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March 1, 2010

**VIA ELECTRONIC FILING**

The Honorable Kimberly D. Bose, Secretary  
The Honorable Nathaniel J. Davis, Sr., Deputy Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

Re: ISO New England, Inc.; Docket No. ER10-787-000  
Supplement of the New England Power Pool Participants Committee

Dear Secretary Bose and Deputy Secretary Davis:

Attached for filing in the above-captioned proceeding is a Supplement of the New England Power Pool (“NEPOOL”) Participants Committee to the joint filing it made with ISO New England Inc. on February 22, 2010.

A copy of the foregoing has been served on all parties included on the official service list for this proceeding maintained by the Secretary. Please contact me if you have any questions or need any further information regarding this filing.

Respectfully submitted,

Michelle C. Gardner  
Counsel to the NEPOOL Participants  
Committee

cc: Official Service List

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

ISO New England Inc. and ) Docket No. ER10-787-000  
New England Power Pool )

**SUPPLEMENT TO JOINT FILING DETAILING STAKEHOLDER PROCESS  
OF NEW ENGLAND POWER POOL PARTICIPANTS COMMITTEE**  
(March 1, 2010)

The New England Power Pool (“NEPOOL”) Participants Committee<sup>1</sup> hereby provides this supplement to the joint filing by ISO New England Inc. (“ISO-NE”) and NEPOOL on February 22, 2010 in the above-referenced proceeding of various rule revisions to the Forward Capacity Market (the “Rule Changes”) (the “Joint FCM Filing”). This supplement provides the Commission with additional information regarding the stakeholder process that led to NEPOOL’s approval of the Rule Changes.

NEPOOL and ISO-NE work closely together on joint filings to provide the Commission with an efficient, balanced and broad perspective on filings that enjoy the super-majority support of New England Market Participants. NEPOOL is, however, a consortium of all the diverse interests in the region, and those interests seldom share all of the same beliefs, intents, objectives and desires. Rather, they work together, constructively, seeking common ground on proposals they can support, and register that support institutionally through their votes on resolutions at the Participants Committee. Individual beliefs, intents, objectives and desires may be considered by some to be important and relevant to the Commission’s considerations, and in those circumstances are likely to be presented in separate filings. In joint filings, however, ISO-NE

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<sup>1</sup> Capitalized terms used but not otherwise defined in this filing have the meanings ascribed thereto in the ISO’s Transmission, Markets and Services Tariff, FERC Electric Tariff No. 3 (the “ISO-NE

and NEPOOL seek to include the information that both organizations institutionally support. In some instances ISO-NE includes information that does not have formal support by NEPOOL but that ISO-NE considers to be important to support the filing. In such circumstances, the joint filing is clear in distinguishing that the information is from ISO-NE and not NEPOOL.<sup>2</sup> In other instances, NEPOOL considers it important to include information in the filing that ISO-NE may not support or not consider to be necessary for the record, and is unwilling to include in the joint filing. This supplement is to provide such information for the Commission with respect to the joint filing letter submitting the Rule Changes.

As detailed in the Joint FCM Filing, the Rule Changes address concerns from several different sources and are the result of extensive efforts throughout the past year, in particular, by the FCM Working Group, the ISO-NE, NEPOOL, the New England Conference of Public Utility Commissioners (“NECPUC”), and other New England state representatives. The Rule Changes provide improved design of some FCM elements and additional detail and refinement to a number of related areas of the FCM rules. While the Joint FCM Filing does not resolve all the major issues raised by all Participants regarding the FCM design, many Participants believe that the Rule Changes represent an improvement over the existing design. While the information in this supplement may not be critical to the Commission’s review of the Rule Changes, it does demonstrate the thorough and thoughtful process conducted by stakeholders in considering all alternatives to the Rule Changes. During the very involved and open stakeholder process that culminated in NEPOOL’s approval of the Rule Changes, there were numerous amendments

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Tariff”), the Second Restated New England Power Pool Agreement and the Participants Agreement (“PA”). Section III of the ISO-NE Tariff is referred to as “Market Rule 1.”

<sup>2</sup> As an example, the LaPlante, Ethier, and Karl testimonies included in the Joint FCM Filing were solely sponsored by the ISO-NE.

sought by Participants in the Generation and Supplier Sectors that own and control supply resources in the region.

