UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Nora Mead Brownell, and Suedeen G. Kelly.

Town of Norwood, Massachusetts — Docket Nos. EL03-37-004, EL03-37-000

v.

National Grid USA,
New England Electric System,
Massachusetts Electric Company,
and Narragansett Electric Light Company

ORDER DENYING REHEARING AND REQUEST FOR STAY

(Issued June 30, 2006)

1. In this order, the Commission denies a request for rehearing of the Order on Rehearing and Compliance Filing issued on February 22, 2006 (February 22, 2006 Order).[1] On rehearing, the Town of Norwood, Massachusetts (Norwood) challenges the Commission's determination that the 18-percent late payment interest rate established in New England Power Company's (New England Power)[2] tariff applies to late payments of the Contract Termination Charge (CTC). The CTC obligates Norwood to compensate New England Power for Norwood's early termination of a full requirements electric service contract. As discussed below, the Commission affirms that New England Power's tariff Section J (Billings and Payment) governs the interest rate applicable to late CTC payments by Norwood.

2. Norwood also filed a motion for stay of the Commission's ruling that the 18-percent interest rate applies to late CTC payments. It contends that the February 22, 2006

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[1] *Town of Norwood, Massachusetts v. National Grid USA*, 114 FERC ¶ 61,187 (2006).

[2] New England Power has been renamed National Grid USA Service Company, Inc. following the merger of its corporate parent. However, throughout this order, the company is referred to as New England Power.

Order requires payment of a sum so large that authorization from the town, as well as from the Commonwealth of Massachusetts, will be required for Norwood to seek long-term financing of the amount.[3] Norwood also asserts that it will suffer irreparable harm as a result of financing such a large amount. On April 5, 2006, the Commission issued a Notice of Extension of Time for compliance with the February 22, 2006 Order until further order of the Commission. As discussed below, the Commission also denies the request for a stay.

I. Background

3. Previous orders contain detailed descriptions of the background and history of the parties' contractual relationship, the CTC, and the lengthy procedural history of the dispute over the CTC.[4]

4. In brief, New England Power began providing wholesale full requirements electric service to Norwood in 1983. In 1989, the parties amended the contract to allow Norwood to extend the earliest date for giving notice of its intent to terminate the contract. Although Norwood extended the term of the contract through October 2008, it notified New England Power on March 4, 1998, that it intended to terminate the contract early -- effective April 1, 1998 -- so that it could obtain electric power from another supplier.

5. Shortly after receiving the notice of termination, New England Power filed an amendment to its Tariff No. 1 that would allow customers to buy out their service agreements if they paid CTCs. New England Power acknowledged that this amendment applied only to Norwood. The Commission accepted the amendment.[5] Since that time, the parties have engaged in extensive administrative and judicial litigation concerning the

[3] In the February 22, 2006 Order, the Commission determined that the amount of the CTC through December 31, 2005, including late payment interest at 18 percent per year, is $68,749,414, with an additional $20.4 million due for the years 2006-2008, plus interest at 18 percent per year applicable to any late payments. *Town of Norwood, Massachusetts v. National Grid USA*, 114 FERC ¶ 61,187 at P 53 (2006).

[4] *E.g.*, *Town of Norwood, Massachusetts v. National Grid USA*, 107 FERC ¶ 63,041 (2004), *order on initial decision*, 112 FERC ¶ 61,099 (2005), *order on reh'g and compliance filing*, 114 FERC ¶ 61,187 (2006).

[5] *New England Power Co*., 83 FERC ¶ 61,174, *order on reh'g*, 84 FERC ¶ 61,175 (1998), *aff'd*, *Town of Norwood v. FERC*, 202 F.3d 392 (1st Cir.), *cert. denied*, 531 U.S. 818 (2000).

interpretation and application of the CTC. The CTC is calculated under a formula designed to compensate New England Power for the difference between the revenues it would have received absent early termination of the contract and the estimated market value of the released capacity and energy.[6]

6. In the February 22, 2006 Order, the Commission determined that late CTC payments by Norwood are subject to the provision of New England Power's tariff that establishes interest on late payments at an effective rate of 18 percent per year (one and one-half percent per month).[7] While Norwood's request for rehearing purports to address only that determination, Norwood raises other issues relating to the CTC generally.

