

125 FERC ¶ 61,324  
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

Docket No. ER08-1209-000

ORDER GRANTING CLARIFICATION

(Issued December 18, 2008)

1. In this order, the Commission grants clarification that ISO New England Inc. (ISO-NE) may file a tariff provision regarding stakeholder review of generator retirements as changes to the New England Power Pool (NEPOOL) Participants Agreement, rather than as changes to the ISO-NE tariff.

**I. Background**

2. On October 28, 2008, the Commission issued an order accepting tariff revisions filed by ISO-NE and the NEPOOL Participants Committee.<sup>1</sup> In that order, the Commission addressed the need to review, for reliability purposes, applications by generators to retire. The Commission stated:

[C]urrently section I.3.9 of the tariff provides for the reliability review of proposed plans submitted to ISO-NE. . . . Section I.3.10 provides . . . that, if the project involves the retirement of a resource, . . . further procedural steps by ISO-

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<sup>1</sup> *ISO New England Inc. and New England Power Pool*, 125 FERC ¶ 61,102 (2008) (October 28 Order).

NE and the resource are required to resolve any adverse effect and ultimately retire the facility.<sup>2</sup>

3. The Commission was concerned that "ISO-NE and NEPOOL propose to eliminate tariff language regarding NEPOOL reliability review of proposed plans for a reduction in capacity and retirement from sections I.3.9 and I.3.10 of the [ISO-NE] tariff."<sup>3</sup> We noted that a protester, NSTAR, sought to retain the review by the NEPOOL Reliability Committee of retirements, on the basis that:

ISO-NE's proposal to employ the reliability review process under the [Forward Capacity Market] does not capture the transparent basis upon which generator reduction and retirement applications should be reviewed, and that ISO-NE would be the exclusive judge of whether a unit may permanently retire. NSTAR contends that the present stakeholder consultation is important in order to guard against the potential use of the [retirement] process by any individual generating resource owner to exercise market power.<sup>4</sup>

4. The Commission agreed, and found that

The Commission supports continued stakeholder review of reliability determinations as they relate to resource capacity reductions or retirements. . . . We agree with NSTAR that ISO-NE's commitment to "consult" with transmission owners and other NEPOOL members during its review of reliability determinations in an as-yet-undetermined manner is insufficient . . . . We will therefore require ISO-NE, within 180 days of the date of this order, to refile its revisions to sections I.3.9, I.3.10 and new I.3.11, as necessary, to set forth the procedure for consulting with NEPOOL members through

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<sup>2</sup> October 28 Order, 125 FERC ¶ 61,102 at P 98.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.* P 99.

the Reliability Committee or otherwise regarding resource capacity reductions or retirements.<sup>5</sup>

5. On November 28, 2008, ISO-NE filed a motion for clarification of the October 28 Order with regard to this directive. It states that the requirements governing stakeholder review of proposed generator retirements are, in fact, not in Section I.3.9 of the tariff, but rather, are in Section 8 of the NEPOOL Participants Agreement. ISO-NE states that, in order to comply with the Commission's order to ensure stakeholder consultation, it intends to set forth the procedure for that consultation in a revision to Section 8 of the NEPOOL Participants Agreement. ISO-NE seeks clarification that this action would comply with the Commission's order.

6. ISO-NE also asks that the Commission issue this clarification within 20 days of its motion for clarification, so that ISO-NE may move the proposed changes through the necessary approval process and meet the date directed by the Commission for its compliance filing.

## **II. Discussion**

7. The Commission grants ISO-NE's request for clarification. The NEPOOL Participants Agreement is also filed with and approved by the Commission, and making the Commission's required changes to that document, rather than to the ISO-NE tariff, complies with our directive to ensure stakeholder consultation with regard to generator retirements.

### The Commission orders:

The clarification requested by ISO-NE is granted, as discussed above.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>5</sup> *Id.* P 103-104.