

129 FERC ¶ 61,070
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

October 26, 2009

In Reply Refer To:
ISO New England Inc.
Docket No. RT04-2-017

Mr. Raymond W. Hepper
Vice President and General Counsel
ISO New England Inc.
One Sullivan Road
Holyoke, MA 01040-2841

Dear Mr. Hepper:

1. In this order, the Commission approves the attached Audit Report (Report) prepared by the Division of Audits in the Office of Enforcement (OE). The Report contains staff's findings and recommendations with respect to ISO New England, Inc.'s (ISO-NE) compliance with the Commission's independence requirements for a Regional Transmission Organization (RTO). The audit determined that ISO-NE's decision making process was independent of control by any market participant or class of participants, as required by 18 C.F.R. § 35.34(j)(1)(ii). As explained below, the audit also recommended that ISO-NE make five process improvements, to which ISO-NE has agreed.

2. The proceeding in Docket No. RT04-2-017 began when ISO-NE filed a motion on October 3, 2007, for limited waiver of the Commission's requirement that all RTOs have an independence audit of the RTO's decision making process performed within two years after its approval as an RTO.¹ On October 30, 2007, the Commission issued an order denying ISO-NE's motion for limited waiver of audit requirements and finding that the ISO-NE must have an independence audit.² On January 30, 2008, ISO-NE filed an "Independent Accountants' Report on Applying the Agreed-Upon Procedures" to comply with the Commission's October 30 Order. On January 5, 2009, the Director, Division of Tariffs & Market Development – East, issued a deficiency letter to ISO-NE advising it that its compliance filing was deficient and requiring that it be supplemented to

¹ 18 C.F.R. § 35.34(j)(1)(iv)(A)(2) (2009).

² *ISO New England Inc.*, 121 FERC ¶ 61,109 (2007) (October 30th Order).

enable the Commission to evaluate ISO-NE's independence pursuant to 18 C.F.R. § 35.34(j)(1)(iv)(A) of the Commission's regulations. On February 9, 2009, OE issued a letter advising ISO-NE that it was commencing an audit to evaluate ISO-NE's independence pursuant to 18 C.F.R. § 35.34(j)(1). OE explained that since the independence issues raised by the deficiency letter were related to the issues being examined in the audit, the requirement that ISO-NE file a response to the deficiency letter would be held in abeyance pending the outcome of the audit.

3. During the audit, OE staff issued data requests, conducted analyses, performed site visits, and held meetings and interviews with ISO-NE's officials and staff. On August 19, 2009, after the audit fieldwork was completed, OE staff sent ISO-NE a draft audit report, and asked ISO-NE to respond to the audit findings and recommendations.

4. The draft audit report did not find any instance of non-compliance with the Commission's independence requirements, or with ISO-NE's own independence compliance procedures. The audit also obtained satisfactory responses to the independence concerns cited in the January 5, 2009 deficiency letter. Audit staff did, however, find five areas where process improvements would help ensure that the Commission's independence requirements will be complied with in the future and made five recommendations for process improvements to accomplish this objective. In an August 28, 2009 response, ISO-NE stated that it agreed with draft audit report recommendations. ISO-NE's response outlined the steps it would take to address the recommendations in the draft audit report and when it expected to be able to complete them.

5. OE staff finalized the Report on September 25, 2009. The five recommendations for process improvements contained in the Report were that ISO-NE should: (1) review and revise as necessary the language in the Code of Conduct on prohibition of accepting gifts; (2) review and revise as necessary the policy on Code of Conduct training, specifically for ISO-NE Board members; (3) review and revise as necessary the annual certification forms in order to foster full disclosure by ISO-NE employees of any and all business and financial relationships with market participants; (4) develop better controls for ISO-NE compliance staff review of annual certifications; and (5) review NEPOOL Participant Technical Committee By-Laws to ensure that ISO-NE's By-Laws are consistent with changes in ISO-NE operations.

6. ISO-NE's August 28, 2009 response to the draft audit report proposed completing its implementation of recommendation (5) by the end of 2009, recommendations (1), (3), and (4) by the first half of 2010, and recommendation (2) by the third quarter of 2010.

7. ISO-NE has begun to implement the recommended actions. The recommendations in the Report are intended to assure that ISO-NE's future operations comply with the Commission's independence requirements for a RTO. The Commission is encouraged that ISO-NE has agreed to implement audit staff's recommended process improvements. This will ensure controls are strengthened on a going-forward basis. The Commission expects ISO-NE to comply with all of the recommended actions in the Report, and we direct OE staff to report to the Commission any failure of ISO-NE to comply.

