

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

Richard Blumenthal, Attorney General)	
for the State of Connecticut)	
)	Docket No. EL09-47-000
v.)	
)	
ISO New England Inc., <i>et al.</i>)	
The Connecticut Department of Public)	
Utility Control and the)	
Connecticut Office of Consumer)	
Counsel,)	
)	
v.)	Docket No. EL09-48-000
)	
ISO New England Inc., <i>et al.</i>)	
)	(Consolidated)

**FERC ENFORCEMENT LITIGATION STAFF'S
FIRST SET OF DATA REQUESTS TO
ISO NEW ENGLAND INC.**

Pursuant to Rule 406 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (Commission), 18 C.F.R. § 385.406, FERC Enforcement Litigation Staff (staff) submits the following data requests to ISO New England, Inc. (ISO-NE). Please provide all written and documentary responses as they become available, and in any case, not later than September 23, 2009. Pursuant to Rules 406(b)(5) and 410(a) of the Commission's Rules of Practice and Procedure, 18 C.F.R. §§ 385.406(b)(5), 410(a), notice of any objections to full compliance with these data requests should be given in writing as soon as reasonably possible, but not later than ten (10) business days after the receipt of these data requests.

Please provide responses to FERC Enforcement Litigation Staff directed to the following:

Geof Hobday
Room 52-73
Division of Investigations
Office of Enforcement
Federal Energy Regulatory Commission
888 First Street, N.E.
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Your response to this data request is to follow the attached General Instructions, Specifications and Definitions (Attachment B). As noted there, all responses are to be made under oath.

ATTACHMENT A

FERC ENFORCEMENT LITIGATION STAFF'S FIRST SET OF DATA REQUESTS TO ISO NEW ENGLAND INC.

All references in the requests below to ISO New England Inc. include the directors, officers, employees, agents, contractors, consultants, attorneys, affiliates, subsidiaries, parents, holding companies, and any other person acting or purporting to act on behalf of ISO New England Inc. Unless otherwise indicated, all responses to these requests should cover the time period December 1, 2006 through July 1, 2009.

S/ISO-NE 1-1. Identify all installed capacity (ICAP) importers across the New York AC Interface from December 1, 2006 through July 1, 2009.

S/ISO-NE 1-2. For each importer identified in data request 1, provide the following information in either an Excel spreadsheet or .csv format for December 1, 2006 through July 1, 2009:

- (a) Day-ahead energy offer data for each hour related to each importer's New York AC Interface capacity obligation. This data should include the date, time, MW, offer price, and any other relevant terms.
- (b) Real-time energy offer data for each hour related to each importer's New York AC Interface capacity obligation. This data should include the date, time, MW, offer price, and any other relevant terms.

If voluminous, the response to this data request may be provided solely in electronic format.

S/ISO-NE 1-3. For each importer identified in data request S/ISO-NE 1-1, provide the following information in either an Excel spreadsheet or .csv format for December 1, 2006 through July 1, 2009:

- (a) The total New York AC Interface import capacity obligation for each hour for each importer
- (b) The energy cleared in the day-ahead energy market for each importer for each hour related to its capacity obligation
- (c) The relevant day-ahead energy clearing price for each hour
- (d) The energy delivered by each importer related to cleared day-ahead energy offers related to its capacity obligation
- (e) The energy cleared in the real-time energy market for each importer related to its capacity obligation
- (f) The relevant real-time energy clearing price for each hour

- (g) The energy delivered by each importer related to cleared real-time energy offers associated with its capacity obligation
- (h) The total energy delivered by each importer for each hour related to its capacity obligation

If voluminous, your response to this data request may be provided solely in electronic format.

S/ISO-NE 1-4. Identify all circumstances from December 1, 2006 through July 1, 2009 in which ISO-NE sought energy from any capacity importer across the New York AC Interface during hours in which the importer had no cleared energy offers related to its import capacity obligation. For each such instance, describe the system conditions leading to a determination that energy imports were needed, the procedure followed to obtain the energy, whether energy was procured from an importer, and the substance of any communications with the New York Independent System Operator (NYISO), importers, or others related to the incident.

S/ISO-NE 1-5. Provide all ICAP import registration and contract documents (including, but not limited to, amendments, addenda, and other modifications) for each importer identified in response to data request S/ISO-NE 1-1.

S/ISO-NE 1-6. Provide all communications to and from each importer identified in response to data request S/ISO-NE 1-1 related to capacity imports over the New York AC Interface from December 1, 2006 through July 1, 2009. Your response should include, but is not limited to, communications pursuant to section III.8.3.7.1(a)-(e) of the ISO-NE tariff.

