

123 FERC ¶ 61,196
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. and New England
Power Pool Participants Committee

Docket No. ER08-696-000

ORDER ACCEPTING
PROPOSED INSTALLED CAPACITY REQUIREMENTS
FOR 2008/2009 CAPABILITY YEAR

(Issued May 22, 2008)

1. On March 21, 2008, ISO New England Inc. (ISO-NE) and the New England Power Pool (NEPOOL) Participants Committee (together, the Filing Parties) jointly submitted for filing ISO-NE's Installed Capacity Requirements (ICR) for the 2008/2009 Capability Year¹ pursuant to the settlement agreement establishing the Forward Capacity Market (FCM Settlement Agreement)² and section 205 of the Federal Power Act (FPA).³ In this order, we accept ISO-NE's ICRs, effective June 1, 2008, the start of the 2008/2009 Capability Year.

I. Background

2. For more than twenty years, ISO-NE has imposed ICRs on its members in order to maintain adequate system reliability. On April 20, 1998, ISO-NE began operating an installed capacity (ICAP) market through which it required load serving entities (LSE) to procure a specified amount of ICAP each month based on each particular LSE's

¹ ISO-NE's 2008/2009 Capability Year runs from June 1, 2008 through May 31, 2009.

² *Devon Power, LLC*, 115 FERC ¶ 61,340, *order on reh'g and clarification*, 117 FERC ¶ 61,133 (2006) (FCM Settlement Agreement).

³ 16 U.S.C. § 824d (2000).

projected peak demand and a required reserve margin. The ICAP is used to determine the monthly unforced capacity (UCAP) requirements (with various adjustments) that each market participant must provide.

3. The ICRs are ISO-NE's projected measures of the capacity (i.e., generation, imports, and demand resources) necessary to satisfy the New England control area's total forecasted load requirements and to maintain sufficient reserve capacity to meet reliability standards. Specifically, the ICRs are the minimum amount of capacity needed to meet the reliability requirements defined for the New England control area of disconnecting non-interruptible customers (a loss of load expectation or LOLE) no more than one day in ten years (i.e., an LOLE of 0.1 day per year). Under sections III.8.1 and III.12.9 of Market Rule 1 (Annual Installed Capacity Requirement), ISO-NE calculates the ICRs each Capability Year and must file the ICRs with the Commission under section 205 of the FPA.

4. On June 16, 2006, the Commission approved a settlement agreement establishing the Forward Capacity Market in New England.⁴ The FCM Settlement Agreement provides a transition period (beginning December 1, 2006, and ending May 31, 2010) during which fixed payments will be made to all ICAP resources based on their monthly UCAP ratings. The 2008/2009 ICR values will not be used for establishing the amount of ICAP to be purchased, as was the case in prior years. Instead, during the transition period, the ICR values will be used to calculate the annual and monthly ICAP reserve margins for use in determining the UCAP ratings of demand resources, Other Demand Resources, and the New York Power Authority contracts, in order to inform stakeholders regarding the status of New England's resource adequacy for the 2008/2009 Capability Year.

II. The Filing

5. The Filing Parties state that the proposed 2008/2009 Capability Year ICRs were developed using essentially the same methodology and process used by NEPOOL for more than twenty years prior to the beginning of regional transmission organization (RTO) arrangements in New England and by the ISO-NE to develop ICR values since the 2005/2006 Capability Year.⁵ Specifically, the Filing Parties state that the ICRs for the

⁴ *Devon Power LLC*, 115 FERC ¶ 61,340, *order on reh'g and clarification*, 117 FERC ¶ 61,133 (2006).

⁵ Filing at 4-5. The Filing Parties note that the same methodology and process were also used for developing the Commission-accepted ICR values for the 2010/2011 Capability Year, reflecting the amount of capacity procured in the first Forward Capacity
(continued)

2008/2009 Capability Year were determined using well established modeling assumptions regarding a variety of factors, including forecast load, unit availability, and tie reliability benefits. They state that ISO-NE's and NEPOOL's stakeholder process resulted in consensus agreement regarding the assumptions and modeling methods used to establish the proposed ICRs.

6. The Filing Parties state that the forecasted loads of the entire New England Control Area for the 2008/2009 Capability Year are used to develop the corresponding ICRs detailed in the filing. The Filing Parties also state that the ICR calculation methodology takes into consideration all possible peak loads represented by weekly distributions.⁶ The Filing Parties further state that the increase in peak loads reflects the normal economic/demographic growth and that such growth was higher than expected last year.

7. Additionally, the Filing Parties state that the proposed 2008/2009 ICRs reflect assumptions regarding various forms of capacity resources. Specifically, the Filing Parties state that demand response resources totaling 1,653 MW were modeled in the ICRs calculation, including resources that provide real-time peak load relief when ISO-NE implements Operating Procedure 4 (Actions during a Capacity Deficiency), and 167 MW of demand resources that are primarily energy efficiency programs. The Filing Parties also state that generator unit modeling reflects projected scheduled maintenance and forced outages. They state that unit availability was measured based upon historical performance over the prior five-year period or the North American Electric Reliability Corporation's average data for the same class of unit.