8. The attached Report is approved in its entirety without modification. ISO-NE is hereby directed to implement the corrective actions recommended in the Report. ISO-NE is directed to submit a status report outlining the steps it will take to implement the recommendations in the Report within 30 days of the issuance of this order. ISO-NE must make non-public quarterly submissions to OE detailing its progress in implementing the recommendations until all corrective actions are completed. The submissions must be made no later than 30 days after the end of each calendar quarter, beginning with the first quarter after the submission of the compliance plan and continuing until ISO-NE completes all the recommended corrective actions. Docket No. RT04-2-017 is hereby terminated.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Federal Energy Regulatory Commission



Audit of the Independence of
ISO New England Inc. Pursuant
to the Requirements of 18
C.F.R. section 35.34(j)(1)

Docket No. RT04-2-017
September 25, 2009

Office of Enforcement
Division of Audits

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I. Executive Summary

A. Overview

The Division of Audits (DA) within the Office of Enforcement (OE) has completed an audit of ISO New England Inc. (ISO-NE). The objective was to determine whether ISO-NE was in compliance with the Commission's independence requirements for a Regional Transmission Organization (RTO); specifically, to determine whether ISO-NE's decision making process is independent of control by any market participant or class of participants, as was required under 18 C.F.R. section 35.34(j)(1)(ii).

B. ISO New England Inc.

ISO-NE was created in 1997 in the wake of Orders Nos. 888 and 889 to foster non-discriminatory access to the transmission system in New England. In May 1999, ISO-NE began managing restructured wholesale power markets. In February 2005, the Commission designated ISO-NE as the RTO for the New England electric market. As the RTO for New England, ISO-NE focuses on four primary responsibilities:

- Minute-to-minute reliable operation of New England's bulk power system.
- Oversight of New England's transmission assets.
- Administration of New England's wholesale electricity marketplace.
- Management of a comprehensive bulk electric power system and wholesale markets' planning process.

ISO-NE governance is described in a number of core documents, including the Certificate of Incorporation, Bylaws of ISO New England Inc., a Code of Conduct, and a number of Charters for the Board of Directors and its committees.¹ All business and affairs of ISO-NE are managed under the direction of its Board of Directors (Board). The Board has ten members, including a chairman and vice chairman.

Board members are required to annually certify that they have no prohibited financial or business interests in any ISO-NE market participants, and are subject to the requirements in the ISO-NE Code of Conduct. Officers and employees of ISO-NE are subject to the same independence requirements as are Board members.

¹ These core documents are available on the ISO-NE website. *See*: http://www.iso-ne.com/aboutiso/corp_gov/index.html.

C. Audit of Independence

As an RTO, ISO-NE is required under 18 C.F.R. section 35.34(j)(1) to provide a compliance audit of its independence. Requirements for this compliance audit include:

- The compliance audit must demonstrate that the RTO has a decision making process that is independent of control by any market participant or class of participants. (18 C.F.R. section 35.34(j)(1)(ii))
- For an RTO, such as ISO-NE, in which market participants have a role in the RTO's decision making process but do not have an ownership interest, the compliance audit is to be performed two years after approval of the RTO. (18 C.F.R. section 35.34(j)(1)(iv)(A)(2))
- The compliance audit must be performed by auditors who are not affiliated with the RTO or transmission facility owners that are members of the RTO. (18 C.F.R. section 35.34(j)(1)(iv)(B))

On January 30, 2008, ISO-NE filed with the Commission an Independent Accountants' Report on Applying Agreed Upon Procedures. ISO-NE filed this report, prepared by an independent auditing firm, pursuant to the Commission's order in *ISO New England Inc.*, 121 FERC ¶ 61,109 (2007).²

On January 5, 2009, pursuant to delegated authority under 18 C.F.R. section 375.311(g), the Director of the Division of Tariffs & Market Development – East in the Office of Energy Market Regulation (OEMR) issued a deficiency letter (Deficiency Letter) to ISO-NE advising that the filing was deficient and requiring that it be supplemented to enable the Commission to evaluate ISO-NE's independence pursuant to 18 C.F.R. section 35.34(j)(1)(iv)(A) of the Commission's regulations.³

² See *ISO New England Inc.*, Docket No. RT04-2-016, Independence Audit of ISO New England Inc., January 30, 2008.