As described in the Joint FCM Filing, the NEPOOL Participants Committee considered the Rule Changes at its February 5, 2010 meeting and approved them in two separate votes. Specifically, the Participants Committee approved the Rule Changes in Section 13 as recommended by the NEPOOL Markets Committee by a 70.1% Vote, following consideration of six separate proposed amendments. The Participants Committee approved the Rule Changes in Section 12 as recommended by the NEPOOL Reliability Committee by a 71.69% Vote, following consideration of two separate proposed amendments to those Rule Changes. Support for the Rule Changes came from those representing transmission owners, load serving entities, publicly-owned entities, alternative resources and end users, with opposition from all members in the Generation Sector and further opposition or abstention from generating asset owners participating in the Supplier Sector (renewable energy generation owners were divided on the matter). Attachment 7 to Joint FCM Filing tabulates the Participants Committee votes.

The Joint FCM Filing references the eight total amendments sought by some Participants to the Rule Changes at the February 5, 2010 Participants Committee meeting but provides no information about those amendments. That information is contained in this Supplement.

## **I. PROPOSED BUT FAILED AMENDMENTS TO SECTION 13 OF THE RULE CHANGES**

The first amendment offered to the Rule Changes contained in Section 13 was a change that would permit generating and import capacity resources to sell capacity under the same terms and conditions as Real-Time Demand Response Resources and Real-Time Emergency Generation and in so doing, to accept the same set of obligations and participate in the markets should they clear under those conditions. Under the current FCM rules, Real-Time Demand Response Resources and Real-Time Emergency Generation are only obligated to sell their energy in certain limited circumstances, e.g., in system emergencies, as compared to generating and import resources that have an all-hour obligation to offer to sell in the Day-Ahead and Real-Time Energy Markets. ISO-NE expressed its opposition to this Amendment, as did NECPUC representatives, and it was voted and failed with a 27.90% Vote in favor, with support coming from every generation asset owner in the Generation Sector and other generation assets owners in the Supplier Sector (renewable energy generation owners were divided on the matter) (Generation – 17.3%; Transmission – 0%; Supplier 8.65%; Alternative Resources – 1.95%; Publicly Owned Entity – 0%; and End User – 0%) (See Vote 2 “GDF Suez Amendment No. 1” on Attachment 7 to Joint FCM Filing).

The second proposed amendment offered for Participants Committee’s consideration would revise Sections III.13.1.1.2.6 and III.13.1.4(b) of Market Rule 1, which addressed the review by the Internal Market Monitoring Unit of offers from new generating capacity and demand resources below 0.75 times CONE. This amendment was intended to ensure that expected net revenues excluded revenues that were only for new resources but not existing. The proposed amendment also contained other clarifying language, including the deletion of the term

“expressly” from the Rule Changes, which stated that “expected net revenues shall include economic development incentives that are offered broadly by state or local government and that are not *expressly* intended to reduce prices in the Forward Capacity Market (emphasis added),” out of an expressed fear that inclusion of “expressly” could undesirably restrict ISO-NE’s discretion in the future. ISO-NE and NECPUC representatives both indicated to Participants their opposition to this amendment. The amendment failed with a 36.55% Vote in favor, with support coming from every generation asset owner in the Generation Sector and other generation assets owners in the Supplier Sector (renewable energy generation owners were divided on the matter) (Generation – 17.3%; Transmission – 0%; Supplier 17.3%; Alternative Resources – 1.95%; Publicly Owned Entity – 0%; and End User – 0%) (See Vote 3 “Mirant Amendments” on Attachment 7 to Joint FCM Filing).

