

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

ISO New England Inc.

)

Docket No. ER10-438-000

**COMMENTS OF THE
NEW ENGLAND STATES COMMITTEE ON ELECTRICITY**

(January 8, 2010)

I. Introduction and General Statement of Position

The New England States Committee on Electricity (NESCOE) submits these comments in response to the filing by ISO New England, Inc. (ISO-NE) and the New England Power Pool (NEPOOL) in this proceeding, which includes the Installed Capacity Requirement (ICR) and related values that will be used in the final Forward Capacity Market reconfiguration auction for the 2010/2011 Capability Year. NESCOE moved to intervene in this matter on January 5, 2010.

NESCOE supports approval of the NEPOOL Amendment. The NEPOOL Amendment essentially places a cap on the level of tie benefits arising from calculations specified in the current Market Rule. For the 2010/2011 Capability Year, this results in an ICR that is significantly below the value produced by the current Market Rule thereby producing an even more conservative result; meets New England's Loss of Load Expectation (LOLE) criteria; and, reasonably balances reliability and cost considerations.

ISO-NE has not explained in its testimony whether, or if so, to what degree, the NEPOOL Amendment cap yields an ICR that raises unacceptable reliability risks to New England. Instead, ISO-NE acknowledges that its "lack of support [for the NEPOOL

Amendment] is not a judgment as to whether the specific value proposed would be achievable or not”¹ and that it is possible that the NEPOOL Amendment “might lie within the zone of reasonableness”.²

Instead, ISO-NE dismisses the current Market Rule and offers a technical proposal based upon analyses dating back several years. ISO-NE’s proposal does not adequately recognize the multibillion dollar transmission investment in the region that has strengthened the grid and made tie benefits more reliable than ever. Further, ISO-NE proposes permanent changes to the Market Rules that reflect what appears to be its desired outcome and effectively disregards the on-going stakeholder process related to tie benefits issues.

The NEPOOL Amendment yields a reasonable value and affords New England time for further analysis to inform stakeholder discussions about the proper means by which to amend the Market Rule in a way that provides sound conditions for the region’s capacity market and appropriately balances reliability and costs to consumers. ISO-NE’s proposed permanent modification to the Market Rule should be rejected as it is not supported by a sound analytical basis and is premature given ongoing stakeholder processes. ISO-NE itself does not even argue that its proposed Market Rule modification is the proper long-term regional solution³ and it does not have NEPOOL support.⁴

¹ Karl Testimony at page 20, lines 8-9.

² Karl Testimony at page 21.

³ Karl Testimony at page 18, lines 1-9.

⁴ Karl Testimony at page 25 lines 18-20, page 26 lines 12-20.

II. The Commission should consider the matter a so-called “Jump Ball” and proceed to the merits of the NEPOOL Amendment.

On the procedural issue associated with Section 11.1.5 of the Participants Agreement, the so called “Jump Ball” provision, NESCOE urges the Commission to consider this matter a “Jump Ball” for the reasons set forth by NEPOOL. The Jump Ball provision, which allows stakeholders to offer, and the Commission to consider, alternative Market Rule proposals is an important check and balance in New England’s process. The Commission should uphold the Jump Ball provision and reject ISO-NE’s efforts to narrow the issues before the Commission. The substantive issues in this case warrant the Commission’s full consideration.

Arriving at a reasonable outcome in this matter requires consideration of system reliability and consumer cost implications. This calls for the exercise of professional judgment supported by sound analysis. ISO-NE is institutionally focused on system reliability and not on consumer cost implications. As a result, its recommended approach is heavily weighted toward reliability without due consideration to cost. The lack of cost impact analysis in ISO-NE’s presentations throughout the stakeholder process highlights this observation. Because the Commission’s role, as an economic regulator, is to balance reliability and costs its substantive consideration is essential.

The Commission’s detailed review of the issues could also provide helpful guidance to the ongoing stakeholder process on the important set of ICR and tie benefit value questions currently under consideration.

III. ISO-NE’s approach to the stakeholder process on this issue is inseparable from its substantive recommendation; an accurate understanding of the process is directly relevant to ISO-NE’s recommendation and to the conclusion that the NEPOOL Amendment is a reasonable and preferable resolution.

In considering the way in which the NEPOOL Amendment is reasonable and preferable to ISO-NE’s proposal, it is important for the Commission to have an accurate understanding of the stakeholder process that led to approval of the NEPOOL Amendment and rejection of ISO-NE’s proposal. In this case, ISO-NE’s approach to the stakeholder process is directly related to ISO-NE’s approach to its substantive recommendation. Below, NESCOE briefly reviews several representations in ISO-NE’s testimony that merit clarification because they bear on its substantive recommendation.