II. Discussion

A. Request for Rehearing

7. Norwood acknowledges that the February 22, 2006 Order contains final rulings on all issues except for the 18-percent interest rate, which Norwood claims was addressed by the Commission for the first time in that order. In fact, asserts Norwood, the CTC payments owed are not late because the Commission ruled for the first time on the

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[6] Norwood's CTC is determined by applying the following formula: CTC = (R-M) x L, where "R" is New England Power's annual revenues from Norwood, "M" is the estimated market value of Norwood's released capacity, and "L" is the remaining length of the contract obligation, in this case, from April 1, 1998, through October 2008 in accordance with Norwood's decision to terminate its service from New England Power. The "R" factor reflects the revenues that New England Power was receiving from Norwood at the time of the termination under Commission-approved rates. Such revenues reflect a credit for the transmission services that Norwood purchased from its transmission supplier. New England Power determined the revenues based on the revenue it received from Norwood during the 12 months immediately prior to the early termination date. The "M" factor used by New England Power is the market value of the power it was supplying Norwood at the time of the early termination. The CTC formula includes a table of kilowatt hour (kWh) prices to be used in this calculation for the years 1998 through 2007 and provides that prices for 2008 and thereafter will be the prices for 2007 escalated at two percent annually. The released load factor used by New England Power is the annual average of kWh that Norwood purchased from New England Power during the 12 months prior to the early termination. *Town of Norwood, Massachusetts v. National Grid USA*, 114 FERC ¶ 61,187 at P 6-8 (2006).

[7] *Town of Norwood, Massachusetts v. National Grid USA*, 114 FERC ¶ 61,187 at P 43-51 (2006).

appropriate CTC amount in its July 22, 2005 Order on Initial Decision.[8] However, Norwood's principal argument is that the tariff provision containing the 18-percent interest rate applies only to bills for wholesale power, not to CTC amounts. Additionally, Norwood argues that, even if a late payment charge is appropriate, the 18-percent rate is unrelated to any actual costs borne by New England Power and thus is not justified under the Federal Power Act (FPA).[9] New England Power filed an answer to the request for rehearing, and Norwood filed an answer to New England Power's answer.

8. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure[10] prohibits an answer to a request for rehearing unless otherwise ordered by the decisional authority. In this case, the Commission is not persuaded to accept the answers by New England Power and Norwood and, therefore, rejects them. New England Power and Norwood also filed responsive pleadings addressing Norwood's request for stay. The Commission likewise rejects those pleadings.

B. Motion to Lodge

9. On May 22, 2006, New England Power filed a motion to lodge a Memorandum and Order issued by the Commonwealth of Massachusetts Appeals Court (Appeals Court).[11] New England Power maintains that the Appeals Court's opinion is relevant to Norwood's request for rehearing and motion to stay and will permit a more complete record.

10. New England Power explains that the Appeals Court rejected Norwood's appeal from a lower court decision denying a motion for stay and relief from the judgment against Norwood for unpaid CTC charges and accrued interest. New England Power observes that the Appeals Court ruled that it already had affirmed the judgment from which Norwood sought relief.[12] Further, states New England Power, because the

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[8] *Town of Norwood, Massachusetts v. National Grid USA*, 112 FERC ¶ 61,099 (2005).

[9] 16 U.S.C. § 791a *et seq*. (2000).

[10] 18 C.F.R. § 385.213(a)(2) (2005).

[11] Case No. 05-P-284 (May 17, 2006).

[12] *New England Power Co. v. Town of Norwood*, Case 01-P-1467, slip op. at 6 n.6 (Mass. App. Ct.), *further appellate review denied*, 799 N.E.2d 594 (Mass. 2003); *cert. denied*, 541 U.S. 1073 (2004).

Supreme Judicial Court of Massachusetts and the U.S. Supreme Court already had denied Norwood's application for further review of that judgment, the Appeals Court held that Norwood's arguments had been resolved elsewhere. Accordingly, states New England Power, the Appeals Court remanded the proceeding to the trial court to conform the judgment to the Commission's February 22, 2006 Order.

11. Norwood filed an answer to the motion to lodge. Norwood does not object to acceptance of the document into the record, but maintains that the document has little, if any, bearing on this proceeding.

12. The Commission grants New England Power's motion to lodge the Memorandum and Order of the Appeals Court. The Commission finds that this unpublished judicial opinion[13] is relevant to the Commission's determination in this order.

