

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

ISO New England Inc.)
and) **Docket No. ER08-1512-000**
New England Power Pool)

**NOTICE OF INTERVENTION AND
SUPPORTING COMMENTS OF THE MAINE PUBLIC UTILITIES
COMMISSION**

Pursuant to 214(a)(2) of the Federal Energy Regulatory Commission’s (“FERC” or “Commission”) Rules of Practice and Procedure, 18 C.F.R. § 385.214(a)(2), the Maine Public Utilities Commission (“MPUC”), by and through counsel, Lisa Fink and Ben Smith, State of Maine Public Utilities Commission, 242 State Street, 18 State House Station, Augusta, Maine 04333-0018, respectfully notices its intervention and submits comments in response to the September 9, 2008 filing (“September 9 filing”) by ISO New England, Inc. (“ISO-NE”) identifying the Installed Capacity Requirement, Hydro Quebec Interconnection Capability Credits (“HQICCs”) and related values for the 2011/2012 Capability Year for the purpose of the second Forward Capacity Auction (“FCA”).

As discussed below, subject to our reservation of rights on the question of whether FERC has the authority to decide the installed capacity requirement, the MPUC supports the identified installed capacity requirements insofar as they incorporate the proposals made by ISO-NE and the New England Power Pool (“NEPOOL”), which were recently accepted by FERC. Specifically, the September 9 filing, in determining the Installed Capacity Requirement and the Maximum Capacity Limit (“MCL”), removes the artificial reduction of tie benefits from New York and New Brunswick that occurs under

the prior methodology. Finally, the MPUC believes that ISO should refine its availability ratings for active demand response which currently appear to be understated.

I. PRELIMINARY STATEMENT

This Notice of Intervention is filed pursuant to Rule 214(a)(2) of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC” or “Commission”), 18 C.F.R. §§ 385.214(a)(2) (2008), and the Commission’s Combined Notice of Filings # 1 dated September 12, 2008, in which the Commission established September 30, 2008, as the date by which interventions and protests are to be filed.

The persons to whom correspondence, pleadings, and other papers in relation to this proceeding should be addressed and the persons whose names are to be placed on the Commission’s official service list are designated as follows pursuant to Rule 203, 18 C.F.R. § 385.203 (2008):

Lisa Fink
Benjamin J. Smith
State of Maine,
Public Utilities Commission
242 State Street
18 State House Station
Augusta, ME 04333-0018
(207) 287-1389 (telephone)
(207) 287-6343 (telephone)

lisa.fink@maine.gov
benjamin.j.smith@maine.gov

II. NOTICE OF INTERVENTION

Under Maine law, the MPUC is the state commission designated by statute with jurisdiction over rates and service of electric utilities in the state. *See* 35-A M.R.S.A. § 101 *et seq.* It is, therefore, a “state commission” under the Commission’s regulations, 18 C.F.R. § 1.101(k) (2008). Accordingly, the MPUC hereby gives notice of its intervention

pursuant to Rule 214(a)(2) of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”), 18 C.F.R. § 385.214(a)(2) (2008) and respectfully requests that the Commission recognize the MPUC as an intervener in this proceeding, with all rights attendant thereto.

III. BACKGROUND AND DESCRIPTION OF SEPTEMBER 9 FILING

The September 9, 2008 filing identifies the Installed Capacity Requirement, Hydro Quebec Interconnection Capability Credits ("HQICCs") and related values for the 2011/2012 Capability Year for the purpose of the second Forward Capacity Auction (“FCA”). The filing incorporates the proposed changes in tie benefits allocation made by ISO-NE in its July 31, 2008 filing in Docket No. ER08-41-002,¹ which were recently accepted by FERC on September 30, 2008.²

A. Tie Benefits

The September 9 filing explains the purpose of tie benefits:

New England’s Commission-approved method for establishing the Installed Capacity Requirement requires that assumptions be made regarding the tie benefits value to be used as an input in the formula. Tie benefits from neighboring control areas reduce the Installed Capacity Requirement and the need to buy capacity to meet the New England resource adequacy criterion. The tie benefits from neighboring Control Areas reflect the amount of emergency assistance that New England could rely on, without jeopardizing reliability in New England or its neighboring control areas, in the event of a capacity shortage in New England.³

¹ See Transmittal Letter and Proposed Revisions to Market Rule 1 Concerning the Calculation and Allocation of Tie Benefits, *ISO New England Inc. and New England Power Pool*, FERC Docket No. ER08-41-002 (“July 31 filing”).

