

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

ISO New England, Inc.

Docket No. ER05-1086-002

ORDER CONDITIONALLY ACCEPTING COORDINATION AGREEMENT

(Issued November 23, 2005)

1. On September 26, 2005, ISO New England, Inc. (ISO-NE) filed a Coordination Agreement, with pricing schedules, between ISO-NE and New Brunswick System Operator, Inc. (New Brunswick). In this order, the Commission conditionally accepts the filing, subject to a future compliance filing.

**Background**

2. On June 7, 2005, as amended on June 10 and 29, 2005, ISO-NE submitted this Coordination Agreement between ISO-NE and New Brunswick along with revised tariff sheets for ISO-NE's Market Rule 1 (Revised Tariff Sheets).<sup>1</sup> The purpose of the Coordination Agreement is to provide a direct contractual relationship between ISO-NE and New Brunswick, a not-for profit, independent corporation whose primary responsibilities are to ensure the security and reliability of the bulk electric system and to develop and operate a competitive electric market in New Brunswick, Canada. Specifically, the Coordination Agreement includes provisions governing the interconnected operations of the respective transmission systems including reliability coordination, emergency assistance, outage planning and information sharing. In June, ISO-NE filed the Coordination Agreement for both informational purposes and pursuant to section 205 of the Federal Power Act (FPA);<sup>2</sup> it filed the two rate schedules contained as attachments to the Coordination Agreement (one for Emergency Energy Pricing and one for Security Energy Pricing) pursuant to section 205 of the FPA, while all terms and conditions of the Coordination Agreement were filed for informational purposes.

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<sup>1</sup> Docket Nos. ER05-1086-000 and ER05-1086-001.

<sup>2</sup> 16 U.S.C. § 824d (2000).

3. On August 25, 2005, the Commission accepted the Coordination Agreement subject to the condition that ISO-NE re-file the Coordination Agreement pursuant to section 205 of the FPA as a jurisdictional rate schedule.<sup>3</sup> The Commission requested the re-filing because the Coordination Agreement explains services and the terms and conditions of service that will be provided.

4. ISO-NE submitted the Coordination Agreement on September 26, 2005, pursuant to section 205 of the FPA and in response to the Commission's August 25 Order.

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

5. Notice of ISO-NE's September 26, 2005 filing was published in the *Federal Register*, 70 Fed. Reg. 58,397 (2005), with interventions and protests due on or before October 17, 2005. Calpine Corporation, Mirant Americas Energy Marketing, LP, Mirant New England, Inc., Mirant Kendall, LLC and Mirant Canal, LLC (collectively, Intervenor) filed a motion to intervene and protest. On November 1, 2005, ISO-NE filed an answer to the protest. On November 10, 2005, Intervenor filed an answer to ISO-NE's answer.

### **Discussion**

#### **A. Procedural Matters**

6. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,<sup>4</sup> the timely, unopposed motion to intervene filed by Intervenor serve to make them parties to this proceeding.

7. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure<sup>5</sup> prohibits an answer to a protest unless otherwise permitted by the decisional authority. We will accept ISO-NE's answer and Intervenor's answer because they have provided information that assisted us in our decision-making process.

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<sup>3</sup> *ISO-New England, Inc.*, Docket No. ER05-1086-000, *et al.* (August 25, 2005) (unpublished letter order) (August 25 Order).

<sup>4</sup> 18 C.F.R. § 385.214 (2005).

<sup>5</sup> 18 C.F.R. § 385.213(a)(2) (2005).

**B. Responsive Pleadings and Commission Determination**

8. In their protest, Intervenors expresses three concerns with the Coordination Agreement. First, they are concerned that the language in the Coordination Agreement does not make it clear that the mutual assistance each control area's loads agree to provide is limited to the installed capacity owned or under contract by the loads. Second, Intervenors are concerned that the duration of the emergency transactions under the agreement does not favor market-participant-initiated transactions. And third, Intervenors are concerned that US/Canada currency exchange risks have not been taken into account.

9. In its answer, ISO-NE argues that Intervenors' protest should be rejected. ISO-NE states that Intervenors failed to raise the protest issues during the stakeholder process. It states that the NEPOOL Reliability Committee approved the Coordination Agreement with a vote of 100 percent in favor, including the Sector representing entities such as Intervenors. It also states the Emergency and Energy pricing provisions were extensively vetted during NEPOOL Market Committee meetings and ultimately supported unanimously, and the implementing changes to Market Rule 1 were supported unanimously as well.<sup>6</sup> ISO-NE states that ultimately, the NEPOOL Participants Committee unanimously approved the Coordination Agreement and associated changes to the ISO-NE Operating Documents. Intervenors, in their answer to ISO-NE's answer, respond that due to a decision to consider part of the Coordination Agreement in the Markets Committee and part of the Coordination in the Reliability Committee, there was incomplete consideration of important market policy issues in the sub-committees and, ultimately, a less informed vote when the Coordination Agreement reached the NEPOOL Participants Committee.