³ The deficiency letter said the filing: "merely verified that selected written documents—such as ISO-NE's Certificate of Incorporation, its By-Laws, and its Code of Conduct—contained what ISO-NE said they contained. The mere existence of written procedures without testing to determine whether they are in fact being followed is inadequate in determining whether ISO-NE is operating independently, as our regulations require. Therefore, the (filing) must be supplemented with additional explanations of how each of the selected procedures, if actually followed by ISO-NE, would evidence ISO-NE's independence. Additionally, the (filing) must contain detailed descriptions of the substantive testing performed...that would conclusively demonstrate whether ISO-NE

As a result of the deficiency letter and since DA was already conducting an audit of ISO-NE's compliance with the Commission's accounting regulations and financial reporting requirements,⁴ DA commenced an audit, at ISO-NE's request, to evaluate ISO-NE's independence. The purpose of this audit was to evaluate whether ISO-NE is in compliance with the Commission's independence requirements, including, explicitly, testing whether ISO-NE's written procedures are in fact being followed. As part of the audit, DA performed additional testing to ensure ISO-NE's compliance with the list of deficient items identified in Attachment 1 of the Deficiency Letter.⁵ Specifically, audit staff reviewed, among other things, the Board's management of ISO-NE's business, relationships (including financial interests and previous employment affiliations) between Board members and market participants, acceptance of gifts, and communication between the Board and market participants.

Multiple information sources were used in the DA audit, including: information from the ISO-NE website and other publicly available information; ISO-NE's responses to a detailed data request; interviews with key ISO-NE officials and its contractors; on-site observations of ISO-NE's compliance processes; and follow-up discussions with ISO-NE staff.

D. Summary of Process Improvements

Audit staff did not find any instances where ISO-NE was out of compliance with the Commission's independence requirements, or where ISO-NE was not following its own compliance procedures. However, audit staff found some areas where process improvements would help ensure that independence requirements are complied with on a going-forward basis. Process improvements include:

Review and revise as necessary the language in the Code of Conduct on prohibition on accepting gifts. ISO-NE's Code of Conduct has a prohibition on accepting gifts from market participants with a value over \$50, but allows accepting an "occasional business-related meal or entertainment" from market participants. Audit staff's concern is that the explicit language in the Code of Conduct does not provide clear guidance to Board members, Officers and employees regarding the difference between a gift and occasional

is complying with the selected policies, procedures, and practices, and ultimately the Commission's RTO requirements."

⁴ Docket No. FA09-6-000.

⁵ The commencement letter for this audit notified ISO-NE that the date by which ISO-NE must file a response to the January 5, 2009 deficiency letter in Docket No. RT04-2-017 will be held in abeyance pending the outcome of this audit.

business-related meal or entertainment, and that this could lead to violations of the Code of Conduct which could only be remedied after-the-fact.

Review and revise as necessary the policy on Code of Conduct training, specifically for ISO-NE Board members. ISO-NE provided in-person Code of Conduct training for Board members once, in 2006, and has no specific plans for future training for Board members. Since 2006, ISO-NE has developed on-line Code of Conduct training, and it requires its Officers and employees to take this training every two years. Audit staff reviewed the on-line training developed by ISO-NE, found it to be thorough and believes that all individuals (including Board members) that are required to comply with ISO-NE's Code of Conduct would benefit greatly from this training.

Review and revise as necessary the annual certification forms in order to foster full disclosure by ISO-NE employees of any and all business and financial relationships with market participants. ISO-NE relies on self-reporting to ensure compliance with its Code of Conduct. On an annual basis, all Board members, Officers, and employees are required to sign certifications that they have complied with the Code of Conduct over the previous year. Audit staff reviewed the annual certifications for all Board members and Officers, and for a sample of employees. Audit staff found that many individuals, at all levels, were not following the explicit instructions and providing the information on the certification document necessary to determine whether the disclosure requirements were met. For example, although the form requires individuals who have no conflicts to explicitly state "none", in practice, many individuals leave the relevant space blank.

Develop better controls for ISO-NE compliance staff review of annual certifications. There was no follow-up by ISO-NE compliance staff with individuals when those individuals failed to comply fully with the explicit language in the annual compliance certifications by affirmatively indicating that they had no conflicts (as discussed above).

Encourage a review of NEPOOL Participant Technical Committee By-Laws to ensure that By-Laws are consistent with changes in ISO-NE operations. Audit staff reviewed all the By-Laws, Agreements, and other relevant documents for the Board and its committees, as well as for the NEPOOL Participants Committee and its technical committees. Audit staff found that for all but one of these documents, the requirements were up-to-date, consistent with the changes that have been proposed and accepted by the Commission with respect to ISO-NE governance. The one exception was the By-Laws for the NEPOOL Participant Technical Committees, which has not been updated since May 2000, and which, for example, does not reflect changes in the sector voting on the technical committees.