First, ISO-NE represented that “[a] majority of the stakeholders wanted to retain the “as is” tie benefits assumption despite the fact that essentially every stakeholder agreed the resulting tie benefits value was unacceptable.”⁵ A review of actions taken by the Reliability and Participants’ Committees does not support ISO-NE’s statement that a majority of stakeholders supported the “as is” 3,415 MW value. In fact, it does not appear that any stakeholder called for a vote on that value in either Committee. Were ISO-NE’s statement accurate, a vote on the 3,415 MW value would have been moved and a majority of the Reliability Committee and/or the Participants Committee would have voted in favor of it. They did not.

Second, ISO-NE characterizes its proposed value as having a “sound analytical basis”⁶ and states that “[o]ther stakeholders wanted the ISO to *just pick a value* as high as could be

⁵ Karl Testimony at page 18, lines 18-20.

⁶ ISO-NE Transmittal at page 3.

operationally tolerated within the spread between the “as is” and “at criteria” values.”⁷

(Emphasis added). The notion that ISO-NE was asked to “just pick” a value is an extreme oversimplification of participants’ requests in stakeholder meetings and its related assertion that the NEPOOL Amendment does not have a sound analytical basis is similarly off the mark.

Stakeholders requested that ISO-NE develop a proposal that reflected a clear identification of the operational concerns being raised by ISO-NE as well as a thorough, substantive assessment of their implications for a level of tie benefits that ensured the region would be able to meet its reliability targets. In response to ISO-NE assessments which considered only (but provided little support for) its preferred value, stakeholders requested from ISO-NE analysis of a range of alternatives together with a detailed explanation of reliability needs, estimated emergency events, and cost implications of options. Stakeholders also regularly expressed interest in ISO-NE’s providing reliability analysis in connection with proposals offered by others.

For example, in October, 2009, NESCOE expressed the following on ISO-NE’s proposal:

As a general matter, we must rely to some degree on ISO-NE’s judgment in connection with technical determinations that relate directly to the reliable operation of the system. However, this is not a matter where ISO-NE has used its technical expertise in developing a proposal. Here, the circumstances in which ISO-NE should have discretion to depart from rules and how it approaches that discretion warrants the region’s serious consideration. This is particularly true when ISO-NE’s preferred outcomes come at a cost to consumers in excess of what the rules would impose on them. In this case, it is possible that the cost associated with using ISO-NE’s proposed tie benefit value could be nearly \$65 million greater than the costs that would flow from the rule.

When ISO-NE proposes to depart from the application of a rule, its proposal should reflect analyses of a range of alternatives and include a detailed explanation of reliability needs, estimated emergency events, and cost implications of the various options, along

⁷ Karl Testimony at page 19, lines 2-4.

with a rationale for reaching its preferred decision or proposal given the various tradeoffs between alternatives.

The discussion above suggests that ISO-NE's proposal requires further analysis, including a rationale for the various alternatives presented and the cost implications of these alternatives.⁸ ...

Despite such requests, ISO-NE did not provide this type of analysis. Nor did it offer real analysis on alternative proposals proposed by other stakeholders.⁹ In NESCOE's view, participants offered alternative approaches to fill the void created by ISO-NE's position that its proposed tie benefits value was the only reasonable value in this case.

It is troubling, substantively, for ISO-NE on one hand not to provide analysis in connection with alternative proposals in response to requests and on the other hand, to assert that it cannot support alternative proposals, including those that may be within the zone of reasonableness, because of a lack of analysis.¹⁰ This is particularly problematic because ISO-NE controls the model and determines what runs are performed. If ISO-NE established through analysis that alternative proposals offered during the process were unreliable and explained its specific technical concerns, as opposed to broad statements of opposition, stakeholders could have discussed other alternatives and examined revised analyses.

ISO-NE's approach to the stakeholder process relates directly to ISO-NE's substantive approach, in which only two alternatives were considered: 1) the 3,415MW "as is" tie benefit

⁸ NESCOE Memorandum, Reliability Committee dated October 13, 2009.

⁹ For example, at a Reliability Committee in October, 2009, ISO-NE deferred a vote and offered to answer outstanding questions in writing before the rescheduled vote. At that time, NESCOE requested ISO-NE's view of one of the alternative proposals. NESCOE reasserted interest in that information in a written request for further information on ISO-NE's proposal. ISO-NE provided responses to questions on ISO-NE's own proposal and material but did not provide analysis on the transmission owner's proposal. On the day of the Reliability Committee vote, ISO-NE offered a general statement of opposition to the alternative.