10. ISO-NE goes on to state that Intervenors' arguments, even if found to have merit, do not warrant a change to the Coordination Agreement as filed. It argues that the protest to the Coordination Agreement is "effectively a section 206 complaint masquerading as a protest and should be rejected."<sup>7</sup> It explains that the protest seeks to change the way ISO-NE would administer the market rules and, as a result, it is an indirect attempt to have the Commission overturn existing provisions of ISO-NE's tariff.

11. The Commission, in its August 25 Order, accepted the Coordination Agreement, finding it just and reasonable. Although Intervenors had the opportunity to review the Coordination Agreement and pricing schedules filed by ISO-NE in Docket Nos.

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<sup>6</sup> We note that there was one abstention to the pricing provisions and there were three abstentions to the Market Rule 1 changes.

<sup>7</sup> ISO-NE Answer at 8.

ER05-1086-000 and ER05-1086-001, both in the stakeholder process and when they were filed with the Commission, Intervenors failed to respond to the initial filing or raise the issues they raise here. Nevertheless, as discussed below, we will respond to Intervenors' belated concerns.

### 1. Capacity Subject to Mutual Assistance

12. Intervenors argue that the Coordination Agreement could obligate de-listed resources – *i.e.*, non-Installed Capacity Resources – to provide energy to support New Brunswick load, a result that is contrary to ISO-NE's market rules.<sup>8</sup> Intervenors seek to amend the Coordination Agreement to clarify that ISO-NE does not propose to obligate generators to provide assistance for the benefit of New Brunswick load from ISO-NE's de-listed capacity absent a commercial purchase of that capacity. Intervenors state that, in the event the Commission does not direct the requested revisions, the Commission should amend the Coordination Agreement to require ISO-NE to inform New Brunswick that any Emergency Energy transaction that relies on de-listed capability can be recalled at any time.

13. ISO-NE argues in response that Intervenors misunderstand how Market Rule 1 and the applicable provisions of the Coordination Agreement operate. Specifically, ISO-NE explains that Intervenors' concern that section III.4.3(b) of Market Rule 1 and the Coordination Agreement override existing commercial arrangements by de-listed resources to sell internally generated power to satisfy the emergency needs of another control area is misplaced because any sales of energy to a neighboring control area are governed solely by normal market operations and the applicable Market Rule 1 provisions and it is only Emergency Energy Transaction purchases that section III.4.3(b) addresses.

14. Upon review, we are not persuaded by Intervenors' argument that the Coordination Agreement is not clear that the mutual assistance each control area's loads agree to provide is limited to the installed capacity owned or under contract by the loads.

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<sup>8</sup> Intervenors point to section III.4.3(b) of ISO-NE's Market Rule 1, which states in part that the pricing for Emergency energy and New Brunswick Security energy purchases and sales will be determined with: "arrangements made by the ISO with Market Participants, in accordance with procedures defined in the ISO New England Manuals, to purchase Emergency energy offered by such Market Participant from Resources that are not ICAP Resources. The ISO shall select offers to sell Emergency Energy made by Market Participants to the ISO on a least cost basis and the selected Market Participants shall receive payment for energy delivered at the higher of their offer price or the Real-Time Price at the applicable External Node. Such Emergency energy purchases from Market Participants shall not be eligible to set Real-Time Prices."

As ISO-NE explains, sales of energy to a neighboring control area are governed solely by normal market operations and the applicable Market Rule 1 provisions; it is only market participant Emergency Energy Transaction purchases that section III.4.3(b) addresses and does not require de-listed resources to provide energy to support New Brunswick's load. There is no need, therefore, to insert additional tariff language to buttress the provisions of Market Rule 1.

## **2. Duration of Transactions**

15. Intervenors argue that if the duration of the transactions between ISO-NE and New Brunswick are not limited appropriately, Emergency Energy and Security Energy transactions between ISO-NE and New Brunswick will be favored over market-participant-initiated transactions. Intervenors note that Attachment A to Schedule C of the Coordination Agreement explains that Emergency Energy transactions between ISO-NE and New Brunswick will be made in support of emergency reliability conditions presented by "inadequate energy on its system that could not be supplied by the market..."<sup>9</sup> Intervenors also note that the pricing provisions in the Coordination Agreement provide the New Brunswick Control Area with a purchase price equal to 110 percent of the Locational Marginal Price at the external node.<sup>10</sup> Intervenors express concern that this price could be below the price of commercially-available energy from market participants and there would be a disincentive for New Brunswick to buy from any entity other than ISO-NE, not because such energy could not be supplied by the market, but because ISO-NE offered an unjustified discount of the market price. Intervenors propose alternative language to the Coordination Agreement to limit the transaction period until the time when these energy supplies can be replaced with market-participant-initiated transactions.

