

February 5, 2004

Mr. James H. Douglass
Senior Regulatory Counsel
ISO New England, Inc.
1 Sullivan Road
Holyoke MA 01040
TEL (413) 382-8111
FAX (413) 540-4298

Re: Subpoena

Dear Mr. Douglass:

Enclosed is a subpoena seeking information concerning the events surrounding the ISO New England requests for voluntary conservation of electricity on January 14 and 15, 2004. To the extent that such documents have already been produced in response to earlier data requests in connection with this investigation, it is not necessary to provide these documents again provided that you specifically identify the response to which those documents were produced.

I thank you in advance for your speedy response.

Very truly yours,

RICHARD BLUMENTHAL

**STATE OF CONNECTICUT
OFFICE OF THE ATTORNEY GENERAL**

INTERROGATORIES AND SUBPOENA DUCES TECUM

TO: James H. Douglass*
Senior Regulatory Counsel
ISO New England Inc.
One Sullivan Road
Holyoke, Massachusetts 01040-2841

BY AUTHORITY OF THE STATE OF CONNECTICUT, and more particularly, pursuant to the Connecticut Antitrust Act, Chapter 624, Section 35-42 of the Connecticut General Statutes, you are hereby commanded and required to submit to the Attorney General of the State of Connecticut, or his designee, at his office, 55 Elm Street, Hartford, Connecticut 06106, within ten (10) days after receipt hereof, the following documentary materials and written answers to interrogatories, UNDER OATH, because the Attorney General has reason to believe that a person has engaged in a contract, combination or conspiracy which is in restraint of trade or commerce and, more particularly, which is for the purpose, or has the effect of: (a) fixing, controlling or maintaining prices, rates, quotations, or fees for electricity; or (b) fixing, controlling, maintaining, limiting, or discontinuing the production, manufacture, sale or supply of electricity; or (c) bid rigging, in violation of Sections 35-26 and 35-28 of the Connecticut General Statutes, and you have information relevant thereto.

* Attorney Douglass is counsel for ISO-NE and has agreed to accept service for this Civil Investigative Demand.

DEFINITIONS

AS USED HEREIN:

(A) “You,” “your,” or “your Company” shall mean the addressee of this set of Interrogatories and Subpoena Duces Tecum, and each subsidiary or division thereof, all past and present officers, directors, partners, employees, agents, predecessors, successors, assigns and all other persons, acting on behalf of said addressee.

(B) The terms “and” and “or” are terms of inclusion and not of exclusion and shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this subpoena any document or information that might otherwise be construed to be outside its scope.

(C) The term “any” means each and every and one or more.

(D) “Bid” and “bids” means any oral or written price quotations, solicited or unsolicited, formal or informal, and the bid proposals or other documents that are used in the submission of such price quotations.

(E) “Communicate” or “communication” means every manner or means of disclosure, transfer or exchange, and every disclosure, transfer or exchange of ideas or information, whether orally, by document, or electronically, or whether face-to-face, by telephone, mail, personal delivery, electronic transmission or otherwise.

(F) “Cover bid” means any bid submitted with the knowledge or intention, by prearrangement or otherwise, that the submitting company would not be the low or successful bidder, or submitted at the request of another person and not expected or intended to be the low or successful bid.

(G) The term “documentary material” or “document” shall mean all written or graphic matter, however produced, or reproduced, of every kind and description in your actual or constructive possession, custody, care or control, including without limitation, all writings, drawings, graphs, charts, photographs, sound tapes or recordings, video tapes or recordings, CD-ROMs, papers, books, e-mail, account letters, microfilm, magnetic tape, magnetic discs, magnetic strips, optical characters, recognition characters, punched paper tapes, microfiche, punched cards, telegraphs, faxes, invoices, statements, account recommendations, notes, minutes, memoranda, reports, studies, contracts, ledgers, books of accounts, vouchers, hotel charges, receipts, working papers, drafts, statistical records, cost sheets, stenographer notebooks, calendars, appointment books, diaries, time sheets or logs, computer printouts, computer files, data compilations from which information can be obtained or can be translated through detection devices into reasonably usable form, or any other tangible thing.