E. Overall Recommendations for Process Improvements

Audit staff recommends that ISO-NE implement the process improvements identified by audit staff, and any other process improvements that ISO-NE identifies as a result of this audit. We recommend that ISO-NE provide to audit staff a status report on implementing any such process improvements within 30 days of the issuance of this audit report. We also recommend that ISO-NE provide non-public quarterly submissions detailing its progress in implementing the recommendations until all process improvements are completed.

II. Introduction

A. Objectives

The audit evaluated ISO-NE's independence pursuant to 18 C.F.R. section 35.34(j)(1) (2008) of the Commission's regulations.⁶ These regulations require: (i) the RTO, its employees and any non-stakeholder directors must not have financial interests in any market participant; (ii) the RTO must have a decision making process that is independent of control by any market participant or class of participants; and (iii) the RTO must have exclusive and independent authority to propose rates, terms, and conditions of transmission.

B. Scope and Methodology

To address audit objectives, audit staff: reviewed responses to data requests; interviewed ISO-NE employees, including ISO-NE legal counsel, human resources staff, and the Chief Financial Officer/Chief Compliance Officer; reviewed publicly available materials; participated in conference calls; and tested the specific provisions in ISO-NE's Code of Conduct to determine whether ISO-NE was complying with its own written procedures.

Audit staff visited ISO-NE's headquarters in Holyoke, Massachusetts from May 27 – 29, 2009. During the visit, audit staff evaluated: ISO-NE's corporate governance structure; the make-up of the Board, including the independence of each Director; independence of the market monitoring function from the market operations function; independence of the internal audit function from ISO-NE management; and ISO-NE's overall compliance program.

Additionally, the site visit provided the opportunity for audit staff to drill down and test compliance with respect to specific provisions of the Code of Conduct, including conflicts of interest, prohibited financial interests, association with market participants, secondary employment, and gifts.

Audit staff performed a number of audit field tests to verify that ISO-NE is adhering to the requirements in its core documents. This involved: evaluation of the organizational structure of the corporation; review of minutes from Board Committee meetings; review of minutes of NEPOOL Participants Committee meetings; and

⁶ For an RTO such as ISO-NE, in which market participants have a role in the RTO's decision making process but do not have an ownership interest, the regulations require a compliance audit of the independence of the RTO's decision making process to be performed two years after its approval as an RTO.

interviews with key ISO-NE compliance staff (Chief Compliance Officer, Assistant General Counsel, internal audit staff, and Vice President of Human Resources), the search firm used to vet candidates for ISO-NE Board members, and representatives of the NEPOOL Participants. Among these field tests (discussed above), audit staff also performed tests to verify compliance with:

- Article III of By-Laws requirements for independence of ISO-NE Board members,
- Article IV of By-Laws requirements for Board meetings, with respect to content, frequency, and conduct of such meetings,
- Article V of By-Laws requirements for the structure of Board Committees, and the voting procedures for such committees,
- Article IX of By-Laws requirements for ISO-NE officers, including the responsibilities of such officers,
- Section 7 of the Certificate of Incorporation requirements for the structure of the Board,
- Section 8 of the Certificate of Incorporation requirements for the Board to adopt a Code of Conduct which prohibits affiliation with ISO-NE's market participants or their affiliates, and
- Various provisions of the Charters of Board committees, including responsibilities of such committees, requirements for service on such committees, notice provisions for committee meetings and significant actions, etc.

In addition to these testing procedures, audit staff conducted various field tests to determine whether ISO-NE's day-to-day implementation of its Code of Conduct was consistent with all requirements in the Code. Specific field tests performed by audit staff included:

- Detailed discussions with ISO-NE compliance staff on how the staff determines what entities are market participants, how market participants' affiliates are tracked, what is a prohibited financial interest, and what is in an impermissible association with market participants,
- Comparing the decisions made by ISO-NE compliance staff on gifts, outside employment, etc., to the explicit requirements in the Code of Conduct,

- Reviewing the annual certifications for all Board members and Officers of the corporation and all employees where Code of Conduct issues were addressed to evaluate whether prohibitions on relationships with market participants are being complied with,
- Reviewing the Code of Conduct training program, and the actual training materials used, and
- Reviewing the entries on ISO-NE's Code of Conduct Issues Tracker to evaluate whether all instances of potential Code of Conduct violations were handled consistent with written procedures.