² See *ISO New England Inc. and New England Power Pool*, Order Accepting Compliance Filing, September 29, 2008, 124 FERC ¶ 61,298 (2008) (“September 29 Order”).

³ See September 9 filing Transmittal Letter at 12.

The September 9 filing incorporates the July 31 filing's changes to the methodology used to determine and allocate these tie benefits among the New York, Quebec and New Brunswick Control areas.

B. HQICCs and Tie Benefit Allocations

Hydro Quebec Interconnection Capability Credits (“HQICCs”) are capacity credits allocated to Interconnection Rights Holders.⁴ Under the existing methodology, tie benefits for New Brunswick and New York are reduced to reflect HQICCs and the remainder is allocated between New Brunswick and New York ties based on the results of the probabilistic methodology used to determine the total tie benefit value. The methodology in effect for prior capability years undervalues the New Brunswick and New York tie benefits. In the October 11, 2007 filing in Docket No. ER08-41-002, ISO-NE explained that, for the 2010-2011 capability years, the 1,860 MW of tie benefits is reduced by 1,400 MW of HQICCs and the remainder, 460 MW, is allocated to New Brunswick and New York on a proportional basis. The resulting tie benefit value allocations were 360 MW to the New Brunswick tie and 100 MW to the New York tie.⁵ ISO-NE explained in the October 11 filing that if the tie reliability contributions from the neighboring control areas were based on the results of the probabilistic calculation without using the deterministically-calculated HQICCs, the tie benefits assumption would be approximately 715 MW from New Brunswick.⁶ Thus, even though 715 MW of

⁴ *Id.* at 10. Interconnection Rights Holders are defined in the ISO-NE OATT as “... the entities that pay for and hold exclusive Use Rights to the transmission capacity of the Phase I/II HVDC TF, as granted under the Support Agreements and as further provided for under the Restated Use Agreement, either (i) directly, by virtue of being parties to the Support Agreements, or (ii) indirectly (“Indirect IRH(s)”), through a Transfer Agreement. ISO-NE OATT, Schedule 20A.

⁵ October 11 filing at 22.

⁶ *Id.*

capacity are available from New Brunswick as determined using the probabilistic analysis, ISO-NE had used a deflated assumption of 360 MW as the tie benefits that were assumed to be available from New Brunswick for the purpose of determining, as discussed below, the amount of capacity that can be procured from Maine.

C. Relationship of Tie Benefits to the Forward Capacity Market

1. Maximum Capacity Limit

The September 9 filing defines the MCL as, “the amount of capacity resources that the second Forward Capacity Auction can procure from the Maine Capacity Zone, including capacity resource imports from the New Brunswick ties.” Testimony of Peter Wong (attachment to September 9 filing) at 34. The MCL decreases from 3,855 MW in 2010-2011 to 3,395 MW for the 2011/2012 Capability Year. *Id.* The reason for the decrease is the increase in the assumed tie benefits from New Brunswick. *Id.* The decreased maximum capacity limit may cause a reduction in Maine’s capacity price because there may be surplus capacity in Maine that could not be transferred to the rest of the region. *Id.* at 36. However, the fact that the Maine price may be differentiated from the rest of the pool “does not necessarily translate to having significant congestion coming out of Maine.” *Id.* In fact, according to ISO-NE, “[h]istorically there has been relatively little such [energy] congestion coming out of Maine.” *Id.*

IV. COMMENTS

A. **The ISO's incorporation of the Tie Benefits Methodology Proposed in the July 31 Filing, Which was Recently Approved by FERC, Should Eliminate the Distortion Inherent in the Prior Methodology.**

In the July 31 filing, the filing parties described their proposed changes to the tie benefits methodology as follows:

Under the filed proposal: (1) The tie benefit value for Quebec would be established using the results of the probabilistic calculation of tie benefits with Quebec rather than using a deterministic calculation methodology. (2) The ISO would continue using the existing probabilistic methodology and a multi-area reliability model (*i.e.*, GE MARs) for calculating total tie benefits from the Quebec, New Brunswick and New York Control Areas. (3) New England's directly interconnected neighboring Control Areas would continue to be modeled using 'At Criteria' modeling assumptions. Under the proposed approach, however, tie benefits from individual Control Areas would be determined using an allocation approach based on the results of individual probabilistic calculations performed for each of the three neighboring Control Areas, obviating the need for a deterministic calculation of HQICCs or to reduce the tie benefit values from the New Brunswick and New York Control Areas to account for the deterministically calculated HQICCs.⁷

The filing parties stated that the proposed methodology for allocating tie benefits from each neighboring Control area:

entails a consistent approach to ensuring that the allocation of the sum of the tie benefits from the three neighboring Control Areas equals the total tie benefits calculated using the multi-area reliability model. Under the proposed approach, the tie benefits from each Control Area are adjusted in a *pro rata* manner based on a ratio of the individual tie benefits from each Control Area to the sum of the tie benefits from all Control Areas. Unlike the current methodology, which arbitrarily sets aside the tie benefits from Quebec allocated based on the deterministically calculated HQICCs and directs the remainder solely to tie benefits from New Brunswick and New York, the proposed approach preserves the relative contributions of tie benefits from each Control Area on a non-discriminatory basis.