(H) “Identify,” “identity,” or “identification,” when used in reference to a natural person, means to state his or her full name and present or last-known address, present or last-known position and business affiliation and each position with you, and telephone numbers for residence and business; when used in reference to any other person means to state its full name, present or last-known address, and telephone number; when used in reference to a document means to state the type of document (i.e., letter, memoranda, chart, handwritten notes, calendar (electronic or paper), spreadsheet, sound reproduction, report, computer inputs or outputs, etc.) , the location where maintained, your identifying marks and code, the subsidiary, division, or department where prepared and sent, the document date, the author and persons to whom copies were sent or persons initialing or reading or approving the document, and the name and address

of each of the present custodians of the document. If any such document was, but is no longer in your possession, custody, care or control or in existence, state whether it is:

- (1) Missing or lost;
- (2) Has been destroyed;
- (3) Has been transferred voluntarily or involuntarily to others, and if so, to whom, or;
- (4) Otherwise disposed of, and if so, how.

In each instance, explain the circumstances surrounding an authorization for such disposition thereof and state the date or approximate date thereof.

(I) “Meeting” means any assembly, encounter, or simultaneous presence or communication, for any length of time, of two or more persons for any purpose, whether or not planned, arranged, or scheduled in advance.

(J) “Payment” means the disbursement of money, cancellation of a debt or credit, transfer of anything of value, or satisfaction of an obligation.

(K) The term “person” includes any natural person, corporate entity, partnership, association, joint venture, government entity or trust, and any other business or legal entity.

(L) The term “relating to” means in whole or in part constituting, containing, concerning, discussing, commenting upon, describing, analyzing, identifying, stating, pertaining to, referring to, or forming the basis of.

(M) “Representatives” shall mean all persons with responsibility for preparing or reviewing bids, quotations or estimates, invoices, or correspondence on behalf of a company, including but not limited to any officer or owner of that company.

(N) “ISO-NE” means ISO-New England Inc., and / or any affiliate or subsidiary.

(O) “Generator” means any entity owning or operating a facility that produces more than 20 megawatts of electricity or any affiliate or subsidiary of such entity within the ISO New England control area.

(P) “Bidding entity” means any entity offering the purchase or sale of electricity within the ISO-NE control area.

(Q) “Relevant Period” means January 14 through January 20, 2004.

(R) “The State” means the State of Connecticut, and any agency thereof.

(S) All references to the singular include the plural and vice versa.

(T) The present tense shall be construed to include the past tense and the past tense shall be construed to include the present tense.

INSTRUCTIONS

The response to this Demand shall be submitted in the following manner:

1. Documents provided shall be complete and, unless privileged, unredacted, submitted as found in the company’s files (*e.g.*, documents that in their original condition were stapled, clipped or otherwise fastened together or maintained in separate file folders shall be produced in such form). The company may submit photocopies (with color photocopies where necessary to interpret the document)), in lieu of original documents, provided that such copies are true, correct and complete copies of the original documents.

2. Number each box and mark each box with corporate identification and the name(s) of the person(s) whose files are contained in that box. Documents shall be submitted in sturdy cartons not larger than 1.5 cubic feet.

3. Documents submitted shall be produced in the order in which they appear in the company’s files and shall not be shuffled or otherwise rearranged. Mark each page with

corporate identification and consecutive document control numbers. Place all documents produced in file folders. Mark each file folder with corporate identification, the name of the person whose documents are in the folder and how the original file was labeled.

CLAIMS OF PRIVILEGE

If you contend that any answer to any Interrogatory or any document demanded by this subpoena is privileged in whole or in part, or otherwise object to any part of any Interrogatory or any document request, file with your response to these Interrogatories and Subpoena Duces Tecum a statement in writing and under oath and in such statement: (1) identify each such interrogatory answer or document; (2) state its general subject matter; and (3) state in detail the basis for each claim of privilege made with respect to it. If a claim of privilege is made to only a part of a document, then in addition to the statement required herein, produce a copy of such document from which the alleged privileged portion has been redacted, noting where in the document such redactions have been made.