8. The Filing Parties state that tie benefits from neighboring control areas reduce ICRs and the need to buy capacity within New England, because the tie benefits from neighboring control areas reflect the amount of emergency assistance that New England could rely on, without jeopardizing reliability in New England or its neighboring control areas, in the event of a capacity shortage in New England. They state that the amount of tie benefits used in calculating the 2008/2009 ICRs was 2,000 MW at annual peak, based on the 2003 Tie Benefits Study and the most recent Northeast Power Coordinating Council's resource adequacy assessment.⁷ The 2,000 MW tie benefits assumption, they

Auction, adjusted due to the requirement under the FCM to project ICRs three years in advance. *Id.* at 5 (citing *ISO New England Inc.*, 121 FERC ¶ 61,250 (2007)).

⁶ *Id.* at 7-8.

⁷ *Id.* at 9.

explain, consists of 1,200 MW from the Hydro Québec Interconnection Capability Credits (HQICC), 600 MW of tie benefits from the New York ties, and 200 MW from the New Brunswick tie.⁸ Further, the Filing Parties note that the FCM Settlement Agreement fixes the HQICCs during the transition period at 1,200 MW for March through November and zero MW for December through February.

9. The Filing Parties state that, as in previous years, the NEPOOL Power Supply Planning Committee forwarded the proposed ICR values to the Reliability Committee for consideration, where the Reliability Committee voted unanimously (with two abstentions) to recommend that the Participants Committee support the proposed 2008/2009 Capability Year values. At the March 7, 2008 Participants Committee meeting, the Committee voted 94.21 percent in support of the 2008/2009 Power Year ICRs.

10. ISO-NE requests an effective date and Commission order prior to June 1, 2008, the commencement of the 2008/2009 Capability Year.

III. Notice of Filing and Responsive Pleadings

11. Notice of ISO-NE's filing was published in the *Federal Register*, 73 Fed. Reg. 17,963 (2008), with interventions and protests due on or before April 11, 2008. Timely motions to intervene were filed by the Northeast Utilities Companies⁹ and the PSEG Power Companies. The Connecticut Department of Public Utility Control (CT DPUC) filed a notice of intervention and protest.

12. CT DPUC protests ISO-NE's proposed ICRs for the 2008/2009 Capability Year "on the same jurisdictional grounds that the CT DPUC has raised in many previous proceedings."¹⁰ CT DPUC contends that the Commission has no valid basis for asserting

⁸ *Id.* at 9; *see also id.* at 10-11. The Filing Parties note that the annual ICR filing does not set any or allocate any ICAP credit rights for interties; however, they state that the HQICC values represent capacity credits that are allocated to Interconnection rights Holders, which are entities that hold certain rights over the high-voltage, direct current transmission line that connects Québec to the New England region. *Id.* at 11.

⁹ The Northeast Utilities Companies include Connecticut Light and Power Company, Western Massachusetts Electric Company, and Public Service Company of New Hampshire.

¹⁰ CT DPUC Protest at 2.

its jurisdiction over ICR and this ICR filing is beyond the Commission's authority to approve.

IV. Discussion

A. Procedural Matters

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

B. Commission Determination

14. The ICR annual calculation is a regional process that has been used for twenty-five years to satisfy the New England control area's total forecasted load requirements and to maintain sufficient reserve capacity to meet reliability standards. The ICR calculation takes into consideration current reliability rules, expected load conditions, assumptions regarding various forms of capacity resources, and tie benefits from neighboring control areas. Since ISO-NE became independent, a thorough stakeholder process was conducted with respect to the currently proposed ICRs by ISO-NE and NEPOOL, which resulted in consensus agreement regarding the assumptions and modeling methods. This process concluded with a sector vote of 94.21 percent of the Participants Committee in favor of the proposed ICRs. Based on our review of the instant filing, we concur with the Filing Parties that the proposed ICRs for 2008/2009 Capability Year are reasonable and consistent with the FCM Settlement Agreement. Accordingly, we will accept the ICRs for filing, to become effective June 1, 2008, as requested.

15. With respect to CT DPUC's position that the Commission exceeded its jurisdiction, the Commission previously has explained and here maintains that it has jurisdiction over the ICR because it is a component of jurisdictional wholesale rates.¹¹

¹¹ CT DPUC presented a similar objection to the Commission's jurisdiction, which the Commission addressed and which discussion we adopt in this proceeding, in *ISO New England Inc.*, 111 FERC ¶ 61,185 (2005), *reh'g denied*, 112 FERC ¶ 61,254 (2005), *remanded sub nom. Conn. Dep't of Pub. Util. Control v. FERC*, No. 05-1411 (D.C. Cir. Apr. 20, 2007), *order on remand, ISO New England Inc.*, 122 FERC ¶ 61,144 (2008); *see also Maine Pub. Util. Comm'n v. FERC*, No. 06-1403, Slip Op. at 26-28 (D.C. Cir. Mar. 28, 2008) (affirming Commission jurisdiction over FCM).

The Commission orders:

The Commission hereby accepts ISO-NE's ICRs for filing effective June 1, 2008, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.