

139 FERC ¶ 61,277
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
and Cheryl A. LaFleur.

ISO New England Inc.

ER12-1809-000

ORDER ON PROPOSED TARIFF REVISIONS

(Issued June 29, 2012)

1. On May 17, 2012, ISO New England Inc. (ISO-NE) submitted proposed revisions to Market Rule 1, section III of its Transmission, Markets and Services Tariff (Tariff), to address exigent circumstances due to the disruption of liquefied natural gas (LNG) deliveries to New England and, as a result, the potential need to limit, or “posture,” the output of certain resources over a multi-day period for reliability reasons and then to calculate payment to the postured resource and allocate those costs accordingly. As discussed below, we will accept the proposed Tariff revisions, subject to condition, to be effective, as requested, May 18, 2012 through September 30, 2012.

I. Background

2. ISO-NE states that a large portion of the total generation in the northeastern Massachusetts/Boston area is fueled by LNG that has been sourced, in part, from Yemen. According to ISO-NE, recent terrorist attacks on natural gas pipelines in Yemen have reduced LNG deliveries to the northeastern Massachusetts/Boston area with further expected delivery disruptions. ISO-NE states that this reduction of LNG deliveries significantly heightens the risk that, if fuel consumption is not limited at the right time, a large amount of resources could be unavailable during a peak period, e.g., under high load and N-1-1¹ conditions, during the 2012 summer peak period.

3. ISO-NE explains that it has the authority to address the reliability risks associated with limited-energy resources by “posturing,” i.e., by overriding the economic dispatch

¹ An N-1-1 condition generally refers to the consecutive loss of two bulk power system elements. Transmittal Letter at 6 n.11.

based on the submitted offers for a resource and issuing dispatch instructions to limit the output of such a resource in one period so that the output will be available during a future period.² Under the Tariff, resources that are postured are provided with “make whole” payments, or credits,³ to ensure that they are not economically disadvantaged due to their being postured.

4. ISO-NE states that it typically uses its authority to posture a resource within a single operating day so that output is reduced during non-peak hours and increased during peak hours of the same day.⁴ An example of this is a pumped storage hydro facility, where ISO-NE may posture the facility (by deferring use of the pumped water earlier in the day, for use later in the day) based on a daily energy restriction.⁵ ISO-NE explains, however, that a disruption in the delivery of LNG to the northeastern Massachusetts/Boston area could require multi-day posturing, limiting the output of LNG-fueled generators over several days so that the full output of those generators is

² ISO-NE’s Tariff defines posturing as follows:

Posture means an action of the ISO to deviate from the jointly optimized security constrained economic dispatch for Energy and Operating Reserves solution for a Resource produced by the ISO’s technical software for the purpose of maintaining sufficient Operating Reserve (both on-line and off-line) or for the provision of voltage or VAR support.

ISO-NE Tariff § I.2.2.

³ ISO-NE refers to such credits as Net Commitment Period Compensation or NCPC credits. The Net Commitment Period Compensation is a “make-whole” payment made to resources whose hourly commitment and dispatch by ISO-NE resulted in a shortfall between the resource’s offered value in the Energy and Regulation Markets and the revenue earned from output over the course of the day. Typically, this is the result of some out-of-merit operation of resources occurring in order to protect the overall resource adequacy and transmission security of specific locations or of the entire control area. ISO-NE, Net Commitment Period Compensation (NCPC) Frequently Asked Questions, http://www.iso-ne.com/support/faq/ncpc_rmr/index.htmlx.

⁴ Transmittal Letter at 7 (citing Tariff § III.F.2.6.2(a), (b)).

⁵ Such a resource pumps water to a storage pond during non-peak hours and then sends water from the pond to the facility’s turbines to generate electricity during peak hours. Transmittal Letter at 6.

available when needed during an expected, future peak period. ISO-NE explains that, unlike a pumped storage hydro facility that can have its “fuel” replenished overnight, LNG is replenished over a longer delivery cycle (such as once per week). ISO-NE adds that it can be necessary to redeploy the available energy of a resource because system operators have better or more current information about the state of the system and the need for that resource at a future time.

5. In order to accommodate multi-day posturing, ISO-NE seeks to add three new subsections to the existing posturing rules. First, proposed section III.F.2.6.2(c) specifies a new methodology for calculating posturing credits for resources with weekly energy restrictions. ISO-NE states that the current methodology for calculating payments (i.e., credits), done on a daily basis, could result in inappropriate payment levels when applied to resources with weekly energy restrictions. Specifically, the existing rules do not provide for the inclusion of opportunity costs on energy postured on one day and utilized on a different day. Thus, the proposed multi-day posturing calculation will take into account Locational Marginal Prices (LMP) and supply offers over the weekly energy restriction period, rather than the daily period used for intra-day posturing.