SCOPE

Except where otherwise indicated, this set of Interrogatories and Subpoena Duces Tecum covers the period from January 14, 2004 up to and including January 20, and encompasses business and communications in or relating to the generation, bidding, purchase or sale of electricity in ISO-NE's service territory.

COMPLIANCE

Attached to this request is a Certificate of Compliance which you are to complete and return, notarized, with your response.

**WRITTEN INTERROGATORIES AND DOCUMENTARY MATERIAL TO BE
PRODUCED**

1. Identify each person responding to these Interrogatories on behalf of your Company and state the number of each Interrogatory to which said person is responding.
2. Provide the amounts of generating capacity declared physically unavailable identified by hour during the Relevant Period for:
 - (a) the ISO-NE control area.
 - (b) Connecticut.
 - (c) Southwest Connecticut.
 - (d) Norwalk-Stamford.

Provide any communications received or prepared by ISO-NE regarding the reasons for such physical unavailability.

3. Provide the amounts of generating capacity which were physically available and, separately, the generating capacity normally scheduled for maintenance during the Relevant Period for each area identified in response to (2)(a)-(d). For generating capacity subject to scheduled maintenance during the Relevant Period, identify each such generator, by name and location, and the capacity affected.
4. Describe any energy bids in real-time or day-ahead from generators, identifying the affected generator, during the Relevant Period in real-time or day-ahead markets which were anomalous based on a comparison with prior bidding history and estimates of operating costs, so that, even if the affected generating capacity was not as a technical matter physically unavailable, the position of such generator in the bid stack was altered materially from past experience.
5. Provide any inquiries made by ISO-NE's market monitoring unit to generators and responses thereto with respect to activities occurring during the Relevant Period.
6. Provide the real-time electric loads by hour during the Relevant Period for each of the areas identified in (2)(a)-(d).
7. Provide the real-time and day-head prices by hour for energy during the Relevant Period for the Connecticut zone and for representative pricing nodes in Norwalk-Stamford, and Southwest Connecticut, and rest of Connecticut, respectively.
8. Describe the utilization of daily reliability must-run (RMR), operating reserves, forward reserves, ancillary services and other electric products, respectively, by hour during the

Relevant Period in the ISO-NE control area and, if applicable, as utilized in Connecticut and/or charged to Connecticut loads.

9. Identify the physical utilization for transfers of energy of the 1385 line and the Cross Sound Cable by hour during the Relevant Period.
10. For each generator declared in whole or in part physically unavailable during some period during the Relevant Period, provide:
 - (a) the generator's name and location.
 - (b) the amount of capacity affected by hour.
 - (c) the reported heat rate(s) and fuel(s) utilized by the generator.
 - (d) environmental permit restrictions on operations on fuels, if any.
 - (e) any explanations provided by the generator for the declaration of physical unavailability.
11. For each generator identified in response to question 10, identify whether such generator owns, controls, or is affiliated with other generation in New England, the location of such generation, the generation capacity, heat rate(s) and fuels utilized, and whether such generation was also declared unavailable.
12. Provide and identify pricing series for the Relevant Period by day for: (a) spot prices during the Relevant Period for natural gas for Henry Hub and for delivery at representative locations in New England to electric generators; and (b) spot prices for deliveries of environmental permit compliant fuel oil (no. 2 fuel oil) in New England to electric generators.
13. Provide all correspondence and/or communications by ISO-NE with the public, generators, transmission companies and/or regulators relating to or concerning reductions in electric generation capacity availability during the Relevant Period.
14. Provide all correspondence and/or communications between ISO-NE and generators, transmission companies and/or regulators relating to or concerning reductions in electric generation capacity or availability during the Relevant Period.
15. Identify any provisions of ISO-NE's market rules or procedures or the revised NEPOOL agreement which are relevant to an assessment of the generators' actions in declaring capacity unavailable during the Relevant Period.
16. Identify, and provide all documents concerning, all generating capacity that was unavailable for any reason during the Relevant Period by hour, including the identity of the generator, the amount of generating capacity unavailable, and the basis for the unavailability (physical or economic or other) for:
 - (a) the ISO-NE control area;
 - (b) Connecticut;

- (c) Southwest Connecticut; and
- (d) Norwalk-Stamford sub-area.

