

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, and Joseph T. Kelliher.

New England Power Pool
ISO New England, Inc.

Docket No. ER02-2330-019

ORDER GRANTING REQUEST FOR EXTENSION OF TIME WITH
REGARD TO ALTERNATIVES TO NODAL PRICING

(Issued January 28, 2004)

1. In this order, the Commission grants a request by the New England Power Pool Participants Committee (NEPOOL), ISO New England, Inc. (ISO-NE) and the New England Conference of Public Utility Commissioners (NECPUC) for an extension of time to permit states within New England to develop and select alternatives to full nodal pricing for load. This order benefits New England customers by allowing the region the freedom to develop a just and reasonable method for calculating wholesale energy prices to load.

BACKGROUND

2. ISO-NE implemented its Standard Market Design (NE-SMD) in March 2002. NE-SMD included Locational Marginal Pricing (LMP), and NEPOOL and ISO-NE at that time set prices to generators on a nodal basis, but set prices to load on a zonal basis – that is, all prices charged to load are the same within a single zone. There are eight load zones, which coincide with New England's eight reliability regions: Maine, New Hampshire, Vermont, Rhode Island, Connecticut, Western/Central Massachusetts, Northeastern Massachusetts (which includes Boston) and Southeastern Massachusetts. Zonal prices are calculated using a load-weighted average of the LMPs at the nodes within each zone.

3. While the Commission initially accepted zonal pricing for load on September 20, 2002, it anticipated, based on representations by ISO-NE and NEPOOL, that within 18 months, ISO-NE could implement fully nodal pricing for load by preparing or modifying

its existing data collection and metering infrastructure.¹ In response to a request for clarification by the NEPOOL Industrial Customer Coalition (NICC) that the Commission permit each load to have a choice as to whether to pay nodal or zonal prices, the Commission “direct[ed] ISO-NE and NEPOOL to offer nodal pricing to customers where it is technologically feasible to do so.”² The Commission noted that it “views a line-in-the-sand approach to establishing the deadline for nodal pricing implementation at this time as unwise and restrictive,” and would exercise oversight over NEPOOL's and ISO-NE's movement towards nodal pricing through 90-day status reports submitted by ISO-NE and/or NEPOOL. The Commission also “strongly urge[d]” ISO-NE and NEPOOL to adhere to the 18-month time frame for full nodal pricing implementation.³

4. On October 30, 2003, NEPOOL, ISO-NE and NECPUC (Joint Movants) filed a joint request with the Commission to eliminate the requirement to implement fully nodal pricing for load. The Joint Movants state that, through NEPOOL’s stakeholder process, they have “concluded at this time that there are better and less costly alternatives to full nodal pricing for all load in New England,” and requested the Commission to “remove any requirement that New England implement full nodal pricing for all load.”⁴ The Joint Movants state that stakeholders are committed to exploring alternatives to nodal pricing that could achieve many of the desired benefits to consumers through incremental changes, without the costs and disruption of implementing full nodal pricing for load. The Joint Movants state that implementing full nodal pricing would have high costs (initially estimated to be at least \$30 million), would increase price volatility and would reduce market liquidity. Moreover, the Joint Movants state, the Participants Committee has approved a resolution contemplating the creation of additional zones or sub-zones affected by local transmission constraints, which the Joint Movants consider a reasonable step to increase price transparency in a manner that would have lower implementation costs and would not impose a pricing system that might conflict with state retail pricing policies.⁵

¹ New England Power Pool, 100 FERC ¶ 61,287 at P 72 (2002) (September 20 Order).

²New England Power Pool, 101 FERC ¶ 61,344 at P 86 (2002) (December 20 Order).

³ Id. at P 88.

⁴Joint Movants’ Request at 1.

⁵ The Joint Movants state that some New England states require Electric Distribution Companies (EDCs) to provide Standard Offer Service to ensure that there
(continued...)