6. Second, proposed section III.F.2.6.5 provides for the summing of any credits for multi-day posturing of resources into the total real-time Net Commitment Period Compensation credits that are allocated to market participants. ISO-NE states that the existing rules provide for the same summing of posturing credits, but only within a single operating day.⁶

7. Third, proposed section III.F.3.1.1 addresses the allocation of costs associated with payments made for posturing resources with weekly energy restrictions. ISO-NE states that, as in the case of the existing rules, the proposed revisions allocate the costs associated with payments made for posturing resources with weekly energy restrictions to all market participants with real-time load obligations (with the exception of pumping load associated with pumped-storage hydro facilities) over the multi-day period during which the posturing occurred.

8. ISO-NE requests a waiver of the Commission’s 60-day prior notice requirement⁷ to allow the proposed Tariff changes to be effective from May 18, 2012 through September 30, 2012, to cover the summer peak period.

⁶ Transmittal Letter at 7 (citing §§ III.F.2.6.3 and III.2.6.4); *see also id.* (citing Filing, Attachment, Testimony of Jonathan B. Lowell at 5-6 (Lowell Test.)).

⁷ 18 C.F.R. § 35.13(b)(2) (2011).

II. Notice of Filing and Responsive Pleadings

9. Notice of the filing was published in the *Federal Register*, 77 Fed. Reg. 31,609 (2012), with interventions and protests due on or before June 4, 2012. The Massachusetts Department of Public Utilities and Massachusetts Department of Energy Resources (Massachusetts Departments) each submitted, respectively, a notice of intervention and timely motion to intervene, and together submitted supportive comments. New England Power Pool Participants Committee (NEPOOL) submitted a timely motion to intervene and comments. Exelon Corporation and United Illuminating each submitted a timely motion to intervene and protest. GenOn Parties; BG Energy Merchants, LLC; and Northeast Utilities Service Company each submitted a timely motion to intervene. Dominion Resources Services, Inc. (Dominion) submitted a motion to intervene out of time. On June 11, 2012, ISO-NE submitted an answer to the protests.

10. Exelon generally supports the proposed weekly posturing structure as a “stop-gap solution” but expresses concern that the current daily posturing rules do not readily address unique circumstances that may arise in a weekly posturing period.⁸ For example, Exelon states that the daily posturing rules generally are applied to posturing pump storage hydro facilities and are not readily applicable to gas-fired generation facilities. Noting that the intent of the posturing rules is to ensure that a “resource is ‘made whole’ for the opportunity costs that would otherwise be foregone as a result of the ISO’s posturing instructions,”⁹ Exelon proposes specific modifications to section II.A.15 (Request for Additional Cost Recovery) of ISO-NE’s Tariff¹⁰ that would expressly allow a market participant to seek compensation under section 205 of the Federal Power Act (FPA)¹¹ for costs due to multi-day posturing, which the market participant believes are not otherwise captured in ISO-NE’s multi-day posturing calculations.

11. United Illuminating generally supports the multi-day posturing credits but disputes ISO-NE’s proposal to allocate the costs system-wide, arguing that load outside the northeastern Massachusetts/Boston area did not create the need for multi-day posturing, will not benefit from its application, and therefore should not be asked to pay its costs. United Illuminating states that the cost allocation proposal is inconsistent with the

⁸ Exelon Comments at 3-4.

⁹ *Id.* at 4 (quoting Lowell Test. at 5:13-15).

¹⁰ *Id.*, Attachment 1.

¹¹ 16 U.S.C. § 824d (2006).

Commission's cost-causation and beneficiary-pays principles and should be set for hearing and settlement procedures.

12. NEPOOL comments that, since there was no opportunity for stakeholder review of the rules changes as filed, the proposed changes were narrowly drafted and given a sunset date of September 30, 2012, to allow the opportunity for full stakeholder consideration of whether any broader or more permanent changes related to the posturing of resources over a multi-day period are necessary or appropriate.