S/ISO-NE 1-7. Identify all payments or credits for energy transactions and capacity transactions related to imported capacity over the New York AC Interface from December 1, 2006 through July 1, 2009. Your response should include the date of each payment or credit, the amount, and the time period covered by the payment or credit.

S/ISO-NE 1-8. For each importer identified in response to data request S/ISO-NE 1-1, identify the resource(s) utilized by each importer to meet its import capacity and energy obligations over the New York AC Interface, if known. Each such resource should be described in detail, including, but not limited to capability in MW, location, heat rate, and authority of the importer to direct the output of the resource. If any such resource was subject to derating or other capacity output modifications from December 1, 2006 through July 1, 2009, identify and explain each such modification.

S/ISO-NE 1-9. Provide the results for any audits or other means to ensure the availability of import energy or capacity from capacity importers identified in data request 1 from December 1, 2006 through July 1, 2009. Your response should include,

but is not limited to, the dates of such audits, the manner in which such audits were undertaken, the response to the audit from each importer, and the amount of energy or capacity demonstrated to be available from each importer in response to the audit.

S/ISO-NE 1-10. Does ISO-NE have any reason to believe that the importers identified in response to data request S/ISO-NE 1-1 have been, are, or will be unable to provide energy up to and including their capacity rating when called upon by ISO-NE in real-time? If your answer is anything other than “no,” please explain your response fully. Provide all documents supporting your response.

S/ISO-NE 1-11. Describe, in narrative format, the energy scheduling procedures in NYISO and ISO-NE for import resources with offers that clear the day-ahead market.

S/ISO-NE 1-12. Describe, in narrative format, the energy scheduling procedures in NYISO and ISO-NE for import resources with offers that do not clear the day-ahead market, but are called upon by ISO-NE in real-time.

S/ISO-NE 1-13. Describe any seams issues of which ISO-NE is aware that could preclude the scheduling of energy from import capacity resources across the New York AC Interface in real-time. If ISO-NE is aware of any instance in which seams issues have, in fact, precluded scheduling of import energy from importers identified in data response S/ISO-NE 1-1, describe each relevant instance.

S/ISO-NE 1-14. Regarding pages 16-17 of David LaPlante’s testimony filed in Docket No. EL09-47 *et. al* on May 6, 2009, Mr. LaPlante states that ISO-NE only once inquired about the availability of energy in real-time from a high-price capacity importer. Describe in detail the inquiry made by ISO-NE personnel regarding scheduling of this high-priced import resource. Your response should include, but is not limited to, the date and time of the inquiry, system conditions leading up to and during the inquiry, the personnel (names and titles) involved in the inquiry, communications related to the inquiry, the amount of energy requested, the importer and resource(s) involved, and the result of the inquiry. Provide all documents relevant to your response.

S/ISO-NE 1-15. Other than the inquiry identified in data request S/ISO-NE 1-14, identify any other instance between December 1, 2006 and July 1, 2009 in which ISO-NE inquired about the availability of real-time energy supplied from a capacity import resource over the New York AC Interface. Your response should include, but is not limited to, the date and time of the inquiry, system conditions leading up to and during the inquiry, the personnel (names and titles) involved in the inquiry, communications related to the inquiry, the amount of energy requested, the importer and resource(s) involved, and the result of the inquiry. Provide all documents relevant to your response.

S/ISO-NE 1-16. Confirm that all testimony and pleadings submitted by ISO-NE in Docket Nos. ER09-873, EL09-47, and EL09-48 are true and correct to the best of ISO-NE's information knowledge and belief, save for testimonial errors previously identified by ISO-NE in those dockets.

ATTACHMENT B

General Instructions, Specifications and Definitions

The following General Instructions, Specifications and Definitions apply to each data request.

1) General Instructions

- a) Each response shall be made under oath, in the form of one or more affidavits signed by an authorized officer or agent of the respondent. The officer or agent shall state under penalty of perjury that the response has been prepared under his or her supervision and control and that the response constitutes a true, complete and accurate response to the request, to the best of his or her knowledge, information and belief.
- b) In response to each data request, provide information available from corporate and individual files. Where a data request is directed to a particular respondent, and an affiliate, subsidiary, contractor, or agent acts on behalf of that respondent or provides any support, technical or ancillary service relevant to the data request, the respondent shall include the information from the other party and indicate the source of the information.
- c) Each written response shall designate the respective data request and subpart or portion of the item under which it is provided. The data responses shall be provided in numerical order, and in a clear and concise fashion.
- d) Responses shall indicate which documents relate to which data request.
- e) If respondent objects to the production of any material responsive to any of the data requests on the ground of privilege or protection (such as attorney-client privilege or the attorney work product doctrine), respondent shall provide a detailed log containing the following information for each communication or document:
 - i) Identification of the nature of the privilege asserted;
 - ii) The type of communication or document;
 - iii) The subject matter of the communication or document;
 - iv) The date of the communication or document;
 - v) The author(s) or person(s) present and their title or position;
 - vi) The recipient(s) or person(s) present and their title or position;
 - vii) All other individuals who received or were present for the communication or document or had access to the item or document and their title or position;
 - viii) The purpose for which the communication or document was created;
 - ix) A detailed, specific explanation as to why the communication or document (or portion thereof) is privileged or otherwise immune from discovery, including a presentation of all factual grounds and legal analyses in a non-conclusory fashion; and
 - x) The number of pages in the document.