5. The Joint Movants also note that in the Commission's "White Paper: Wholesale Power Market Platform" issued on April 28, 2003 (White Paper), the Commission stated that it intended to adopt a Final Rule for Standard Market Design (SMD) that allowed for phased-in implementation and sequencing tailored to each region and that allows modifications to benefit customers within each region,⁶ and that customers in New England overwhelmingly seek such a regional variation from the nodal pricing requirement. The Joint Movants also state that the White Paper provides that, to the extent that a party can demonstrate that the costs of implementing any feature of the SMD Final Rule outweigh its benefits, the Commission will not require an RTO or ISO to implement that feature.

6. NEPOOL and ISO-NE have committed to facilitate a stakeholder process to examine pricing options and to make a filing no later than July 2004 which reflects the results of that process. The Joint Movants state that in October 2003, 96 percent of the NEPOOL Participants Committee approved a resolution including requirements that:

(1) ISO-NE and NEPOOL make a joint filing to remove any requirement that the region implement full nodal pricing for load;

(2) ISO-NE study on an expedited basis the potential reconfiguration of the current reliability regions and present any reconfiguration recommendations to the NEPOOL Markets and Reliability Committees;

(3) ISO-NE and the NEPOOL Markets Committee consider a pricing alternative (proposed by NICC) that would permit nodal pricing for some load in limited circumstances; and

(4) Further changes recommended will be filed with the FERC on or before July 1, 2004 for implementation on January 1, 2005.⁷

are providers of last resort for those states' customers. The Joint Movants state that regulators from those states are concerned that, as load with access to nodal prices abandons Standard Offer Service, the cost for contracts for Standard Offer Service will be driven up, as EDCs demand premiums to mitigate against customer churn. Joint Movants' Request at 10.

⁶ Joint Movants' Request at 3 n.6, citing White Paper at 2 and 5.

⁷ Joint Movants' Request at 8.

7. **Filings by the Parties, and Procedural Rulings.** The Joint Movants' request was noticed in the Federal Register,⁸ with interventions, comments or protests due by November 20, 2003. The New York Transmission Owners timely moved to intervene.⁹ Northeast Utilities Service Company (NUSCO) filed a timely motion to intervene and comments, NSTAR Electric and Gas Corporation (NSTAR) filed timely comments, and NICC filed a timely motion to intervene and protest. NEPOOL and ISO-NE filed a joint answer to the comments and protest, and NICC sought leave to file, and filed, an answer to that answer.

8. The timely, unopposed motions to intervene make those parties intervenors in this proceeding. We will also accept Niagara Mohawk's motion to withdraw its participation in the New York Transmission Owners' intervention motion.

9. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2003), prohibits an answer to a protest or answer unless otherwise ordered by the decisional authority. We are not persuaded to accept NEPOOL's and ISO-NE's joint answer and NICC's answer and will, therefore, reject them.

10. NUSCO supports the Joint Movants' position that the Commission should not insist on the implementation of full nodal pricing in New England when there are alternatives that could achieve many of the desired benefits for consumers, without the costs and disruptions of full nodal pricing for load. NSTAR states that the benefits of nodal pricing will accrue only to a select group of customers, and that the costs of nodal pricing will exceed its benefits.

11. NICC, in its protest, first states that the Commission has previously stressed the importance of nodal pricing as a key feature of NE-SMD and that allowing customers to see and pay nodal prices would enhance price-responsive demand, decrease overall spot market prices and reduce the frequency of involuntary curtailments. NICC also argues that the "efficiency objectives of LMP and nodal pricing" can only be realized through Commission directives for quicker implementation of nodal pricing. NICC then argues that it is technically feasible to require nodal pricing for some load, citing to the Commission's recent Occidental orders regarding PJM,¹⁰ as a result of which several

⁸ 68 Fed. Reg. 64880 (2003).

⁹ One of the New York Transmission Owners, Niagara Mohawk, subsequently withdrew its intervention on the basis that its parent company was already an intervenor in this proceeding.