13. The Massachusetts Departments strongly support ISO-NE's proposed posturing rule changes. They state that ISO-NE has demonstrated the requisite exigent circumstances for such proposed changes and has sought a narrow remedy. In their view, ISO-NE must have the ability to posture the generators that rely on LNG in the northeastern Massachusetts/Boston area over multiple days in order to assure the availability of these generators during a peak period. The Massachusetts Departments state that, absent this weekly posturing ability, "the [northeastern Massachusetts/Boston area] and the New England electricity grid remain at risk of involuntary load shedding and the attendant consequences."¹²

14. In its answer, ISO-NE supports Exelon's limited revisions to section III.A.15 of its Tariff. ISO-NE notes that the section already provides a market participant the ability to make a filing under section 205 of the FPA to recover costs in certain specified circumstances and supports Exelon's proposal to expressly and on a temporary basis extend that provision to costs that might not be captured under the posturing rule changes proposed here. Indeed, ISO-NE specifically requests that the Commission condition its acceptance of ISO-NE's proposed Tariff revisions, subject to a compliance filing incorporating Exelon's cost recovery proposal.¹³

15. ISO-NE also defends its proposal to allocate costs system-wide rather than locally. ISO-NE states that, contrary to United Illuminating's arguments, ISO-NE could posture a resource to meet either system reliability or local reliability needs. ISO-NE states that there is a "reasonable possibility" the LNG-fueled resources in the northeastern Massachusetts/Boston area may be needed to meet system needs, especially considering that the period leading into the summer season is traditionally a time when many generators undergo planned maintenance.¹⁴ ISO-NE states that heavy planned

¹² Massachusetts Departments Comments at 5.

¹³ ISO-NE Answer at 4.

¹⁴ *Id.* at 6.

maintenance, warmer than normal weather, and several forced outages lasting multiple days could easily require resources in the northeastern Massachusetts/Boston area to operate during peak hours across several days to meet system-wide energy needs and require the posturing of resources during off-peak periods to ensure fuel is available for the peak periods.

16. ISO-NE asserts that arguments against system-wide cost allocation are beyond the scope of this proceeding and constitute an impermissible collateral attack on a prior Commission order accepting real-time load obligation as an appropriate basis for allocating for posturing costs.¹⁵

III. Discussion

A. Procedural Matters

17. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2011), the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. We will grant Dominion's unopposed motion to intervene out of time, given its interest in this proceeding, the early stage of this proceeding, and the absence of undue prejudice or delay.

18. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2011), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept ISO-NE's answer because it has provided information that assisted us in our decision-making process.

B. Substantive Matters

19. We will accept ISO-NE's proposed Tariff revisions, effective, as requested, May 18, 2012 through September 30, 2012, subject to the conditions discussed below.

20. Regarding the calculation and summing of posturing credits,¹⁶ we agree with ISO-NE that, although its current Tariff allows for the posturing of resources on a daily basis, "[t]he existing daily calculation methodology could result in inappropriate payment levels

¹⁵ *Id.* at 7 (citing *PJM Interconnection, L.L.C.*, 84 FERC ¶ 61,224 (1998); *New Energy Ventures, Inc. v. S. Cal. Edison Co. and Edison Source*, 82 FERC ¶ 61,335 (1998)).

¹⁶ Proposed Tariff §§ III.F.2.6.2(c) and III.F.2.6.5.

when applied to resources with weekly energy restrictions.”¹⁷ The proposed weekly posturing mechanism allows for weekly netting, or summing, of lost opportunity costs (during periods when multi-day posturing occurs, i.e., where a resource is directed not to run over a multi-day period, despite economic signals to run) against periods of profit, which is likely to reduce costs to load.¹⁸

21. In order to ensure appropriate compensation for resources postured over multi-day periods, however, ISO-NE supports the limited changes proposed by Exelon. ISO-NE acknowledges that the exigent circumstances that required it to file the changes on an expedited basis and without full stakeholder review create some risk that there could be unanticipated circumstances in which the changes would not work as intended. ISO-NE agrees that Exelon’s proposed changes are narrowly crafted to address these circumstances. Accordingly, we will accept ISO-NE’s proposed Tariff revisions, subject to ISO-NE submitting, as it has committed to do, a compliance filing within 30 days of the date of this order incorporating the language reflected in Attachment 1 of Exelon’s protest. The agreed-upon language will expressly allow a market participant to make a filing under section 205 seeking recovery of any costs that the market participant believes are not appropriately captured by the multi-day posturing credit and summing provisions accepted here.

22. Turning to cost allocation, we find that the record in this case supports allocating costs to the northeastern Massachusetts/Boston zone when resources are postured on a multi-day basis due to LNG shortages in that area, rather than the system-wide allocation proposed by ISO-NE. ISO-NE states that the LNG disruptions prompting the “exigent circumstances” filing (circumventing the stakeholder process) are specific to the northeastern Massachusetts/Boston area. ISO-NE’s filing, including the testimony of its expert witness, Jonathan Lowell, supports the need for multi-day posturing in order to address reliability risks to customers in that area. In this regard, ISO-NE states that “generators in the northeastern Massachusetts/Boston area that rely on LNG make up a

¹⁷ Transmittal at 7 (citing to Lowell Test. at 5-7).

