

120 FERC ¶ 61,190  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
Philip D. Moeller, and Jon Wellinghoff.

ISO New England, Inc.

Docket No. ER07-1101-000

ORDER ACCEPTING TARIFF REVISION

(Issued August 28, 2007)

1. In this order, the Commission accepts a limited revision to the ISO New England, Inc. (ISO-NE) Forward Capacity Market (FCM) Market Rules. Specifically, the revision extends the stakeholder process for considering whether to change the treatment of de-list bids rejected for reliability reasons in the FCM.

**I. Background**

**A. Treatment of Bids Rejected for Reliability Reasons**

2. Under the FCM Market Rules accepted by the Commission on April 16, 2007,<sup>1</sup> each existing capacity resource in ISO-NE has the option of submitting a de-list bid, at which price the resource would not offer capacity into the FCM. The FCM Market Rules dictate that all de-list bids be subject to a reliability determination by ISO-NE.<sup>2</sup> If the resource wishing to de-list is deemed necessary by ISO-NE to avoid violating reliability standards, and no suitable alternative can be procured by ISO-NE,<sup>3</sup> the resource will not be allowed to de-list and will be forced to offer capacity at a “just and reasonable rate, as determined by the Commission.”<sup>4</sup>

---

<sup>1</sup> *ISO New England, Inc.*, 119 FERC ¶ 61,045 (2007) (April 16 Order).

<sup>2</sup> See section III.13.2.5.2.5 of ISO-NE’s Transmission, Markets, and Services Tariff (ISO-NE Tariff).

<sup>3</sup> ISO-NE may attempt to solve the reliability issue related to the de-list bid through reconfiguration auctions or other reasonable means, such as transmission enhancements. See section III.13.2.5.2.5(d) of the ISO-NE Tariff.

<sup>4</sup> Section III.3.2.5.2.5(c).

**B. Alternative Capacity Price Rule**

3. In the April 16 Order, the Commission also accepted the Alternative Capacity Price Rule, which alters the market clearing price for capacity when certain conditions are met.<sup>5</sup> One of the specific conditions states that if the amount of “Out-of-Market Capacity” exceeds the amount of new capacity required for a capacity zone at the clearing price, the clearing price will be adjusted according to the Alternative Capacity Price Rule provision.<sup>6</sup> “Out-of-Market Capacity” is the sum of various capacity amounts specified in the FCM Market Rules,<sup>7</sup> and does not include the capacity amount related to resources whose de-list bids have been rejected for reliability reasons.

**C. Section III.13.2.5.2.5(f) of the FCM Market Rules**

4. The FCM Market Rules accepted by the Commission in the April 16 Order contained a provision requiring ISO-NE, the NEPOOL stakeholders, and the state utility regulatory agencies to evaluate the FCM Market Rules’ treatment of bids rejected for reliability reasons.<sup>8</sup> This provision also required an investigation by ISO-NE into the application of the Alternative Price Capacity Rule in Forward Capacity Auctions affected by de-list bids rejected for reliability reasons. Section III.13.2.5.2.5(f) of the FCM Market Rules states (emphasis added):

Beginning in April 2007, the ISO will evaluate, in consultation with [New England Power Pool (NEPOOL)] stakeholders and state utility regulatory agencies, whether to modify the treatment of de-list bids rejected for reliability reasons pursuant to this section, including but not limited to *an evaluation of the application of the Alternative Capacity Price Rule, or similar mechanism, to [Forward Capacity Auctions] affected by de-list bids rejected for reliability reasons*. Pursuant to section 205 of the Federal Power Act, the ISO will file with FERC on or before June 30, 2007 either: (i) *any potential rule changes relating to the treatment of de-list bids rejected for reliability reasons* or (ii) its recommendation not to institute any rule changes and to delete this subsection (f).

---

<sup>5</sup> Under the Alternative Price Rule, the clearing price in a capacity zone is set at \$0.01 below the price at which the last remaining new capacity resource (located in that capacity zone) withdrew from the Forward Capacity Auction or cost of new entry, if several conditions are met. *See* section III.13.2.7.8 of the ISO-NE Tariff.

<sup>6</sup> Section III.13.2.7.8(c).

<sup>7</sup> *Id.*

<sup>8</sup> Section III.13.2.5.2.5(f).

#### **D. The Instant Filing**

5. On June 29, 2007, ISO-NE and the NEPOOL Participants Committee submitted a request to revise section III.13.2.5.2.5(f) of the FCM Market Rules to extend the stakeholder process for considering whether to change the treatment of de-list bids rejected for reliability reasons, and if so, in what manner. Specifically, ISO-NE seeks to change the date by which it will file either its rule changes relating to the treatment of de-list bids rejected for reliability reasons or its recommendation to not institute any rule changes from June 30, 2007 to May 15, 2008.