The third amendment to Section 13 of the Market Rule offered at the Participants Committee would allow all Static, Export, Administrative Export, and Permanent De-List Bids that have been reviewed and approved by the Internal Market Monitor and FERC under the current mitigation rules, i.e., in accordance with the net risk-adjusted going forward cost standard in Section III.13.1.2.3.2.1.2, to be eligible to set the price in Capacity Zones. Rather than seeking immediate adjustments to the Rule Change, given the potential complexity and intricacy of the necessary changes to implement this amendment, the sponsor, NRG, sought support from the Participants Committee for direction to the ISO-NE and stakeholders to prepare Market Rule language that would implement this understanding in time for the fifth Forward Capacity Auction. This amendment, which also was opposed by ISO-NE and NECPUC representatives, enjoyed broader conceptual support and encouragement for future consideration, but could not gain necessary support at the time and in the form provided. The third amendment failed with a

41.74% Vote in favor, with support coming from every generation asset owner in the Generation Sector, other generation assets owners in the Supplier Sector, and some Participants in the End User Sector (renewable energy generation owners were divided on the matter) (Generation – 17.3%; Transmission – 0%; Supplier 17.3%; Alternative Resources – 1.95%; Publicly Owned Entity – 0%; and End User – 5.19%) (See Vote 4 “NRG Amendment Regarding De-List Bids and Price Setting in Capacity Zones” on Attachment 7 to Joint FCM Filing).

The fourth amendment sought to revise the definition of FCM Pivotal Supplier contained in the Rule Changes to include two exemptions, one in which the resource owner seeks to de-list all of its capacity in a particular capacity zone and the second where the resource owner has less than five percent of the total capacity in that zone. The effect of this amendment would be to limit the circumstances in which the FCM Pivotal Supplier test would be applied so as to prevent any unintended consequences, such as not allowing any (or all) resources in a zone to set price and/or not allowing resources needed for reliability in a zone to set the price. ISO-NE and NECPUC representatives noted their opposition to this amendment. The amendment, which was offered by PSEG, failed with a 36.55% Vote in favor, with support coming from every generation asset owner in the Generation Sector and other generation assets owners in the Supplier Sector (renewable energy generation owners were divided on the matter) (Generation – 17.3%; Transmission – 0%; Supplier 17.3%; Alternative Resources – 1.95%; Publicly Owned Entity – 0%; and End User – 0%) (See Vote 5 “PSEG Amendment No. 1” on Attachment 7 to Joint FCM Filing).

The fifth amendment proposed to modify Section III.13.6.4 of the Rule Changes regarding ISO-NE requests for energy from resources that do not have a Capacity Supply Obligation (“CSO”). This proposal would treat resources that do not have a CSO similar to the

manner in which external resources are treated under the rules governing Emergency Energy Transactions (“EETs”). Under those rules, if the ISO-NE concluded it had a need for emergency energy, it would issue a request for EETs and invite all resources that do not have a CSO to respond. The current rules only permit external resources to participate. Some Participants noted that they would like further evaluation of this issue, but could not support the amendment at that meeting. The fifth amendment also was not supported by ISO-NE and NECPUC representatives and failed with a 29.74% Vote in favor, with support coming from every generation asset owner in the Generation Sector and other generation assets owners in the Supplier Sector (renewable energy generation owners were divided on the matter) (Generation – 17.3%; Transmission – 0%; Supplier 10.49%; Alternative Resources – 1.95%; Publicly Owned Entity – 0%; and End User – 0%) (See Vote 6 “PSEG Amendment No. 2” on Attachment 7 to Joint FCM Filing).

The sixth and final amendment also proposed to revise Section III.13.6.4 of the Rule Changes regarding ISO-NE requests for energy. This amendment would remove from consideration: (i) the insertion “after activation of all capacity subject to a Capacity Supply Obligation,” and (ii) the two phrases from Section III.13.6.4 inserted by the Markets Committee that stated “under Section III.13 of this Tariff by such a request.” The effect of this amendment essentially would be to restore the language in these respects back to what is now in the present Market Rules (with the exception of the added phrase “that is not subject to a Capacity Supply Obligation”). ISO-NE and NECPUC representatives indicated opposition to this amendment. The sixth amendment failed with a 36.55% Vote in favor, with support coming from every generation asset owner in the Generation Sector and other generation assets owners in the Supplier Sector (renewable energy generation owners were divided on the matter) (Generation –

17.3%; Transmission – 0%; Supplier 17.3%; Alternative Resources – 1.95%; Publicly Owned Entity – 0%; and End User – 0%) (See Vote 7 “GDF Suez Amendment (ISO Requests for Energy)” on Attachment 7 to Joint FCM Filing).