C. Tariff Section Applicable to Interest on Late CTC Payments

1. Background and Norwood's Argument

13. In the Initial Decision, the Presiding Administrative Law Judge (ALJ) found that the Appeals Court previously had ruled that the 18-percent rate established in section J of New England Power's tariff applies to late CTC payments. Thus, the ALJ concluded that Norwood's attack on the interest rate was *res judicata* and outside the scope of this proceeding.[14]

14. On exceptions to the Initial Decision, the Commission ruled that late CTC payments are subject to interest calculated in accordance with section 35.19a of the Commission's regulations.[15] However, in the February 22, 2006 Order, the Commission

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[13] 66 Mass. App. Ct. 1108, 847 N.E. 2d 366, 2006 Mass. App. LEXIS 542 (2006).

[14] *Town of Norwood, Massachusetts v. National Grid USA*, 107 FERC ¶ 63,041 at P 109-110 (2004).

[15] *Town of Norwood, Massachusetts v. National Grid USA*, 112 FERC ¶ 61,099 at P81-82 (2005). The CTC provision provides in part as follows:

> The Contract Termination Charge shall be payable in equal monthly installments of principal and interest, the first payment to be made within 30 days after the date of termination of service ("Early Termination Date"), over the remaining term of the Customer's notice period (or such shorter term, or in a single payment, as agreed by the Company and the Customer). The Customer's payments shall include carrying charges on the unpaid amount of the Contract Termination Charge at the interest rate determined

(continued…)

granted New England Power's request for rehearing and found that Tariff No. 1, Schedule I, page 7, section J (Billings and Payment) governs interest applicable to late CTC payments. That section provides in part as follows:

> When all or part of any bill shall remain unpaid for more than thirty (30) days after the rendering thereof by the Company, interest at the rate of 1½% per month shall accrue to the Company from and after the rendering of said bill and be payable to the company on either (1) such unpaid amount or (2) in the event the amount of the bill is disputed, the amount finally determined to be due and payable.

15. Norwood contends that section J predates the 1998 CTC amendment[16] and was part of a wholesale power tariff that did not contemplate CTC charges. It argues that the "bills" contemplated by section J are for power purchases, not for CTC charges. Instead, Norwood contends that the interest rate provision of tariff section 35.19a is part of the CTC formula and governs the calculation of interest on late CTC payments. Moreover, continues Norwood, the April 11, 1983 power sales contract provides as follows: "In the event of any conflict between the provisions of this Contract and the provisions of [New England Power's] FERC tariff, the provisions of this Contract shall control." Norwood claims that this contract provision contradicts the Commission's apparent assumption that there is an ambiguity that allows the general interest provision of the tariff to override the specificity of the CTC amendment.

16. Norwood maintains that section J defines bills to which the charge applies as those "rendered during the first part of the next succeeding month" and that a month refers "to the period between two meter readings each of which shall have been taken within two days of the end of successive calendar months." Thus Norwood argues that section J cannot apply to undetermined CTC charges, which are to recover "revenues lost" from the termination of its agreement with New England Power. Norwood further argues that the calculation of the revenues lost could not have been determined before July 22, 2005, when the Commission issued the Order on Initial Decision in this proceeding. Moreover, continues Norwood, the Order on Initial Decision only required New England Power to make a compliance filing, so the amount actually owed was unknown until the February 22, 2006 Order on rehearing of the Order on Initial Decision. In fact, Norwood claims that there still has been no final determination of interest or review of the Commission's contested orders. Norwood reasons that the early "bills" from New

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pursuant to section 35.19a of the Commission's regulations (18 C.F.R. 35.19a) effective on the Early Termination Date and compounded monthly.

[16] Section J has been in New England Power's tariff since the mid-1970s.

England Power were only statements for undetermined amounts, so Norwood could not have been late in payment for amounts that were not yet known.

17. Norwood cites *Town of Norwood v. FERC*,[17] contending that the court recognized that the Commission had not determined any amount that was owed. Further, argues Norwood, when the Commission set this case for hearing, it reaffirmed that, although it had accepted the CTC formula, it had not accepted the individual components of the CTC calculation.[18] Norwood also asserts that the Commission did not accept New England Power's calculation of the CTC amounts.[19]

18. Norwood next claims that the 18-percent interest rate is not cost-based and thus is unjust and unreasonable. It points out that this rate is far above the section 35.19a refund interest rate and even above New England Power's long-term financing costs. Norwood contends that interest rates are compensation for the use of money, and to be reasonable, such rates must reflect the cost of capital.[20] Moreover, continues Norwood, even if the late payment charge could be justified in the context of the CTC, the imposition of such a charge in this case can serve no legitimate regulatory purpose because it is retroactive and cannot be a deterrent. Norwood submits that customers cannot be charged for costs that they do not cause[21] and also observes that the section 35.19a rate is the standard Commission rate that is applied to payment of overcharges and undercharges and that this rate automatically adjusts to changing money costs.