¹⁸ Under the intra-day posturing mechanism, individual hours when a resource’s revenue is lost may be netted (or summed) against hours when there is a positive revenue gain, which works well in the situation of the overnight water-pumping hydro storage facility. In the case of a week-long delay in an LNG gas shipment, however, there may be several days of lost opportunity costs for which the resource currently would be paid successive daily posturing payments. The current intra-day mechanism does not allow for netting of these days of lost revenue against days later in the week, i.e., netting over a week’s time, where there may be a positive revenue stream. Weekly offsetting of losses against profits, in contrast, may result in reduced posturing payments to be borne by load.

large amount of the total generation in that region and the output of those generators is needed during a summer peak usage period.”¹⁹ ISO-NE also explains that “the reduction in LNG deliveries to the northeastern Massachusetts/Boston area generators significantly heightens the risk that if limited fuel is not used at the right time, then a large amount of resources could be unavailable during a peak period.”²⁰ Further, “[t]he nature of the LNG delivery disruption to the northeastern Massachusetts/Boston area could require the ISO to implement multi-day posturing.”²¹ In addition to these statements, we note that these provisions were developed specifically to respond to the LNG supply situation facing the northeastern Massachusetts/Boston area, and are proposed to be in place only on a temporary basis until that situation is resolved. For these reasons, we find that the record supports allocating costs to the northeastern Massachusetts/Boston zone when a resource is postured on a multi-day basis to address reduced LNG deliveries to that region.²²

23. We find unconvincing ISO-NE’s argument that system-wide allocation of the costs in those circumstances is appropriate merely because the current Tariff already provides for system-wide allocation of daily posturing charges. However, in its answer, ISO-NE does raise the prospect that units could be postured for system-wide reliability needs and not only for reasons related to generation shortages in the northeastern Massachusetts/Boston area. In a brief statement, ISO-NE sets forth a scenario, involving several contingencies, where “[h]eavy planned maintenance, combined with warmer than normal weather plus several forced outages lasting multiple days could easily require resources in the Northeastern Massachusetts/Boston area to operate during peak hours across several days to meet system-wide energy needs.”²³ This statement appears to be at odds, however, with the bulk of ISO-NE’s initial filing that, as discussed above, focuses on a narrower set of beneficiaries. Nonetheless, we recognize that if multi-day posturing is triggered to address issues other than generation shortages in northeastern

¹⁹ Transmittal Letter at 5.

²⁰ *Id.* at 6.

²¹ *Id.*

²² *See id.* at 6 (citing Lowell Test. at 3-4); *see also* Lowell Test. at 5 (anticipating posturing “in order to make the best use of available LNG and minimize the risk of Boston-area reliability problems”); Transmittal Letter at 6-7 (referring to need for redeployment of resources, especially in “constrained area like Boston,” in background to filing).

²³ ISO-NE Answer at 6.

Massachusetts/Boston, there may be system-wide benefits. In those circumstances, system-wide allocation of costs would be appropriate.²⁴

24. For these reasons, we will accept ISO-NE's proposed Tariff revisions, subject not only to the condition discussed above but also to a second condition that ISO-NE submit a compliance filing within 30 days of the date of this order further refining its cost allocation proposal to specify that, when a resource is postured on a multi-day basis to address reduced LNG deliveries to the northeastern Massachusetts/Boston area, only the northeastern Massachusetts/Boston zone is responsible for the costs related to that posturing.

25. Finally, as noted, ISO-NE proposes that the Tariff revisions addressed here remain effective only through September 30, 2012. Accordingly, we will accept ISO-NE's filing subject to a third condition, that ISO-NE, consistent with its statements, as well as the Commission's regulations,²⁵ submit a filing on or before October 1, 2012, to be effective October 1, 2012, to remove the multi-day posturing provisions from its Tariff.

The Commission orders:

(A) ISO-NE's filing is hereby accepted, subject to conditions, effective May 18, 2012 through September 30, 2012, as discussed in the body of this order.

(B) ISO-NE is hereby directed to submit a compliance filing within 30 days of the date of this order, as discussed in the body of this order.

²⁴ Similarly, if ISO-NE elects to submit a new section 205 filing to extend or make permanent the temporary changes proposed here to accommodate multi-day posturing, it is not precluded from proposing a system-wide cost allocation at that time. The Commission will consider in that proceeding whether the record supports such a cost allocation.

²⁵ 18 C.F.R. § 35.15 (2011).

(C) ISO-NE is hereby directed to submit a compliance filing on or before October 1, 2012, to be effective October 1, 2012, to remove the multi-day posturing provisions from its Tariff, as discussed in the body of this order.

By the Commission. Commissioner Clark is not participating.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.