16. In its answer, ISO-NE states that Intervenors' pricing concern is based on an incorrect premise. It states that the apparent focus of their concern is on sales of Emergency Energy because they state that there is a disincentive for New Brunswick to buy from anyone other than the ISO. ISO-NE explains that a Balancing Authority Operator, such as New Brunswick, cannot purchase energy directly from a resource

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<sup>9</sup> Intervenors' Protest at 8.

<sup>10</sup> The external node is a proxy bus used for establishing a Locational Marginal Price for energy received by market participants from, or delivered by market participants to, a neighboring control area or for establishing Locational Marginal Prices associated with energy delivered through the New England Control Area by Non-Market Participants for use in calculating Non-Market Participant Congestion Costs and loss costs. The Coordination Agreement explains that Keswick 345 will be the external node to be used in the delivery of Emergency Energy.

internal to New England and that the exchange of market-based energy between ISO-NE and New Brunswick can only occur via external transactions submitted by participants on both sides of the border. ISO-NE goes on to state that the rules in New Brunswick with respect to how it may request Emergency Energy and how it determines when to schedule its market-participant transactions is not the subject of the Coordination Agreement nor is it referenced in ISO-NE's Market Rules. ISO-NE further states that because Emergency Energy is priced with a 10 percent adder over and above market-based prices, it provides encouragement for the market participants to engage in and rely upon market-participant supplied energy rather than on Emergency Energy supplied from one control area to another.

17. Upon review, we find that Intervenors' concern that the duration of the transactions between the ISO-NE and New Brunswick control areas does not favor market-participant-initiated transactions is also based on a misunderstanding of the transaction process between the ISO-NE and New Brunswick control areas. As ISO-NE explains, New Brunswick cannot purchase energy directly from an internal New England resource, but rather the exchange of market-based energy between ISO-NE and New Brunswick can only occur through external transactions submitted by participants in both control areas. Further, the Coordination Agreement is not intended to address the method by which New Brunswick requests Emergency Energy or how New Brunswick schedules its market-participant transactions. Finally, the purpose of the pricing scheme explained in the Coordination Agreement is to create an incentive for market participants to rely on market-participant transactions, not transactions between control areas.

### **3. US/Canada Currency Exchange**

18. Intervenors argue that ISO-NE has overlooked important commercial implications of the currency exchange risk that remains in the billing language in the Coordination Agreement. Intervenors note that the Coordination Agreement does not mention currency risk or any procedures to avoid exposing ISO-NE market participants to risk that the exchange rate from Canadian dollars changes between the incurrence of the costs for purchases from New Brunswick and the ultimate payment of these costs. Currently, under the Coordination Agreement, the parties convert Canadian dollars to US dollars in preparing each invoice according to the exchange rate on the last banking day of the month in which the transaction for Emergency or Security Energy took place. Intervenors propose to amend the Coordination Agreement to convert Canadian dollars to US dollars for invoicing purposes according to the exchange rate on the day of the transaction.

19. The Commission is not persuaded by Intervenors' comments regarding possible risk in billing based on the currency exchange rate in effect on the last banking day of the month. We find that it would place an undue administrative burden on ISO-NE to be

required to calculate the exchange rate for every day transactions for Emergency or Security Energy occurs. The exchange rate risk the Intervenor describe is minimal and insufficient to justify placing an additional administrative burden on ISO-NE.

**4. Compliance with Order No. 614**

20. Last, although we are accepting ISO-NE's filing, we will require ISO-NE to make a compliance filing correctly paginating the Coordination Agreement and attached pricing schedules in compliance with Order No. 614.<sup>11</sup> ISO-NE is directed to re-file the Coordination Agreement (as well as the attachments and pricing schedules) in compliance with Order No. 614, within 30 days of the date of this order.

The Commission orders:

ISO-NE's Coordination Agreement is hereby accepted for filing, subject to the compliance filing ordered herein, as discussed in the body of this order.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.

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<sup>11</sup> See *Designation of Electric Rate Schedule Sheets*, Order No. 614, FERC Stats. & Regs. ¶ 31,096 (2002).