19. Norwood next claims that the Commission may not apply a different interest rate to the CTC and to other payments, as it has done in this case. According to Norwood, in

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[17] 202 F.3d 392, 400 (1st Cir. 2000).

[18] Norwood cites *Town of Norwood, Massachusetts v. National Grid USA*, 104 FERC ¶ 61,030 at P 18 (2003).

[19] Norwood cites *New England Power Co.*, 83 FERC ¶ 61,174 (1998).

[20] Norwood cites *Connecticut Light & Power Co.*, 59 FPC 811 (1977) (Commission rejected proposed 1.5-percent-per-month charge on bills unpaid beyond 28 days); *Public Service Company of New Mexico v. FERC*, 832 F.2d 1201 (10th Cir. 1987) (upholding Commission rejection of one-percent-per-month late charge for delinquent payment).

[21] Norwood cites *Sithe/Independence Power Partners, L.P. v. FERC*, 285 F.3d 1, 4 (D.C. Cir. 2002); *KN Energy, Inc. v. FERC*, 968 F.2d 1295, 1300 (D.C. Cir. 1992); *Farmers Union Cent. Exch., Inc. v. FERC*, 734 F.2d 1486 (1984).

situations that involve streams of payments over time, the proper cost of capital compensation frequently involves interest increments or decrements depending on whether actual payments are ahead of or behind schedule. Norwood contends that the Commission previously has rejected disparities in these situations.[22]

20. Finally, Norwood argues that, even if section J applies to late CTC payments, the Commission should modify the interest rate. Norwood contends that the applicable interest rate is a component of the cost of the CTC, and the Commission set all components of the CTC formula for hearing. Norwood emphasizes that the Commission has an obligation to ensure that the rates charged are just and reasonable.

2. Commission Analysis

21. The Commission denies Norwood's request for rehearing. Norwood chose to terminate its service agreement with New England Power before the term expired. The Commission accepted the CTC amendment in 1998,[23] and the Federal courts upheld the Commission's determinations.[24] Numerous proceedings since that time have not afforded Norwood any relief from its CTC obligation, including the interest rate applicable to late CTC payments, and Norwood now improperly seeks to revisit issues already resolved by the Commission and the courts.

22. The 1998 CTC amendment accepted by the Commission addressed only the amount of Norwood's monthly CTC payments or the possibility of making a lump-sum payment if the parties so agreed. Specifically, the CTC formula calculated the net present value of CTC by using an interest rate of eight percent (the section 35.19a discount rate effective on the Early Termination Date) to discount the difference between the Average Annual Revenue (R) and the Estimated Market Value (M) of the released capacity and energy over the length of the obligation (period between the Early Termination Period and the Regular Termination Date).[25] As initially determined by New England Power,

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[22] Norwood cites *Louisville Gas & Electric Co.*, 62 FERC ¶ 61,016 at 61,150 (1993).

[23] *New England Power Co.*, 83 FERC ¶ 61,174, *reh'g denied*, 84 FERC ¶ 61,175 (1998).

[24] *Town of Norwood, Massachusetts v. FERC*, 202 F.3d 392 (1st Cir.), *cert. denied*, 531 U.S. 818 (2000).

[25] Amendment to Tariff filed March 18, 1998, Docket No. ER98-2233-000, Tariff No. 1, Schedule II-C, Original Page Nos. 1 through 5.

the discounted lump sum amount under the CTC formula was to be $52,635,658 if Norwood chose to make a lump sum payment. In the alternative, and using the eight-percent interest rate, the CTC formula yielded a monthly payment due of $615,674 for 127 months or total CTC charges of $78,190,598 over the required notice period. This amount was trued-up to account for estimates that were used in the filing, and the monthly amount to be used in the billings was set at $599,971.[26] In its request for rehearing of the Order on Initial Decision, New England Power stated that it has billed Norwood this amount each month since April 1998.[27]

23. Similarly, the Appeals Court determined that the 18-percent late payment interest rate applied to late CTC payments by Norwood, and its ruling was not disturbed on appellate review, which included denial of certiorari by the U.S. Supreme Court.[28] Accordingly, Norwood knew in 2003 that the 18-percent rate would apply to CTC payments not made in a timely manner.