¹⁰ "While it is possible that the proposal might lie within the zone of reasonableness, there is no way to support that value with analysis. Performing an analysis after the fact to endorse an arbitrary but "popular" choice would amount to manipulating the result" *See*, Karl Testimony at page 21.

calculation¹¹; or, 2) a tie benefit value ISO-NE proposes that had been deemed appropriate at an earlier point in time.¹² The notion that there are only two possible values means that in the present circumstance, where the current Market Rule does not produce an acceptable outcome, ISO-NE's preferred approach to departing from the Market Rule becomes, by default, the only possible "right" value. NESCOE disagrees. As noted above, the circumstances in this case called for technical analysis of potential reasonable means to depart from the Market Rule for stakeholders' consideration. If it is true, as ISO-NE asserts, there is only one acceptable value, the Power Supply Planning and Reliability Committee meetings are an exercise rather than a substantively useful process.

Substantively, ISO-NE's conclusion that its proposed value is superior to alternatives because it is grounded in the Commission's prior approval of these values is flawed.¹³ Since approval of that value prior to the Forward Capacity Auction, for the primary auction, conditions have changed both within and outside ISO-NE. For example, while annual peak load was forecast at 29,035 MW when tie benefits were initially calculated for the Forward Capacity Auction, the most recent forecast for peak load during the 2010/11 Commitment Period is 875 MW less (28,160 MW) than this initial value.¹⁴ Many other aspects of market and operating

¹¹ ISO-NE explains that an ICR based on 3,415MW of tie benefits would on the basis of its probabilistic resource adequacy analysis meet the one day in ten years reliability standard. Despite that, the region's stakeholders chose not even to vote on that value. *See*, Karl Testimony at page 14, lines 21-22.

¹² "The change in tie benefits from 1,860 MW to 1,525 MW results from one of the "second order" effects described above, and is an artifact of the current calculation methodology that will be revisited in an upcoming stakeholder process. **At this point, the ISO is essentially faced with two choices. Either proceed under the rules as they are and use the 3,415 MW "as is" tie benefit calculation, or use the tie benefit value which was already calculated and used in the primary Forward Capacity Auction.** Since the ISO has shown that the 3,415 MW value yields an unreliable result, the best choice is to use the previously filed and approved value. *See*, Karl Testimony at page 16, lines 16-19." (Emphasis added)

¹³ Karl Testimony at page 16, lines 20-21.

¹⁴ By comparison, annual peak for the 2011/12 Commitment Period is 28,575 MW, which is 415 MW greater than ISO-NE's forecast peak load for 2010/11. *See*, ISO New England Inc., "ISO New England Installed Capacity

conditions have changed significantly since these values were developed in 2007 (with a final report in December 5, 2007), including load conditions in neighboring control areas, and operating procedures, and the mix and assumed availability of generating and demand resources in both ISO-NE and neighboring control areas. ISO-NE provides no assessment that assumptions developed during 2007 form a reliable basis for calculating tie benefits for the upcoming 2010/11 commitment period, particularly in comparison to other assumptions that might be relied upon as a basis for alternative tie benefits values. Basing conclusions about reasonableness of a value on the fact that this value was approved in a prior time is, not a “sound analytical basis” as ISO-NE claims.¹⁵ The logic of this approach is grounded more in administrative procedure than in substantive considerations. Values should be deemed reasonable if they are reasonable based on a current technical review under present circumstances.

IV. While ISO-NE’s efforts in its testimony to begin to identify and quantify some of the operational concerns with “excessive reliance” on tie benefits that it has raised in stakeholder meetings is helpful, the arguments set forth appear to support the reasonableness of the NEPOOL Amendment.

ISO-NE indicates that the Long Island Power Authority (LIPA) results are "not a clearly formed methodology". However, ISO-NE provides no specific concerns suggesting that the methodology used in Case 1 of LIPA provides an unreasonable approach for determining tie benefits. Nor does ISO-NE offer to help validate or refute what it refers to as the “popular” alternative. For example, ISO-NE testimony suggest that ISO-NE was not “attempting to demonstrate that one of the five approaches as better or more acceptable than another,” but

Requirement, Local Source Requirements, and Maximum Capacity Limit for the 2010/11 Capability Year,” December 5, 2007; Agustin, Maria, “Installed Capacity Requirement (ICR) for the 2011/2012 Second Annual Reconfiguration Auction (2011/12 ARA2,” ISO New England, presentation to the Power Supply Planning Committee, December 1, 2009.

