

121 FERC 61,106
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Suedeem G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

ISO New England Inc.
New England Power Pool

Docket No. ER07-1338-000

ORDER ACCEPTING FCM MARKET RULE REVISIONS

(Issued October 30, 2007)

1. In this order, the Commission accepts proposed revisions to the Forward Capacity Market (FCM) rules by ISO New England Inc. (ISO-NE) and New England Power Pool (NEPOOL).

I. Background

2. On February 15, 2007, ISO-NE filed with the Commission proposed market rules implementing the FCM.¹ In orders issued April 16, 2007,² and June 5, 2007,³ the Commission conditionally accepted the FCM Market Rules.

3. Section 4.A of the FCM Settlement Agreement⁴ provides ISO-NE the authority under section 205 of the Federal Power Act⁵ to file modifications to the FCM rules that address the terms of the FCM Settlement Agreement, provided that, under certain circumstances, ISO-NE demonstrates that “failure to implement

¹ *ISO New England, Inc.*, Docket No. ER07-546-000, Filing Containing Revisions to Market Rules Implementing FCM Settlement Agreement (filed Feb. 15, 2007) (February 15 Filing).

² *ISO New England Inc.*, 119 FERC ¶ 61,045 (2007) (April 16 Order).

³ *ISO New England Inc.*, 119 FERC ¶ 61,239 (2007).

⁴ The FCM Settlement Agreement was filed on March 6, 2006, in Docket Nos. ER03-563-030 and ER03-563-055, and was approved by the Commission on June 16, 2006. *ISO New England Inc.*, 115 FERC ¶ 61,340 (2006).

⁵ 16 U.S.C. § 824d (2000).

the proposed change in the Market Rule would have a negative effect on (1) system reliability or security, or (2) the competitiveness or efficiency of the Forward Capacity Market.”⁶

A. The Proposed FCM Rules Revisions

4. On August 31, 2007, ISO-NE and NEPOOL submitted a proposal to revise the FCM rules.⁷ ISO-NE proposes various revisions that fall into four general categories: (1) substantive changes; (2) procedural changes; (3) language clarifications; and (4) changes to correct typographical and internal cross-reference errors.

5. In the instant filing, ISO-NE proposes to provide additional flexibility for separate resources combining to provide a composite offer,⁸ including Demand Resources. ISO-NE states that currently the FCM rules provide that a new resource clearing in the Forward Capacity Auction may elect to have the clearing price and capacity obligation acquired through that auction continue to apply after the Capacity Commitment Period associated with the Forward Capacity Auction in which its offer clears, for up to four additional consecutive Capacity Commitment Periods.⁹ ISO-NE explains that this option is generally not available to an existing resource. ISO-NE further explains that the FCM rules do not currently address whether a composite offer that includes both new and existing resources is eligible for a multi-year commitment.

6. ISO-NE proposes to amend the FCM rules to allow any existing resources providing capacity in the winter period (which is part of the composite offer) to receive a multi-year capacity obligation,¹⁰ provided that the summer resource with which it partners to make a composite offer is a new resource. This option would

⁶ FCM Settlement Agreement § 4.A.

⁷ ISO-NE’s FCM rules are found in section III of ISO-NE’s Transmission, Markets, and Services Tariff, FERC Electric Tariff No. 3 (ISO-NE Tariff).

⁸ A composite offer is an offer in a Forward Capacity Auction in which multiple resources join together to form an annual capacity offer as required by the FCM design.

⁹ See ISO-NE Tariff § III.13.1.1.2.2.4.

¹⁰ Here, “multi-year” is up to four years following the Capacity Commitment Period associated with the Forward Capacity Auction in which the composite offer clears, i.e., five years total.

be available to all capacity resources meeting these criteria, including Demand Resources. ISO-NE states that the potential five-year capacity obligation is an important incentive for new resources to participate in the Forward Capacity Auction.

7. In the instant filing, ISO-NE proposes to change two inputs for calculating capacity values of Demand Resources for the first Forward Capacity Auction. ISO-NE explains that the formula for calculating Demand Resources' capacity values includes two inputs that will not be known until shortly before the Forward Capacity Auction is to be conducted. ISO-NE states that this creates uncertainty regarding the qualified capacity for Demand Resources generally, which is troublesome in the formation of composite offers.¹¹ ISO-NE explains that the deadline for composite offers is many months before the parameters described above are finalized. According to ISO-NE, not having the parameters before the deadline will impair the ability of Demand Resources to enter into composite offers. To address this, ISO-NE proposes to use the relevant values for the Capacity Commitment Period associated with the Forward Capacity Auction immediately preceding the Forward Capacity Auction in which the Demand Resource clears. ISO-NE explains that historical data demonstrate that these values are relatively stable from year to year, so any impacts of this change should be minor. ISO-NE states that its proposed change will provide much needed certainty in the determination of the qualified capacity for Demand Resources and will allow those resources to enter into composite offers unimpaired. ISO-NE explains that a further accommodation was necessary for the first Forward Capacity Auction since the calculations will now look to the previous Forward Capacity Auction for inputs. ISO-NE proposes to use specific values for the first Forward Capacity Auction based on margin and peak transmission and distribution losses from the 2007-2008 Power Year.