Following consideration of all these amendments, the Participants Committee voted and approved by a 70.10% Vote in favor the Section 13 Rule Changes (Generation – 0%; Transmission – 17.3%; Supplier – 6.65%; Alternative Resources – 11.55%; Publicly Owned Entity – 17.3%; and End User – 17.3%) (See Vote 8 on Attachment 7 to Joint FCM Filing). The general sense expressed by those opposing the Section 13 Rule Changes, which were virtually all of the Participants with generating supply resources, was disappointment that the Rule Changes did not go further in solving identified concerns with FCM.

## **II. PROPOSED BUT FAILED AMENDMENTS TO SECTION 12 OF THE RULE CHANGES**

The first amendment to the Rule Changes in Section 12 would require ISO-NE to model all Capacity Zones at all times where the ISO-NE could, using its auction clearing methodology. The effect of this amendment would be to eliminate the tests in Section III.12.4(b) of the Rule Changes to determine whether to “model” Capacity Zones in the auction. This amendment, which was proposed by NRG, was not supported by ISO-NE and NECPUC representatives. It failed to receive support by the Participants Committee with a 36.55% Vote in favor, with support coming from every generation asset owner in the Generation Sector and other generation assets owners in the Supplier Sector (renewable energy generation owners were divided on the matter) (Generation – 17.3%; Transmission – 0%; Supplier 17.3%; Alternative Resources – 1.95%; Publicly Owned Entity – 0%; and End User – 0%) (See Vote 9 “NRG Amendment Regarding Capacity Zones” on Attachment 7 to Joint FCM Filing).

The second, and final, amendment to the Section 12 Rule Changes would revise the calculation of the Maximum Capacity Limit (“MCL”). The current ISO-NE Tariff defines the MCL as the Installed Capacity Requirement (“ICR”) minus the Local Sourcing Requirement (“LSR”). The Rule Changes amend that calculation such that MCL will be ICR less the Local Resource Adequacy requirement. The amendment would maintain the definition of MCL as the ICR less the LSR, but would add a new section that would state that in the event there is no valid Transmission Security Analysis for the Rest of System zone, one cannot be used in the calculation of LSR for the Rest of System. This amendment was not supported by ISO-NE or NECPUC representatives. The amendment failed with a 33.8% Vote in favor, with support coming from every generation asset owner in the Generation Sector and other generation assets

owners in the Supplier Sector (renewable energy generation owners were divided on the matter) Generation – 17.3%; Transmission – 0%; Supplier 14.55%; Alternative Resources – 1.95%; Publicly Owned Entity – 0%; and End User – 0%) (See Vote 10 “GDF Suez Amendment Regarding TSA Requirements” on Attachment 7 to Joint FCM Filing).

After considering these two proposed amendments to Section 12, the Participants Committee voted to support the Rule Changes to Section 12 with a 71.69% Vote in favor (Generation – 0%; Transmission – 17.3%; Supplier – 6.29%; Alternative Resources – 13.5%; Publicly Owned Entity – 17.3%; and End User – 17.3%) (See Vote 11 on Attachment 7 to Joint FCM Filing).

### III. CONCLUSION

The Rule Changes are the result of extensive efforts by stakeholders throughout the past year and represent pragmatic improvements over the existing design of the FCM. While none of the amendments described in these supplemental comments received the required level of NEPOOL support, some Participants noted support for continued evaluation of the issues raised by such amendments. The standard to be applied by the Commission here is to determine whether the Rule Changes are just and reasonable and not whether other changes such as the amendments might also be. The Rule Changes represent what has been explored, and understood sufficiently at this time and in the current circumstances, and are just and reasonable. As such, NEPOOL urges the Commission to accept the Rule Changes to become effective on April 23, 2010 without condition or modification, as requested in the Joint FCM Filing.

Respectfully submitted,

NEPOOL Participants Committee

By: \_\_\_\_\_

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Its Attorneys

Dated: March 1, 2010

**CERTIFICATE OF SERVICE**

I hereby certify that I caused a copy of the foregoing document to be served electronically upon each person designated on the official service list compiled by the Secretary of the Federal Energy Regulatory Commission.

Dated at Boston, Massachusetts this 1st day of March 2010.

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