NSTAR's request that the Commission require the use of a mid-range approach and 50/50 load forecast data in future Power Years (*i.e.*, 2006/2007 and thereafter), we find that such details would be better left to development through the stakeholder process. To the extent NSTAR is dissatisfied with the high, mid-range or low load forecast or forced outage rate assumptions used in the deterministic calculation to develop Capacity Credits in future Power Years, we agree with NEPOOL that NSTAR will have the opportunity to present its concerns through the stakeholder process.

21. LIPA argues that any methodology ultimately deemed appropriate in this proceeding should be applied not just on the HQ Interconnection but to other controllable interties connecting with the New England control area as well, such as the Cross Sound Cable. We conclude that LIPA's request to apply the methodology used to develop Capacity Credit values to the Cross Sound Cable is beyond the scope of this proceeding.

D. Roll-In of HQ Interconnection Costs

1. Protests and Comments

22. HQUS argues that the Commission did previously permit a temporary extension of Capacity Credits to the IRHs after their contractual obligations for firm energy from Quebec expired in 2001, but this allocation was only to continue as a stopgap measure pending roll-in of the HQ Interconnection costs. However, HQUS argues that roll-in has not occurred, nor are there any pending current plans for it, and there is no longer any justification to continue this stopgap allocation.

23. TCPM requests that the Commission direct ISO-NE to file a plan and timeline for rolling into the tariff the costs of the HQ Interconnection and socializing the benefits or appoint a Settlement Judge to resume, oversee and facilitate negotiations. The IRH Management Committee contends that HQUS's protest is a strategy to acquire free use of the HQ Interconnection through roll-in. Central Vermont states that the Commission should not delay implementation of a determination on Capacity Credits because of those who want to roll-in and socialize HQ Interconnection costs at some future date.

2. Commission Determination

24. HQUS and TransCanda argue that the Commission should require roll-in of the HQ Interconnection into a regional tariff. The Commission previously addressed this issue and determined not to require roll-in of certain non-PTF ties between New England and Canada.¹² Nor did that order conclude that the establishment of Capacity Credit values should be eliminated or their costs socialized. Consistent with our ruling in the

¹² See *ISO New England Inc.*, 106 FERC ¶ 61,280 at P 97 (2004) (March 24 Order).

March 24 Order, we will not require rolled-in rate treatment concerning the non-PTF tie between New England and Canada.¹³

E. Capacity Credit Values and Firm Energy Contract

1. Protests and Comments

25. HQUS and CEE argue that the Capacity Credits should be set to zero because the Interconnection Rights Holders no longer have a contract to purchase firm energy from Quebec. HQUS maintains that the tie benefits that result from the interconnection agreement between TransEnergie and ISO-NE should be shared by all New England consumers and such treatment is consistent with all other ties in New England and the treatment previously given to the Hydro-Quebec tie before Interconnection Rights Holders entered into the Firm Energy Contract, which has now expired. CEE argues that Capacity Credits tie up transmission capacity in the Phase I/II ties, thwarting competition and freezing potential ICAP sellers out of the ISO-NE market. HQUS makes similar arguments, stating that Capacity Credits inhibit ICAP transactions over the Phase I/II line.

26. HQUS states that to sell ICAP into New England over Phase I/II, suppliers must buy transmission from the IRHs. HQUS states that to avoid double counting of the value of the interconnection to New England, ICAP sales over Phase I/II could displace Capacity Credits. HQUS contends that, thus, the IRHs typically are unwilling to sell transmission for capacity over Phase I/II unless the price includes their lost opportunity costs, making the transaction uneconomical for any interested supplier. As a result, HQUS argues that the allocation of Capacity Credits that are not backed by firm energy limits the sale of real capacity over Phase I/II.