¹⁰ NICC protest at 11, citing Occidental Power Services, Inc. v. PJM Interconnection, LLC, 103 FERC ¶ 61,285, order on reh'g, 104 FERC P61,289 (2003)

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Load Serving Entities (LSEs) within PJM are basing their energy and congestion prices on designated pricing nodes. NICC states that the Commission also recently ordered the Midwest Independent Transmission System Operator (MISO) to “look toward achieving the goal of having nodal pricing in place as soon as possible.”¹¹ NICC argues that the language in the White Paper on which the Joint Movants rely is vague and does not explain why ISOs and RTOs should have the option to choose nodal or zonal pricing for buyers. Moreover, NICC questions whether the White Paper possesses “the legal stature to trump specific Commission Orders” issued before and after the issuance of the White Paper. NICC contends that the Commission's approach to nodal pricing in other regions of the Eastern Interconnection emphasizes that nodal pricing for load cannot, and should not, be abandoned.

12. Alternatively, NICC urges the Commission, should it decide to remove its full nodal pricing requirement at this time, to require ISO-NE and its stakeholders to develop, file within 90 days and promptly implement alternatives to full nodal pricing for load where it is technically feasible. The reconsideration request raises two potential alternatives to full nodal pricing: 1) nodal pricing for some load in "limited, defined circumstances" and 2) the redefinition of zones to create sub-zones if appropriate.

13. As to the first alternative, NICC agrees that implementation of nodal pricing for some load in "limited, defined circumstances" could be a potential alternative to a full nodal pricing and requests that the Commission require the ISO to identify the technical criteria for LSEs and their customers to see and pay nodal prices immediately. NICC notes that a nearly identical outcome to such "special case nodal pricing" was ultimately implemented in Occidental. With regard to the second alternative, NICC asserts that the current zonal configuration is a temporary phenomenon and that ISO-NE has the authority to define and file new zones. NICC also states, however, that establishing new sub-zones is a second-best alternative to implementation of full nodal pricing or special case nodal pricing and that “re-districting” zonal boundaries would not necessarily produce outcomes consistent with efficient markets. Thus, NICC argues that if the Commission adopts a sub-zone approach as a practical alternative to full nodal pricing, it should do so only in conjunction with special case nodal pricing. NICC also asserts that the Joint Movants’ request is an untimely petition for rehearing of Commission orders that were issued more than 30 days prior to the request. NICC acknowledges, however, that the Commission may treat the Joint Movants’ request as a request for reconsideration

(Occidental).

¹¹ NICC protest at 12, citing Midwest Independent Transmission System Operator, 105 FERC ¶ 61,145 at P 103 (2003) (Transmission and Energy Markets Tariff Order or TEMT order).

of such earlier orders. However, NICC urges the Commission to deny the Movants' request for reconsideration because it fails to include new information or evidence of changed circumstances that would warrant reconsideration of the Commission's earlier ruling.

DISCUSSION

14. We will consider the Joint Movants' filing as a motion for an extension of time to implement a plan for pricing for load. We will grant the request on the basis that the proposal has both the overwhelming support of the NEPOOL Participants (as evidenced by the 96 percent vote of the NEPOOL Participants Committee in favor of the request), ISO-NE and the New England Conference of Public Utility Commissioners.

15. However, as nodal pricing for load and for generation has been accepted by the Commission as being a key feature of the NE-SMD market design, the Commission will not remove the requirement to implement full nodal pricing for load until ISO-NE and NEPOOL file with the Commission the results of the examination of pricing options for load that the NEPOOL Participants Committee has committed to, and submit to the Commission any changes recommended as a result of that examination. The Commission considers nodal pricing for load to be a just and reasonable pricing method, as it provides price transparency and accurate price signals for demand response. If, however, the parties can demonstrate that other pricing methods (whether designating sub-zones, or other methods) will also achieve much or all of the transparency provided by nodal pricing, while providing other benefits (for example, lower costs, the elimination of the liquidity problems that the Joint Movants discussed, and/or the elimination of the possibility of conflict with state pricing policies), the Commission will, at that time, reconsider the requirement to implement nodal pricing. The filing, due to the Commission by July 1, 2004, should provide, in addition to the results of the study, justification for any changes recommended, or, in the alternative, justification for retaining the status quo, and should also provide a time frame for implementing the proposed pricing method. Additionally, the filing should establish how, regardless of the outcome, ISO-NE's and NEPOOL's recommendation is consistent with the basic NE-SMD market design as approved in the September 20 Order.

