

TO: MEMBERS AND ALTERNATES OF THE NEPOOL PARTICIPANTS COMMITTEE  
COUNSEL FOR PARTICIPANTS IN FERC DOCKET NOS. EL09-47 AND EL09-48  
(CONSOLIDATED)

DT: September 14, 2009

RE: Legal Notice of Data Requests in FERC Hearing Investigating Capacity Importers

ISO New England Inc. (the "ISO") is providing notice, pursuant to Section 2.2 of the ISO New England Information Policy (the "Information Policy"), that it may be required to disclose certain information that is Confidential Information of Furnishing Governance Participants under the Information Policy. That Confidential Information has been requested in three sets of data requests in the FERC hearings in Docket Nos. EL09-47-000 and EL09-48-000 (consolidated). Specifically, the ISO received one set of data requests from FERC's Office of Enforcement's Litigation Staff on September 9, 2009, and a separate set of data requests from the "Connecticut Representatives" (*i.e.*, the Connecticut Department of Public Utility Control, the Connecticut Office of Consumer Counsel, and Richard Blumenthal, Attorney General for the State of Connecticut) on September 10, 2009. (The entities requesting the information are collectively referred to herein as the "Requesting Entities.") Finally, the ISO's IMMU also received a set of data requests from the Connecticut Representatives on September 10, 2009 as well. The three data requests seek detailed bidding and offer information that relates, among other things:

- to Market Participants that supplied ICAP Import Contracts to New England during the period from December 1, 2005 through August 31, 2009;
- to all Market Participants that participated in the ISO-operated Day-Ahead Energy Market or Real-Time Energy Market for the operating hours in which the ISO declared Operating Procedure No. 4 conditions on February 10, 2007, August 2, 2007, September 8, 2007, December 1, 2007, December 2, 2007, and May 8, 2008; and
- all entities that were awarded Financial Transmission Rights ("FTRs") for the Northern New York AC Interface (over the Roseton Node) during the ICAP Transition Period.

The three data requests are posted on the ISO website at <http://www.iso-ne.com/regulatory/lglnotice/index.html>.

There is a request pending for a Protective Order that the ISO expects the Presiding Administrative Law Judge to issue shortly in the consolidated proceeding. Ultimately, the ISO will follow any procedures included in the Protective Order before releasing any Confidential Information to the Requesting Entities. As specified in the proposed Protective Order, the ISO hereby objects (as permitted by Rule 410 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.410 (2009)) to the release of Confidential Information in response to the three

data requests. Several of the key procedures included in the proposed Protective Order are described below.

Per the proposed Protective Order, if your data is being sought, as the Furnishing Governance Participant you will have five business days from the date of this notice to resolve with the Requesting Entities any issues you might have with respect to release of your Confidential Information, and to provide the ISO a written declaration in response to this notice that the requested information: (1) may be released; (2) may be released pursuant to the Protective Order (as, for instance, “Protected Material” and “Not Available to Competitive Duty Personnel”); or (3) should not be released, in which case the Requesting Entity shall be free to file a motion to compel. If you declare that your Confidential Information should not be released, you (and not the ISO) will be directly responsible for conducting further interactions with the Requesting Entity, including responding to any motion to compel. The proposed Protective Order provides that, unless the ISO receives notice to the contrary, you will be deemed to have consented to the ISO’s release of the information as “Protected Material” and “Not Available to Competitive Duty Personnel” pursuant to the Protective Order. You will have the opportunity to intervene in the consolidated proceeding and either to object formally to the release of Confidential Information and/or to seek a separate protective order or other measures to prevent public disclosure of Confidential Information. In any event, the ISO will not provide any Confidential Information until a protective order has been approved.

Furnishing Governance Participants may wish to contact their FERC counsel in deciding appropriate action to take in response to this notice.

If you have any questions about this matter, please contact James Douglass, Senior Regulatory Counsel for the ISO, at (413) 540-4559 or Dave Doot, NEPOOL Counsel, at (860) 275-0102.