24. Norwood's other arguments are equally unavailing. As the Commission held in the February 22, 2006 Order, section J clearly addresses the interest that will accrue on billed amounts that remain unpaid for more than 30 days. Contrary to Norwood's assertion, there is no provision in the CTC formula that addresses the failure to pay billed amounts. The only interest provision in the CTC formula is that specified for use in the calculation of the net present value of the CTC and the monthly payments due if a lump sum payment is not made. Thus, the Commission affirms its earlier determination that the section J interest rate of 18 percent per year applies to the interest on the billed amounts of CTC charges that are not paid within 30 days of billing. It is not a valid defense to assert that Norwood did not know with certainty the ultimate liability for CTC charges and thus had no obligation to pay the billed amounts while challenging the interest rate. New England Power's tariff does not support such a claim. Indeed, section J expressly provides for the accrual of late charges on disputed bills. Therefore, late payment interest charges have been properly applied pursuant to section J.

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[26] Norwood and New England Power do not dispute that use of the CTC formula produces this monthly payment. The issue here is what late payment interest rate should be applied to the monthly bills that Norwood failed to pay.

[27] *Town of Norwood, Massachusetts v. National Grid USA*, 114 FERC ¶ 61,187 at P 44 (2006) (*citing* Ex. NEP-1 at 36; Ex. NEP-2 at Schedule II-C at 2 § B; Ex. NEP-6).

[28] *See New England Power Co. v. Town of Norwood*, Case 01-P-1467, slip op. at 6 n.6 (Mass. App. Ct.), *further appellate review denied*, 799 N.E.2d 594 (Mass. 2003); *cert. denied*, 541 U.S. 1073 (2004).

25. Since the mid-1970s, section J has been part of New England Power's tariff on file with the Commission. Neither New England Power nor the Commission bears the burden of justifying the interest rate in this complaint proceeding. If Norwood seeks to demonstrate that the late payment interest rate is unjust and unreasonable, it bears the burden of proof under FPA section 206. It has failed to carry that burden in this proceeding.

26. For example, it is not tenable for Norwood to assert that, because the interest rate in New England Power's tariff is higher than the refund rate determined under section 35.19a of the Commission's regulations, it is unjust and unreasonable. If that were the case, it would suggest that all such interest rates in jurisdictional utility tariffs are unreasonable if they do not correspond to those specified under section 35.19a. Late payment charges do not have to be based solely on the cost of money, as Norwood contends. A utility may also incur collection costs, including costs of litigation. Additionally, late payment charges may include an incentive for the debtor to make timely payments. Norwood has not addressed any of these factors or others that might have served as the basis for the Commission's acceptance of the rate in Section J. Further, Norwood has not shown any changed circumstances that would render the existing tariff interest rate unjust and unreasonable. The Commission affirms its holding in the February 22, 2006 Order that the late payment interest rate in New England Power's tariff section J applies to late CTC payments by Norwood.

27. Norwood also contends that no deterrent purpose can be served by the late payment charge; however, that is not the issue. Norwood became obligated to pay the CTC when the Commission accepted the CTC amendment to New England Power's tariff. The late payment interest accrues each time Norwood fails to make a required CTC payment in a timely manner. The Commission emphasizes that these charges have continued to accrue throughout the lengthy administrative and judicial proceedings related to the CTC. Norwood should not now be rewarded for its protracted effort to delay meeting its responsibilities. Accordingly, rehearing is denied.

D. Motion for Stay

1. Norwood's Argument

28. Norwood estimates that the financial effect on it of the February 22, 2006 Order is approximately $115 million, of which it has paid approximately $20 million. According to Norwood, this large amount will have to be financed, which under Massachusetts law requires two town meetings and special legislation by the Massachusetts legislature. Norwood anticipates that this process could take approximately a year. Thus, Norwood seeks a stay of the February 22, 2006 Order pending rehearing and appellate review. At a minimum, Norwood requests a stay pending the Commission's ruling on its request for

rehearing. Norwood insists that it is likely that the Commission and the courts will modify the Commission's order on rehearing and appeal.

29. According to Norwood, to the extent that CTC charges paid by its residential customers may later be found unwarranted, subsequent refunds cannot make the consumers whole. Moreover, states Norwood, if it finances amounts that might later be found to be unjustified, that could affect its credit rating and its financing costs for other projects. On the other hand, Norwood argues that there will be virtually no harm to New England Power if the Commission grants the stay. Norwood points out that, if New England Power prevails in this case, it will receive full payment of the CTC, plus interest at the rate established in section 35.19a.