NOTE: If respondent claims the attorney-client privilege, the log shall also indicate whether the communication claimed to be privileged was made by the attorney or the client, and whether the communication or document has been communicated to any person other than the attorney and client involved. If the communication claimed to be privileged has been so communicated, identify such third person(s) by name and relationship to the client and the attorney, and indicate the date of such communication. Produce the non-privileged portion(s) of the document or information, if the privileged portion of the document or information is capable of being excised, so that the remainder is no longer privileged.

- f) If any document responsive to any data request has been lost, discarded, destroyed, or is unavailable, state when, and explain why, such document was lost, destroyed, discarded, or is unavailable. Provide the names of all persons who have knowledge of the loss, destruction, or disposal of the document. If respondent claims that the destruction occurred pursuant to a document destruction program, identify and produce a copy of the guideline, policy or manual describing such program, and any correspondence or communication relating to the destruction. If the document or copies are in existence but not in the custody or control of the respondent, identify each such document and provides its present location and custodian.
- g) Each data request is continuing in nature and requires supplemental responses as soon as further information is located or obtained that is responsive to the request.
- h) The terms “and” and “or” shall be construed either disjunctively or conjunctively whenever appropriate in order to bring within the scope of each data request any information or document that might otherwise be considered to be beyond its scope.
- i) The singular form of a word shall be interpreted as plural, and the plural form of a word shall be interpreted as singular, whenever appropriate, in order to bring within the scope of each data request any information or document which might otherwise be considered to be beyond its scope.

2) Specifications

a) General

- i) Provide responses in both hard copy and electronic format. Please see detailed specifications below.
- ii) Respondent shall provide a transmittal letter with each response to a data request outlining the contents of the data request.
- iii) Each document shall bear a unique identifier, such as “Bates” labels.
- iv) All documents provided shall be scanned and delivered as single page group 4 TIFF images with an accompanying cross reference load file in a Summation “.DII” format.

Along with the cross reference file to the images we request the following coded data be delivered in a delimited text file:

Description	Field Name
First Page Bates Number	BeginDoc#
Last Page Bates Number	EndDoc#
Attachment (First Page Bates Number of parent document)	Attachmt
The type of communication or document	DocType
Document Title or Description	DocTitle
The date of the communication or document	DocDate
The author(s) and Organization (Name/Organization)	Author
The recipient(s) and Organization	Recip
Any other recipient(s) and organization	CC
Response to Data Request Number	RespNum

- v) For the delimited text files in the above instructions, the field names shall be the first line and the following delimiters shall be used:

“□ “ (ASCII 20) Field Separator
“p” (ASCII 254) Text Delimiter
“®” (ASCII 174) New Line Character within a field.
“;” (ASCII 59) Multi Entry Delimiter

- vi) Please deliver OCR text in a separate OCR folder. The OCR text should be in the format of one text file per document. Please supply an OCR text load file as a separate delimited text file.

b) Hard Copy Documents

- i) Hard copy responses shall consist of an original and one hard copy of each answer and any accompanying documents, and shall be delivered by hand or by express delivery service (not U.S. Mail) to the indicated address.
- ii) Each document of more than one page shall be stapled or otherwise bound.

c) Electronic Documents

- i) Electronic responses may be submitted by email or delivered by hand or by express delivery service.
- ii) Absent unusual circumstances, please provide electronic responses as follows: Microsoft Word for narratives, Excel for data, and Outlook 2003 “.PST” file format for emails. If respondent claims such unusual circumstances, it shall provide an explanation of the circumstances in its transmittal letter.
- iii) The electronic versions or images of documents shall be provided in the format and

with meta-data specified above. The electronic responses may be submitted by e-mail or hand delivered on standard electronic media.