8. ISO-NE has discovered that replacing capacity related to De-list Bids from Existing Import Capacity Resources and De-list or Export Bids from any resources in a capacity zone modeled as an export-constrained zone is more complicated than originally thought. ISO-NE states that all other capacity related to De-list Bids will be easily replaced in reconfiguration auctions since that replacement

¹¹ The two inputs are: (1) the reserve margin factor (i.e., summer Installed Capacity Requirement divided by the 50/50 summer system peak load forecast) for the Capacity Commitment Period associated with the Forward Capacity Auction in which the Demand Resource clears; and (2) the percent average avoided peak transmission and distribution losses used in calculating the Installed Capacity Requirement for the Capacity Commitment Period associated with the Forward Capacity Auction in which the Demand Resource clears.

process is based on only the clearing price to determine the amount of capacity necessary; however, for Existing Import Capacity Resources and De-list or Export Bids from any resources in a capacity zone modeled as an export-constrained zone, the optimization process must consider import and export limits, a complicated process for which ISO-NE's software is insufficient. Rather than delay the Forward Capacity Auction, ISO-NE proposes to exempt these units from replacement for the first Forward Capacity Auction only. ISO-NE estimates the price impact to be very small since only 51 MW will be impacted. ISO-NE claims it is confident that it will have this problem fixed by the second Forward Capacity Auction.

9. ISO-NE also proposes to remove the ability of a financial sponsor of a project to withdraw a new project after qualification but before the Forward Capacity Auction, and lose only its financial assurance. ISO-NE proposes to change the FCM rules to state that once the sponsor submits the deposit, it may not withdraw and the project will be included in the Forward Capacity Auction at its qualified capacity at the auction starting price. ISO-NE states that allowing withdrawal at that late stage may encourage late withdrawals in a strategic attempt to trigger inadequate supply or insufficient competition thresholds. ISO-NE further states that the change will not burden sponsors because there are few if any circumstances where it would be sensible to withdraw after deposit and before the Forward Capacity Auction. ISO-NE also points out that new resources may still be withdrawn before the submission of the financial assurance deposit.

10. ISO-NE states that in developing the Forward Capacity Auction mechanics, it determined that if separate De-list or Export Bids are submitted for the same resource, the clearing mechanism would have no means to determine which bid should be given higher priority at that price. To remedy this, ISO-NE proposes to restrict market participants from submitting bids with identical price-quantity pairs for the same resource. ISO-NE states that this solution appropriately leaves the decision of priority to the market participant. Further, ISO-NE notes that separate bid prices can be specified to \$0.001/kW-month, i.e., distinguished by as little as one-tenth of one cent. Similarly, ISO-NE proposes to revise the FCM rules to provide that a market participant that submits any combination of certain De-list Bids for a single resource, each bid must have the same rationing election. According to ISO-NE, this revision is necessary to ensure that ISO-NE's software will be able to execute the market clearing algorithm.¹²

¹² ISO-NE further notes that no resources submitted multiple De-list Bids for the first Forward Capacity Auction qualification process.

11. ISO-NE states that the FCM rules currently provide that the Forward Capacity Auction should end when total Forward Capacity Auction costs are minimized in meeting the Installed Capacity Requirement. However, since many possible combinations can exist that fit this criteria, ISO-NE proposes to: (1) limit the number of subsets of solutions that the auctioneer can consider based on an unbiased enumeration technique; (2) not clear De-list Bids below the clearing price that cannot be replaced in full; and (3) in the case of price separation, the auctioneer will limit the amount of capacity procured in an import-constrained zone to keep prices in check. ISO-NE states that this provision is necessary since thousands of combinations can satisfy the broad, currently effective guidelines for ending the auction. Further, ISO-NE commits that it will revisit this issue following the first Forward Capacity Auction.