2. Commission Analysis

30. The Commission denies Norwood's request for a stay. First, the Commission already granted Norwood an extension of time pending rehearing. In its motion for stay, Norwood acknowledged this as an acceptable alternative to a stay pending any appellate review.[29]

31. The Commission will grant a stay when justice so requires.[30] However, the Commission generally denies motions for stays of its orders to assure finality in its proceedings.[31] An applicant for a stay must satisfy three tests: (1) the moving party will suffer irreparable injury without the stay; (2) the stay will not substantially harm other parties; and (3) the stay is in the public interest.[32]

32. Moreover, the Commission and the courts have established a strict standard for what is required to show irreparable harm:

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[29] Town of Norwood, Massachusetts Motion for Stay at 3, 17 (March 17, 2006).

[30] 5 U.S.C. § 705 (2000).

[31] *E.g., CMS Midland, Inc.*, 56 FERC ¶ 61,177 at 61,631 (1991), *aff'd sub nom. Mich. Mun. Coop. Group v. FERC*, 990 F.2d 1377 (D.C. Cir.), *cert. denied*, 510 U.S. 990 (1993); *Eastern Shore Natural Gas*, 112 FERC ¶ 61,171 at P 8 (2005); *Arkansas Louisiana Gas Co*., 23 FERC ¶ 61,324 at 61,714 (1983) ("the Commission follows a general policy of denying motions for stays of its orders").

[32] *Eastern Shore Natural Gas*, 112 FERC ¶ 61,171 at P 9 (2005).

> [T]he injury must be both certain and great; it must be actual and not theoretical. Injunctive relief "will not be granted against something merely feared as liable to occur at some indefinite time," . . . .
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> It is also well settled that economic loss does not, in and of itself, constitute irreparable harm. . . . Mere injuries, however substantial, in terms of money, time and energy necessarily expended in the absence of a stay are not enough.[33]

33. The February 22, 2006 Order merely recalculated the principal and late payment interest owed by Norwood. A stay of that order cannot relieve Norwood of its obligation to pay the judgment of the Massachusetts court for CTCs due through January 2001 and associated late payment charges.[34] Further, the prospect of judicial review is not a sufficient basis for the Commission to grant a stay.

34. Norwood has failed to demonstrate that it will suffer irreparable harm absent a stay. The alleged harm cited by Norwood results in large part from Norwood's own actions in failing to pay the CTCs when due or to escrow adequate funds to meet its obligations. As stated above, Norwood had ample reason to know the amount of the CTCs and that the 18-percent late payment interest rate would be applied to late payments. The fact that Norwood hoped for relief from the courts or the Commission is an inadequate excuse for failing to prepare to pay its obligation to New England Power. Even now, Norwood has the ability to limit future sums due New England Power for the years 2006-2008 by paying the upcoming monthly CTCs pending any appeal that it may pursue. Norwood has failed to satisfy the high standard for seeking a stay.

35. While Norwood contends that New England Power would suffer no harm if a stay were granted and that the public interest would not be harmed by the grant of the stay, the Commission disagrees. New England Power already has been required to expend considerable sums to litigate the CTC, which the Commission approved in 1998, and Norwood indicates that it will continue to challenge the Commission's orders in this complaint proceeding, thereby requiring New England Power, the Commission, and the courts to commit resources in a continuing effort to resolve Norwood's claims. Thus the public interest also would not be served by granting Norwood's requested stay. Norwood

[33] *Wisconsin Gas Co. v. FERC*, 758 F.2d 669, 674 (D.C. Cir. 1985) (citations omitted).

[34] *Town of Norwood, Massachusetts v. National Grid USA*, 104 FERC ¶ 61,030 at P 22 (2003).

has been afforded ample opportunity to challenge all aspects of the CTC, beginning when New England Power filed the CTC amendment in 1998.

36. The Commission always favors settlements in contested proceedings, and it particularly encourages Norwood and New England Power to develop a payment plan to resolve this proceeding. The Commission offers a variety of Alternative Dispute Resolution procedures to assist the parties if they so desire.

The Commission orders:

(A) The Commission denies Norwood's request for rehearing of the February 22, 2006 Order.

(B) Norwood's motion for a stay is denied, as discussed in the body of this order.

(C) Norwood must commence making CTC payments as billed and must act expeditiously to obtain necessary authorizations and funding to pay past due CTC payments plus interest in accordance with the findings and conclusions of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.