6. ISO-NE states that it has been in discussions with NEPOOL stakeholders and state regulatory agencies since April 2007 regarding the application of the Alternative Capacity Price Rule in Forward Capacity Auctions affected by de-list bids rejected for reliability reasons. According to ISO-NE, numerous arguments for and against changing the treatment of de-list bids rejected for reliability reasons were raised, as well as various implementation issues including whether or not to include capacity related to de-list bids rejected for reliability reasons as “Out-of-Market Capacity” in determining the applicability of the Alternative Capacity Price Rule. ISO-NE states that despite multiple discussions, a consensus on the issue was never reached. ISO-NE, the NEPOOL stakeholders, and the state utility regulatory agencies unanimously decided to submit the instant filing requesting an extension of the stakeholder process pertaining to the treatment of de-list bids rejected for reliability reasons. ISO-NE states that the proposed revision will allow all parties to understand and properly address this complex issue, and will allow discussion on the topic to be informed by the experience gained in conducting the first Forward Capacity Auction.<sup>9</sup>

## **II. Discussion**

### **A. Procedural Matters**

7. Notice of the ISO-NE’s filing was published in the *Federal Register*,<sup>10</sup> with interventions, comments or protests due on or before July 20, 2007. No protests or

---

<sup>9</sup> The first Forward Capacity Auction is scheduled for February 2008.

<sup>10</sup> 72 Fed. Reg. 39399 (2007).

comments were filed. Timely motions to intervene were filed by Northeast Utilities Service Company on behalf of the Northeast Utilities Companies,<sup>11</sup> the NRG Companies,<sup>12</sup> and the Connecticut Department of Public Utility Control.

8. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.214 (2007)), the notices of intervention and the timely-filed unopposed motions to intervene serve to make the entities filing them parties to this proceeding.

**B. Analysis**

9. The Commission will accept ISO-NE's proposed revision to the FCM Market Rules to allow ISO-NE, the NEPOOL stakeholders, and the state commissions until May 15, 2008 to either propose changes to the FCM Market Rules relating to the treatment of de-list bids rejected for reliability reasons, or to recommend that no such changes are necessary.

10. The Commission agrees with ISO-NE that it is important for all parties involved in the discussions to fully understand and properly address this issue. The treatment of de-list bids rejected for reliability – including the applicability of the Alternative Capacity Price Rule in auctions affected by de-list bids rejected for reliability reasons – has potentially far-reaching effects on the New England FCM. The additional time provided by ISO-NE's proposed FCM Market Rules revision will ensure that all parties will have ample time and opportunity, as well as the clarity provided by the results of the first Forward Capacity Auction, to discover if it is necessary to change the FCM Market Rules' treatment of de-list bids rejected for reliability reasons, and if so, in what manner.

11. The Commission notes, however, that it is imperative that ISO-NE, the NEPOOL stakeholders, and the state utility regulatory agencies recognize the importance of this issue in future discussions and work toward a reasonable proposal. The April 16 Order noted the contentiousness and importance of this issue.<sup>13</sup> Specifically, it is essential to market certainty to know the effect of such a resource's rejected de-list bid on the market clearing price.

---

<sup>11</sup> The Northeast Utilities Companies consist of Connecticut Light and Power Company, Western Massachusetts Electric Company, and Public Service Company of New Hampshire.

<sup>12</sup> The NRG Companies consist of NRG Power Marketing, Inc., Connecticut Jet Power LLC, Devon Power LLC, Middletown Power LLC, Montville Power LLC, Norwalk Power LLC, and Somerset Power LLC.

<sup>13</sup> See April 16 Order at P 73.

12. By granting the May 15, 2008 date, the Commission is providing parties with enough time after the first Forward Capacity Auction to fully analyze all information regarding de-list bids rejected for reliability reasons. The May 15, 2008 date also provides ISO-NE with enough time to file any potential changes to the FCM Market Rules' treatment of de-list bids rejected for reliability reasons and to implement those changes accepted by the Commission in time for the second Forward Capacity Auction. This will provide market participants in the second Forward Capacity Auction with market certainty regarding capacity clearing prices if a de-list bid is rejected for reliability reasons. It is therefore critical that ISO-NE meet the May 15, 2008 deadline.

The Commission orders:

ISO-NE's filing is hereby accepted, as discussed in the body of this order.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.