¹⁵ ISO-NE Transmittal at page 3.

provides not a single reason why any particular approach would be unreasonable. Further, ISO-NE fails to consider whether certain cases evaluated using the proposed LIPA approach would be unreasonable as a basis for tie benefits. For example, Cases IV and V do not utilize symmetric assumptions about modeling internal transmission constraints, whereas Case I does utilize symmetric assumptions. As with many methodological decisions, choices reflect a balance of considerations. Within this context, Case 1 of the LIPA analysis, reflecting symmetric treatment of internal transmission constraints (and removal of system surplus capacity when determining tie benefits) were choices deemed as reasonable by the majority of stakeholders in NEPOOL.¹⁶

Through Mr. Brandien’s testimony, ISO-NE begins to share its view of potential operational constraints that may arise when the region relies upon significant or frequent emergency support from neighboring control areas. In particular, Mr. Brandien identifies two factors that are not accounted for in the current probabilistic modeling used to determine tie benefits, including (1) New England reliance on “other Control Areas within the Eastern Interconnection to have the margin on the internal transmission interfaces to support power flows that ultimately allow New England to fully utilize the New York-New England interface.”¹⁷; and (2) the “large source limitation” needed to accommodate potential arising from power flows across the New York-New England tie lines in the event that “New England loses any internal source of power, as well as imports from Hydro-Quebec or the Maritimes.”¹⁸ NESCOE welcomes ISO-NE’s efforts to begin to identify and quantify some of the operational concerns with “excessive reliance” on tie benefits that it has raised in stakeholder meetings, and looks forward to further elaboration and assessment of these concerns by ISO-NE. Both of the factors

¹⁶ Modeling of internal transmission constraints in neighboring control areas may also address certain concerns regarding over-reliance on tie benefits identified by ISO-NE. *See*, Testimony of Peter Brandien, pages 5 to 6.

¹⁷ Testimony of Peter Brandien, pages 5 to 6.

¹⁸ Testimony of Peter Brandien, pages 6 to 7.

raise issues that may merit further consideration within subsequent stakeholder discussions on tie benefits and ICR-related issues to see whether they warrant modifications to ICR and FCM procedures. The issues raised warrant the Commission's attention with regard to the adequacy of interregional coordination and cooperation, as well as the pace of progress on resolving identified issues.

However, both of the concerns raised by Mr. Brandien, which suggest limits on the level of total resources that can be relied upon over tie interfaces for reliability purposes, do not appear to be restricted to emergency support from neighboring control areas. In fact these issues would appear to arise with *any* flows across tie lines, including capacity imports and such flows can be proactively managed among the affected systems. To the extent this is an important concern, it would seem ISO-NE would have raised the issue previously and suggested adjustments to ICR procedures (e.g., derating tie lines). To NESCOE's knowledge, it has not.

In fact, other ICR proposals by ISO-NE suggest that ISO-NE does not view the factors raised by Mr. Brandien as factors that should affect tie benefits determinations. For example, ISO-NE proposes that 1,800 MW of tie benefits be assumed when calculating ICR for the second Annual Configuration Auction for the 2011/12 commitment period.¹⁹ However, this level of tie benefits, when combined with 2,284 MW of capacity imports from neighboring regions, would account for nearly all of the transfer capability with neighboring regions and leave little reserve capacity for the contingencies identified by Mr. Brandien.²⁰ Thus, when calculating ICR for the

¹⁹ Peter Wong, Maria Agustin, "Installed Capacity Requirement (ICR), Local Source Requirements (LSR) and Maximum Capacity Limit (MCL) for the 2011/12 Second Annual Reconfiguration Auction (2011/12 ARA2)", presented to the ISO-NE Reliability Committee, December 15, 2009.

²⁰ Capacity imports for 2011/12, currently at 2,284 MW, plus 1,800 MW of tie benefits total 4,084 MW. By comparison, the summer transfer capability of tie lines with neighboring regions is 4,455 MW, suggesting that less than 400 MW of transfer capability is assumed in ISO-NE calculations. In particular, despite concerns raised by Mr. Brandien about transfer capability to New York, tie benefits plus capacity imports account for over 1,511 MW of the 1,525 MW of transfer capability. ISO-NE, "ISO New England Installed Capacity Requirement, Local Sourcing

2011/2012 2nd ARA, ISO-NE does not appear to have considered the factors identified by Mr. Brandien.

Mr. Brandien suggests that his concerns could diminish tie benefits by 1,260 MW.²¹ It is worth noting that the level of tie benefits under “as is” conditions, 3,415 MW, less 1,260 MW is 2,155 MW, which is roughly the level of the tie benefits cap under the NEPOOL Amendment. Thus, Mr. Brandien’s testimony appears to support the reasonableness of the NEPOOL Amendment.

V. Conclusion

NESCOE supports adoption of the NEPOOL Amendment. NESCOE strongly encourages the Commission to consider the matter a Jump Ball and to assess the merits in a way that meets reliability needs and considers consumer costs. We respectfully request that the Commission take our views into consideration in this proceeding.

Respectfully Submitted,

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Requirements, and Maximum Capacity Limit for the 2011/12 Capability Year”, December 1, 2009; Wong and Agustin, December 15, 2009.

²¹ Testimony of Peter Brandien, page 8.

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon all of the parties listed on the official service list for the above-referenced proceeding.

Dated in Boston, Massachusetts this 8th day of January, 2010.

/s/ Heather Hunt

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