July 31 filing at 28.

⁷ July 31 filing at 24-25 (internal citations omitted).

The July 31 filing also stated that the proposed methodology “is consistent with the locational aspect of the forward capacity market.”⁸ Because the Maximum Capacity Limit (MCL) for an export constrained zone “takes into account” tie benefits from neighboring control areas, the Maximum Control Limit may be overstated by the understatement of tie benefits from that adjacent control area. “The result, therefore, is distortion in the LSR and MCL values.”⁹ Given the locational purpose for calculating LSR and MCL values, this *distortion* has a direct impact on the locational aspects of the Forward Capacity Market. The MPUC believes that these recent changes should eliminate the distortion that exists in the current methodology, and thus allow the locational features of the Forward Capacity Market to function properly.

B. The Availability Metrics for Active Demand Response Need to Be Refined.

Based on historical information for demand response programs that are different from FCM demand response that participates in the FCM, ISO rates the available factor for active demand response at approximately 76%.¹⁰ ISO-NE’s assumptions for active demand response performance in the Forward Capacity Market (“FCM”) based on the resources historic performance in a completely different program should be reconsidered. The availability metric for demand response affects the installed capacity requirement. If the performance of demand response is underrated, consumers will be required to

⁸ *Id.* at 28.

⁹ *Id.*

¹⁰ See April 18, 2008 presentation by Maria Agustin to the Power Supply Planning Committee entitled, “Demand Resource Assumptions for the Installed Capacity Requirement Calculation (ICR) for 2010/2011 & and Recalculation of ICR for 2010/2011,” available online at http://www.iso-ne.com/committees/comm_wkgrps/relblty_comm/pwrsuppln_comm/mtrls/2008/apr182008/demand%20resources_for_icr1112_04-18-08.pdf

purchase more capacity than is necessary to meet the one-day-in-ten Loss of Load Expectation (“LOLE”) standard.

In recent market committee meetings, concerns have been raised that the 76% availability metric understates the performance of active demand response. Specifically the penalty for demand response non-performance in the FCM is more punitive than in prior programs. We understand from discussions with demand response providers that these potential FCM penalties have led demand response sponsors to be very conservative in their bidding practices. Thus, it is reasonable to assume that active demand response in the FCM will be substantially greater than the 76% assumed by the ISO based on pre-FCM demand response programs.

The MPUC asks that, for the next capability year, the ISO should undertake further study of the assumptions underlying the determination of demand response performance data to determine whether the current performance rating methodology for active demand response should be further refined.

V. CONCLUSION

Wherefore, for the reasons stated above and in the MPUC’s filing in Docket No. ER08-41-002., the MPUC believes that FERC’s recent approval of ISO-NE’s proposed incorporation of the tie benefits methodology in ER08-41-002 will help eliminate the distortion that exists in the current methodology, and thus allow the locational features of the Forward Capacity Market to function properly. However, the MPUC is concerned that the installed capacity requirement may be inflated if the availability of demand response is underrated and urges ISO-NE to refine its availability metric for active demand response. As noted above, the MPUC, in making these comments does not

waive its arguments regarding whether the FERC has authority to undertake the installed capacity determination.

Dated: September 30, 2008

Respectfully Submitted,

/s/ Lisa Fink
Lisa Fink

/s/ Benjamin Smith
Benjamin J. Smith
Counsel for State of Maine,
Public Utilities Commission
242 State Street
18 State House Station
Augusta, ME 04333-0018
(207) 287-1389 (telephone)
(207) 287-6343 (telephone)

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the service list compiled by the Secretary in this proceeding either by U.S. Mail or electronic service, as appropriate.

Dated at Augusta Maine this 30th day of September, 2008.

/s/ Benjamin J. Smith
Benjamin J. Smith
State of Maine,
Public Utilities Commission
242 State Street
18 State House Station
Augusta, ME 04333-0018
(207) 287-6343 (telephone)