12. The current FCM rules contain a “monotonicity” requirement for all new project sponsors. The requirement states that the sum total amount of capacity offered by a project sponsor for all of its new resources in the Forward Capacity Auction may not increase as the auction price falls. To enforce this limitation, ISO-NE also proposes to establish “bidding groups”—groups of new resources of the same type (demand, import, etc.), that are located in the same capacity zone, and have the same rationing election. ISO-NE proposes to revise the FCM rules to state that project sponsors must specify their units into bidding groups; then, the monotonicity requirement is applied to the bidding groups—i.e., as the auction price falls, the amount of quantity offered by an aggregate bidding group may not increase. ISO-NE states that this provision gives flexibility to project sponsors to meet various Forward Capacity Auction constraints, like import limits and accounting of capacity in a capacity zone, and will create an incentive for resources to participate in the Forward Capacity Auction.

13. ISO-NE proposes several other changes in the instant filing, including: (1) a provision that the Market Monitor will not review Static De-list Bids for reductions in ratings due to ambient air conditions; (2) a requirement that resources must submit an additional refundable qualification deposit for resources that are seeking to qualify for another Forward Capacity Auction or for a reconfiguration auction because ISO-NE has discovered that the original cost deposit has not always been enough to cover the costs of both qualification processes; (3) the addition of two weeks between closing of the Forward Capacity Auction and the existing resource qualification deadline for the next Forward Capacity Auction to give existing resources time to consider their aggregate positions from the most recent Auction and plan for the next Auction; (4) selecting the highest-priced export bids for exports when the amount of export bids exceeds the interface limit for exports, thereby keeping the lowest-priced bids in New England; (5) specifying that no more than 600 MW of real-time emergency

generation will count toward the Installed Capacity Requirement;¹³ and (6) establishing a bilateral method for making prorated payments to units when the clearing price falls below 0.6 times the cost of new entry, consistent with ISO-NE's currently effective bilateral contracting provisions.

B. Notice of Filing and Responsive Pleadings

14. Notice of ISO-NE's filing was published in the *Federal Register*, 72 Fed. Reg. 36,444 (2007), with interventions and protests due on or before September 21, 2007. Timely motions to intervene were filed by FirstLight Power Resources Management, LLC, FirstLight Hydro Generating Company, and Mt. Tom Generating Company, LLC (collectively, FirstLight Parties); the Northeast Utilities Companies by their agent Northeast Utilities Service Company¹⁴; Invenergy Thermal LLC and Sutton Energy LLC; Constellation Energy Commodities Group, Inc. and Constellation NewEnergy, Inc.; Milford Power Company, LLC and Millennium Power Partners, LP; and the NRG Companies.¹⁵ No protests or adverse comments were filed.

II. Discussion

A. Procedural Issues

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

¹³ ISO-NE explains that this provision was discussed in its February 15, 2007 filing letter in Docket Nos. ER07-546-000 and ER07-547-000, but was inadvertently omitted from the FCM rules.

¹⁴ The Northeast Utilities Companies are: The Connecticut Light and Power Company, Western Massachusetts Electric Company, Public Service Company of New Hampshire, Holyoke Water Power Company, and Holyoke Power and Electric Company.

¹⁵ The NRG Companies are: NRG Power Marketing, Inc., Connecticut Jet Power LLC, Devon Power LLC, Middletown Power LLC, Montville Power LLC, Norwalk Power LLC, and Somerset Power LLC.

B. Commission Determination

16. The Commission will accept ISO-NE's proposed revisions to the FCM rules, as discussed below.

17. As a general matter, the Commission views the instant filing as an important step in ensuring that New England's FCM and Forward Capacity Auction function in the most efficient and effective manner. It is reasonable to expect ISO-NE to discover needs for small tweaks in the FCM rules as the reality of the first Forward Capacity Auction draws near. ISO-NE has submitted the instant filing to provide market participants ample notice and market certainty.¹⁶

18. The Commission recognizes ISO-NE's efforts to encourage the participation of Demand Resources in the FCM. For example, ISO-NE has expanded the possibility of Demand Resource participation in the FCM by allowing existing winter-only resources to couple with new summer-only resources—many of which are expected to be Demand Resources—in order to submit a composite offer and guarantee up to five years of revenue. This is a positive result for all new summer-only resources as it increases the chance of coupling with a winter-only resource for a composite offer and provides revenue certainty for a new project. This provision provides an incentive for new summer-only Demand Resources to enter the FCM while treating Demand Resources similarly to supply resources.

The Commission orders:

We hereby accept ISO-NE's proposed revisions to the FCM rules, effective October 1, 2007.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

¹⁶ The Commission also notes that the provisions proposed in the instant filing achieved full support of the NEPOOL Participants Committee with only some abstentions.