- iv) Provide audio recordings in “.wav” or “.mp3” formats.
- v) For all audio recordings, provide a tab-delimited text file with at least the following fields: (i) audio file name; (ii) person calling; (iii) date of call; (iv) time of call; (v) duration of call; (vi) line recorded; (vii) person or number called; and (viii) any other meta-data or bibliographical information associated with call records that is maintained in the ordinary course of business.

3) Definitions

- a) “Affiliate” means another person which controls, is controlled by, or is under common control with, such person.
- b) “All” or “each” shall be construed to mean all and each.
- c) “Communication(s)” includes all verbal and written communications of every kind, including, but not limited to, telephone calls, conferences, electronic mail and correspondence, instant messaging, text messaging, and all documents and memoranda concerning the communication.
- d) “Control” (including the terms “controlling,” “controlled by,” and “under common control with”) includes, but is not limited to, the possession, directly or indirectly and whether acting alone or in conjunction with others, of the authority to direct or cause the direction of the management or policies of a business entity. A voting interest of 10 percent or more creates a rebuttable presumption of control.
- e) “Documents”
 - i) “Documents” refers to the originals of all writings and records of every type in your possession, control, or custody, including but not limited to: memoranda, correspondence, letters, email, instant messaging, text messaging, testimony and exhibits, reports (including drafts, preliminary, intermediate, and final reports), surveys, analyses, studies (including economic and market studies), summaries, comparisons, tabulations, charts, books, pamphlets, photograph forms (including microfilm, microfiche, prints, slides, negatives, videotapes, motion pictures, and photocopies), maps, sheets, ledgers, transcripts, vouchers, accounting statements, budgets, work papers, engineering diagrams, communications, speeches, and all other records, written, electronic (including information on electronic or magnetic storage devices), mechanical, or otherwise, and drafts, attachments or appendices of any of the above.
 - ii) “Documents” includes copies of documents, where the originals are not in your

possession, custody, or control. As to any document related to the matter herein that is not in your possession, but that you know or believe to exist, you are requested to identify and indicate to the best of your ability its present or last known location or custodian.

- iii) "Documents" includes every copy of a document which contains handwritten or other notations or which otherwise does not duplicate the original or any other copies.
 - iv) "Documents" includes electronic data and records stored on computer equipment, including electronic devices which are capable of collecting, analyzing, creating, displaying, converting, storing, concealing or transmitting electronic, magnetic, optical, or similar computer impulses or data. These devices include but are not limited to any data-processing hardware (such as central processing units, hard disks, memory typewriters, and self-contained "laptop" or "notebook" computers); internal and peripheral storage devices (such as fixed disks, external hard disks, floppy disk drives and diskettes, tape drives and tapes, optical storage devices, CD-ROMs, printer buffers, Bernoulli drives, smart cards, memory calculators and other memory storage devices); peripheral input/output devices (such as printers and scanners); and related communications devices (such as modems, recording equipment, and RAM or ROM units).
- f) "Identify"
- i) "Identify" and "identification," when used with respect to a document, includes (but is not limited to) stating the nature of the document (e.g., letter, memorandum, corporate minutes); the date, if known, on which the document was prepared; the title of the document; the general subject matter of the document; the number of pages in the document; the identity of each person who wrote, dictated, or otherwise participated in the preparation of the document; the identity of each person to whom the document was addressed; the location of the document; and the identity of the person having possession, custody, or control of the document. Identification of a document includes identifying all documents known or believed to exist whether or not they are in your custody.
 - ii) "Identify" and "identification," when used with respect to a person, includes, unless otherwise indicated, stating (i) his or her full name, (ii) his or her present title and position, (iii) his or her current daytime telephone number and address, and (iv) his or her present and prior connections or association with, the person or business entity in question.
 - iii) "Identify" and "identification," when used with respect to an electronic document or data, includes (but is not limited to) stating the computer software and computer related documentation used to create the document or data and the identity of the person(s) in charge of collecting, processing, programming (if any) and analyzing the electronic document or data.

- g) "Person" means any natural person, or any business or legal entity.
- h) "Related" or "relating to" means in whole or in part constituting, containing, concerning, embodying, reflecting, describing, analyzing, identifying, stating, referring to, dealing with, or in any way pertaining to.

DATE: September 9, 2009

_____/s/_____
Geof Hobday
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888 First Street, N.E.
Washington, D.C. 20426
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Geof.Hobday@ferc.gov

CERTIFICATE OF SERVICE

In accordance with 18 C.F.R. § 385.2010 (2009), I hereby certify that I have this day served, via electronic mail or first class mail, the foregoing document upon each person designated on the official service list compiled by the Secretary in these proceedings.

Dated at Washington, D.C. on this 9th day of September, 2009

_____/s/_____
Geof Hobday
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