III. Findings and Recommendations

A. ISO-NE's Compliance Program

ISO-NE employs several processes, procedures, and controls to ensure independence, including: (1) its tariff compliance monitoring process; (2) its proactive internal auditing function; (3) its on-line Code of Conduct training; and (4) its systematic tracking of potential Code of Conduct violations. Audit staff's view is that ISO-NE's compliance staff has demonstrated a strong commitment to ensuring compliance with the Commission's requirements for an independent RTO.

B. Overall Audit Findings

Audit staff did not find any instances where ISO-NE was not complying with the Commission's requirements for an independent RTO, or instances where ISO-NE was not following its own written procedures on independence. However, audit staff identified a few areas where process improvements could make ISO-NE's compliance program even stronger, as discussed below.

C. Audit Staff Suggestions for Process Improvements

- 1) Review and revise as necessary the language in the Code of Conduct on prohibition on accepting gifts.

Audit staff reviewed ISO-NE's policy and practices on accepting gifts from market participants. ISO-NE's Code of Conduct has a prohibition on accepting gifts from market participants with a value over \$50, but allows accepting an "occasional business-related meal or entertainment" from market participants when the value involved is not significant and accepting the meal or entertainment will not put that person under any obligation to the donor. Audit staff reviewed all instances over the last two years where ISO-NE employees accepted occasional meals or entertainment from market participants or entities doing business with ISO-NE. In audit staff's view, there were no instances where acceptance of a meal or entertainment was not in compliance with the ISO-NE Code of Conduct. Audit staff's concern is that the explicit language in the Code of Conduct does not provide clear guidance to Board members, Officers and employees regarding the difference between a gift and an occasional meal or entertainment, and that this could lead to violations of the Code of Conduct which could only be remedied after-the-fact. In discussions between audit staff and ISO-NE on this point, ISO-NE acknowledged that the Code of Conduct contained ambiguities that could be clarified.

- 2) Review and revise as necessary the policy on Code of Conduct training, specifically training for ISO-NE Board members.

ISO-NE provided in-person Code of Conduct training for Board members once, in 2006, but has no specific plans for future training for Board members. Any new members to the Board receive Code of Conduct training materials as part of their overall ISO-NE orientation package, but they will not receive any in-person or on-line specific Code of Conduct training. Since 2006, ISO-NE has developed on-line Code of Conduct training, and it requires its Officers and employees to take this training every two years. Audit staff reviewed the on-line training developed by ISO-NE, found it to be thorough and believes that all individuals (including Board members) that are required to comply with ISO-NE's Code of Conduct would benefit greatly from this training. Audit staff discussed with ISO-NE the potential benefits of extending its requirement for Code of Conduct training to Board members.

- 3) Review and revise as necessary the annual certification forms in order to foster full disclosure by ISO-NE employees of any and all business and financial relationships with market participants.

ISO-NE relies on self-reporting to ensure compliance with its Code of Conduct. On an annual basis, all Board members, Officers, and employees are required to sign certifications that they have complied with the Code of Conduct over the previous year. Audit staff reviewed the annual certifications for all Board members and Officers, and for a sample of employees. Audit staff found that many individuals, at all levels, were not following the explicit instructions on the certification document. For example, although the form requires individuals who have no conflicts to explicitly state "none", in practice, many individuals leave the relevant space blank. Moreover, audit staff's view is that the certification requirements are weak, in the sense that the certification document does not require the individual to affirm explicitly that he or she was complying with certain Code of Conduct requirements. In discussions with ISO-NE on this issue, there was agreement that a stronger certification document would improve the controls surrounding self-reporting on Code of Conduct issues.

- 4) Develop better controls for ISO-NE compliance staff review of annual certifications.

There was no follow-up by ISO-NE compliance staff with individuals when those individuals failed to comply fully with the explicit language in the annual compliance certifications by affirmatively indicating that they had no conflicts (as discussed above). In discussions between ISO-NE compliance staff and audit staff, there was agreement that ISO-NE compliance staff could employ stronger controls, and that stronger controls could help ensure that the certification process is working effectively.

5) Encourage a review of NEPOOL Participant Technical Committee By-Laws to ensure that By-Laws are consistent with changes in ISO-NE operations.