16. While the Commission has previously stated that it supports nodal pricing for load and continues to do so now, that support would not preclude the acceptance of other pricing methods for load that may also be found to be just and reasonable. In the recent TEMT Order, the Commission discussed the pricing options currently being considered by MISO, and then stated that:

[I]t seems clear from Midwest ISO's filing that the selection of zonal pricing for load would be strictly voluntary and would include only a weighted average of the nodes that are selected by a specific Market

Participant. Because it is not clear what impact the selection of zonal pricing by a Market Participant would have on its competitors, and since nodal pricing is a goal we support, we instruct the Midwest ISO to provide more explanation of this option in its next filing. We recognize there can be impediments to its immediate implementation such as the cost and complexity of implementation at the start-up. We therefore, encourage the Midwest ISO to look toward achieving the goal of having nodal pricing in place as soon as possible, and to fully address this issue with . . . [its] stakeholders prior to submitting its next market rules tariff filing.^[12]

17. As the above shows, the Commission has not required a specific pricing method for load in MISO, and rather, recognizes that MISO and its stakeholders are still negotiating and evaluating the benefits and disadvantages of different options. While the Commission did state that it supports the goal of nodal pricing for load and urges MISO to look toward that goal, the TEMT Order did not require or mandate nodal pricing for load in MISO.

18. The Commission believes that, in the interests of transparency, prices at nodes in New England should be published. The Commission notes that the Joint Movants' request indicates that there are roughly "1,300 pricing nodes" in New England. On its website, ISO-NE provides price information for just over 900 "Network Nodes" as well as prices for each load zone and the Hub Nodes, via its Historical Hourly Data Archive.¹³ The hourly nodal price information currently available does not seem to reflect the roughly 1,300 pricing nodes referred to in the Joint Movants' request. The Commission directs ISO-NE to 1) identify the difference, if any, between "Network Nodes" and "pricing nodes" and 2) discuss the number of nodes for which prices are published and how those nodes are selected out of the 1,300 node figure cited in the Movants' filed request. ISO-NE should submit this clarification in its next quarterly status report concerning the implementation of SMD.

19. As to the question of whether ISO-NE and NEPOOL should be required to implement nodal pricing immediately for those customers that are able to accommodate it, the Commission did not impose such a requirement on PJM in the Occidental orders. Rather, in Occidental, the Commission found that the PJM tariff currently provides that the wholesale price to a PJM LSE is the price determined at the LSE's individual node. No party has argued that ISO-NE's tariff contains a similar provision. The Commission will not require immediate nodal pricing for customers who can accommodate it now, but will urge the parties to address this question in the upcoming stakeholder process.

¹² TEMT Order at P 103.

¹³ http://www.iso-ne.com/smd/operations_reports/hourly.php.

The Commission orders:

(A) The request by Joint Movants is granted, insofar as the requirement that ISO-NE must implement full nodal pricing for load within 18 months is suspended on condition that ISO-NE and NEPOOL demonstrate, in a filing to be made with the Commission on or before July 1, 2004, that whatever method of pricing they propose for load meets the Commission's standards discussed above.

(B) In its next quarterly report concerning the implementation of NE-SMD, ISO-NE is directed to submit the information concerning prices at nodes in New England discussed above.

By the Commission. Commissioner Kelly not participating.

(S E A L)

Magalie R. Salas,
Secretary.