27. Additionally, CEE states that establishing a value for Capacity Credits at any level other than zero would be detrimental to reliability. CEE argues that counting Capacity Credits as capacity-- essentially the equivalent to internal generation-- would artificially

¹³ We note that in pending Docket No. ER05-754-000, ISO-NE, the Asset Owners, the IRH Management Committee, and the entities that will be providing service under Schedule 20A (the Filing Parties) propose new contractual and tariff arrangements for the United States portion of the Phase I/II High Voltage Direct Current (HVDC) Transmission Facilities. There, the Filing Parties explain that to date a mutually acceptable roll-in proposal has not been achievable. However, the Filing Parties state that nothing in the new arrangements precludes a roll-in from happening in the future, provided that an agreement among the necessary parties could be reached that does not result in unacceptable cost shifts or disruption of existing contractual rights and obligations.

inflate the supply of capacity in ISO-NE and make the ISO-NE reserve margin appear higher than it actually is.

28. Unlike HQUS and CEE, the IRH Management Committee, Central Vermont and NSTAR argue that the Capacity Credit values should not be set to zero. The IRH Management Committee contends that the Commission should reject HQUS's request to terminate the Capacity Credits after Power Year 2005/2006. The IRH Management Committee states that the Commission has found that the HQ Interconnection provides actual reliability benefits throughout the year. The IRH Management Committee states that Interconnection Rights Holders are entitled to Capacity Credits because they pay for the interconnection. Additionally NSTAR states that Capacity Credit values are the NEPOOL mechanism developed to compensate the tie line's supporters for providing reliability benefits to the region.

29. Central Vermont states that under Commission precedent, reliability benefits of the HQ Interconnection are based on availability of capacity, not whether that capacity is needed in a particular year. Central Vermont argues that HQUS and others have not explained why the reliability benefits of the HQ Interconnection should be treated differently than other NEPOOL generation.

2. Commission Determination

30. We disagree with HQUS's argument that because the Firm Energy Contract expired there is no longer any firm commitment for energy to support allocating Capacity Credits to IRHs. As the Commission stated previously, the existence of a reliability benefit across the HQ Interconnection is not dependent upon the existence of the Firm Energy Contract. Rather, the reliability benefit that is associated with the HQ Interconnection is related to the access to capacity (and to credits).¹⁴ Further, the reliability benefits are based on the availability of capacity from Hydro-Quebec in a particular year, not whether that capacity is actually needed in an emergency consistent with NEPOOL's treatment of its internal capacity.¹⁵

31. As to the allegation that IRH's typically are unwilling to sell transmission capacity over the HQ Interconnection unless it is in their economic interest to do so, we note that in pending Docket No. ER05-754-000, a new contract has been proposed through which the Asset Owners would transfer operational authority and other rights and

¹⁴ See *PG&E National Energy Group, v. ISO New England Inc.*, 100 FERC ¶ 61,227 at P 18 (2002).

¹⁵ See *PG&E National Energy Group*, 100 FERC ¶ 61,227 (2002); *NSTAR Electric & Gas Corporation*, 102 FERC ¶ 61,107 (2003); *NSTAR Electric & Gas Corporation*, 103 FERC ¶ 61,093 (2003); *New England Power Pool*, 104 FERC ¶ 61,204 (2003); and *New England Power Pool*, 106 FERC ¶ 61,185 (2004).

responsibilities with respect to the Phase I/II HVDC Transmission Facilities to ISO-NE. Historically, the IRH's have coordinated the operation of these facilities only with ISO-NE. Additionally, we note that parties propose tariff provisions to consolidate the terms, conditions and rates for service under a single tariff schedule.