17. Provide all documents concerning communications with all generators identified in Question 16 above regarding their unavailability, including the reason(s) for their unavailability.

18. Identify all communications with all generators identified in Question 16 above regarding their unavailability, including the reason(s) for their unavailability.

19. Provide all energy bids in the day ahead and real-time markets, respectively, made during the Relevant Period. For each offer, specifically identify:

- (a) the bidding entity;
- (b) the generator that is the subject of the bid;
- (c) the amount (volume and price) of the bid; and
- (d) the time period of the bid.

20. Provide all energy bids in the day ahead and real-time markets, respectively, where the bid exceeded the applicable Reference Price during the Relevant Period. For each offer, specifically identify:

- (a) the bidding entity;
- (b) the generator that is the subject of the bid;
- (c) the amount (volume and price) of the bid;
- (d) the time of the bid; and
- (e) the applicable reference price

21. With respect to the information provided in response to questions 19 and 20, please also provide this information showing the stratification of the energy bids in \$250 per mWh increments, e.g., all bids between \$250-500, between \$500-750, etc.

22. Provide any ISO-NE market monitoring group analysis of bidding entities bidding behavior during the Relevant Period.

HEREOF FAIL NOT UNDER PENALTY OF LAW. To any proper officer or indifferent person to serve and return.

Dated at Hartford, Connecticut this ____ day of _____, 2004.

Richard Blumenthal
Attorney General
10 Franklin Square
New Britain, CT 06051
TEL: (860) 808-5318

February 5, 2004

Mr. Gordon van Welie
President and Chief Executive Officer
ISO New England
1 Sullivan Road
Holyoke MA 01040
TEL (413) 382-8111
FAX (413) 540-4298

Re: Events Surrounding January 14 and 15, 2004

Dear Mr. van Welie:

I am conducting an investigation into the recent events surrounding the ISO New England requests for voluntary conservation of electricity on January 14 and 15, 2004. In this regard, I hereby request that you provide to me the following information as it relates to ISO New England as soon as possible, but in no event later than February 17, 2004. For the purposes of these data requests, the "Relevant Period" means the period January 14, 2004 to January 20, 2004. This request is not made pursuant to Connecticut General Statutes § 35-42. Please do not include confidential or proprietary information in these responses.

Where requested, hourly and daily data should be provided in excel format.

1. Identify, and provide all documents concerning, all generating capacity that was unavailable for any reason during the Relevant Period by hour, including the identity of the generator, the amount of generating capacity unavailable, and the basis for the unavailability (physical or economic or other) for:
 - (a) the ISO-NE control area;
 - (b) Connecticut;
 - (c) Southwest Connecticut; and
 - (d) Norwalk-Stamford sub-area.
2. Provide all documents concerning communications with all generators identified in Question 1 above regarding their unavailability, including the reason(s) for their unavailability.
3. Describe all communications with all generators identified in Question 1 above regarding their unavailability, including the reason(s) for their unavailability.

4. Provide all energy bids in the day ahead and real-time markets, respectively, made during the Relevant Period. For each offer, specifically identify:

- (a) the bidding entity;
- (b) the generator that is the subject of the bid;
- (c) the amount (volume and price) of the bid; and
- (d) the time period of the bid.

5. Provide all energy bids in the day ahead and real-time markets, respectively, where the bid exceeded the applicable Reference Price during the Relevant Period. For each offer, specifically identify:

- (a) the bidding entity;
- (b) the generator that is the subject of the bid;
- (c) the amount (volume and price) of the bid;
- (d) the time of the bid; and
- (e) the applicable reference price

6. With respect to the information provided in response to questions 4 and 5, please also provide this information showing the stratification of the energy bids in \$250 per mWh increments, e.g., all bids between \$250-500, between \$500-750, etc.

7. Provide any ISO-NE market monitoring group analysis of bidding entities bidding behavior during the Relevant Period.

I thank you in advance for your speedy response.

Very truly yours,

RICHARD BLUMENTHAL