Audit staff reviewed all the By-Laws, Agreements, and other relevant documents for the Board and its committees, as well as for the NEPOOL Participants Committee and its technical committees. Audit staff found that for all but one of these documents, the requirements were up-to-date, consistent with the changes that have been proposed and accepted by the Commission with respect to ISO-NE governance. The one exception was the By-Laws for the NEPOOL Participant Technical Committees, which has not been updated since May 2000, and which, for example, does not reflect changes in the sector voting on the technical committees. In discussions with counsel for NEPOOL Participants, audit staff learned that NEPOOL was aware that the By-Laws for the NEPOOL Participant Technical Committees were not up-to-date. NEPOOL did not update these By-Laws due to the need for coordination on the ISO-NE compliance filing in Order No. 719⁷, which ISO-NE filed on April 28, 2009.

⁷ *Wholesale Competition in Regions with Organized Electric Markets*, Order No. 719, 73 FR 64100 (Oct. 28, 2008), FERC Stats. & Regs. ¶ 31,281 (2008).



Raymond W. Hepper
Vice President and General Counsel

August 28, 2009

Bryan K. Craig, Director
Division of Audits
Federal Energy Regulatory Commission
888 First Street, N.W., RM 51-37
Washington, DC 20426

Dear Mr. Craig:

As requested in your letter of August 19, I am writing to respond to the recommendations contained in the draft audit report that was attached to the letter.

First, we are very pleased that the audit determined that the ISO is in compliance with the Commission's requirements for an independent RTO. We are proud of our efforts in this area and are gratified that the Division has recognized our strong commitment to ensuring compliance with the Commission's requirements for an independent RTO. I would also like to acknowledge the professionalism and courtesy displayed by Eliot Wessler and Nick Coughlin, who headed up this audit on behalf of the Division.

Although the Division did not make any findings, there were a number of recommendations regarding process improvements. We agree with all of them, and offer more specific responses below.

Audit Recommendation 1: Review and revise as necessary the language in the Code of Conduct on prohibition on accepting gifts.

Management Response: We agree that the language regarding accepting gifts, meals and entertainment should be clarified. We plan to do so, and intend to prepare language for review by the Audit and Finance Committee of our Board of Directors, which is responsible for overseeing the Code of Conduct. This language, with any modifications proposed by the Audit and Finance Committee, will then be presented to the Board of Directors for approval. Following Board approval, the language will be filed with the Commission on an informational basis. We anticipate completing the drafting, Committee review, Board approval, and Commission filing processes in the first half of 2010.

Audit Recommendation 2: Review and revise as necessary the policy on Code of Conduct training, specifically training for Board of Directors members.

Management Response: We agree that the Board of Directors should receive regular training on the Code of Conduct, and propose to offer it to the Board for the first time in 2010 and thereafter every two years. Training staff plan to customize the existing online training for the Board, to focus on matters of special concern to the Board, including service on other Boards. We expect that this training will occur in the third quarter of 2010.

Mr. Bryan Craig
August 28, 2009
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Audit Recommendation 3: Review and revise as necessary the annual certification forms in order to foster full disclosure by ISO-NE employees of any and all business and financial relationships with market participants.

Management Response: We agree that the forms should be strengthened to require affirmative responses on a variety of topics, including stock ownership. The revised forms are part of the Code, and accordingly must be presented to the Audit and Finance Committee and to the Board of Directors. We will combine these revisions with the actions described in response to Audit Recommendation 1, and will therefore complete this project in the same time frame.

Audit Recommendation 4: Develop better controls for ISO-NE compliance staff review of annual certifications.

Management Response: This issue is related to the design of the certification form, which, in part, requires a disclosure of areas of non-compliance or, if there are none, a statement to that effect. Many employees left the relevant line blank, and staff did not follow up further. We agree with the recommendation, and have instructed the relevant Human Resources Department staff regarding appropriate follow-up to compliance forms. We believe that, combined with the revisions to the form outlined in Audit Recommendation 3, these actions are sufficient and no further action is required by us on this matter.

Audit Recommendation 5: Encourage a review of NEPOOL Participant Technical Committee By-Laws to ensure that By-Laws are consistent with changes in ISO-NE operations.

Management Response: NEPOOL counsel has already drafted revisions to the By-Laws. These must be reviewed by each of the NEPOOL Technical Committees (Markets, Reliability and Transmission), all changes coordinated, and then submitted to the NEPOOL Participants Committee for approval. NEPOOL counsel has advised that they expect to complete this project by year-end.

Again, it has been a pleasure working with you and your staff. If you have any questions regarding this response, please do not hesitate to contact me.

Sincerely,



Raymond W. Hepper