32. We find unpersuasive CEE's argument that establishing Capacity Credit values at any level other than zero would be detrimental to reliability. Extending Capacity Credits to IRHs has not adversely affected the reliability, security or competitiveness of the New England market. In fact, during a time when Capacity Credits have been extended to IRHs, ISO-NE's Independent Market Monitor concluded that the most significant source of imports to the New England region is from Hydro-Quebec, which accounts for an average of over 1000 MW of net imports during a substantial portion of the day.¹⁶ Additionally, the Commission stated in a previous order, that the record indicated that the HQ Interconnection has a transfer capability of 1500 MW.¹⁷ The Capacity Credits proposed for the 2005/2006 do not exceed the 1500 MW limiting factor. Therefore, we deny the request to reduce Capacity Credit values in each month of the Power Year to zero.

F. Confidential Data

1. Protests and Comments

33. HQUS argues that the data ISO-NE requested from Hydro-Quebec Production for use in ISO-NE's deterministic analysis in this proceeding is highly sensitive, confidential market information, the release of which would substantially harm Hydro-Quebec Production's competitive position and potentially violate antitrust laws. HQUS explains that in this respect, this data is no different than other market sensitive data commonly protected from disclosure to market participants under ISO-NE's Information Policy.

34. Central Vermont states that there is no way to verify the reasonableness of using the 50/50 load forecast for Hydro-Quebec load versus a more conservative, higher load forecast unless publicly available information was used to make the determination, and although public information is preferred, ISO-NE should be given the latitude to use the best information possible (*i.e.*, public, confidential or a mix of both).

35. NSTAR requests that the Commission order that all data used by ISO-NE should be publicly available data. In the alternative, to the extent the Commission decides that

¹⁶ See David B. Patton, Pallas LeeVanSchaick and Robert A. Sinclair, Independent Market Monitor to ISO New England, Six-Month Review of SMD Electricity Market in New England at 66 (Feb. 2004).

¹⁷ See *New England Power Pool*, 104 FERC ¶ 61,204 at P 30 (2003).

confidential data may be used, then such data should be disclosed to parties that have executed a confidentiality agreement reflecting reasonable terms and conditions.

2. Commission Determination

36. With regard to the release of the data Hydro-Quebec Production and Distribution provided to ISO-NE for use in its deterministic analysis,¹⁸ we believe that in the 2006/2007 Power Year and thereafter parties should be able to reach agreement regarding the dissemination of non-confidential Hydro-Quebec load and capacity data through the stakeholder process. As a result, we find merit in NSTAR's argument that some Hydro-Quebec data used to develop Capacity Credits should be made publicly available. Therefore, we strongly encourage parties to utilize the stakeholder process to reach a resolution regarding this matter.

G. Conclusion

37. We find the proposed Capacity Credit values represents NEPOOL, ISO-NE and the stakeholders best effort to meet our mandate to collaboratively establish a methodology to develop future Capacity Credit values, and we will accept it for filing effective June 1, 2005, as discussed herein. However, if the parties are unable to agree on Capacity Credit values for the 2006/2007 Power Year, ISO-NE is directed to file supporting studies and details no later than October 1, 2005. Further, to the extent parties are able to agree on Capacity Credit values for the 2006/2007 Power, ISO-NE is directed to file the Capacity Credit values no later than December 30, 2005.

The Commission orders:

(A) The Hydro-Quebec Interconnection Capacity Credits values for the 2005/2006 Power Year are hereby accepted, effective June 1, 2005, as discussed in the body of this order.

¹⁸ Here, the confidential information transmitted by Hydro-Quebec Distribution to ISO-NE consists of monthly peak load demand (low, medium and high forecast); monthly firm energy purchases from the Northeast Power Coordinating Council control area; and demand response resources (interruptible loads) at monthly peak. *See* Attachment 2 Schedule A of the Confidentiality Agreement filed in Docket No. ER05-52-001.

(B) ISO-NE is directed to file Capacity Credit values for the 2006/2007 Power Year no later than December 30, 2005; to the extent that the parties are unable to agree on such values, ISO-NE is directed to file supporting studies and details for the 2006/2007 Power Year no later than October 1, 2005.

By the Commission.

(S E A L)

Linda Mitry,
Deputy Secretary.