

122 FERC ¶ 61,056  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
Philip D. Moeller, and Jon Wellinghoff.

ISO New England Inc., and NEPOOL Participants  
Committee

Docket Nos. ER07-397-000  
ER07-397-001

ORDER APPROVING UNCONTESTED SETTLEMENT

(Issued January 25, 2008)

1. On September 17, 2007, the Settling Parties<sup>1</sup> submitted for filing an Offer of Settlement (settlement) resolving all issues set for hearing in Docket No. ER07-397-000. Under the settlement, the capacity cost rate (CC Rate) under Schedule 2 of ISO-NE's Open Access Transmission Tariff (OATT) for payment of dynamic reactive power resources will decrease from \$2.32/kVAR-yr. to \$2.19/kVAR-yr., effective June 1, 2007 through December 31, 2011.

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<sup>1</sup> The Settling Parties are: BG Dighton Power, LLC, BG Energy Merchants, LLC; Boston Generating, LLC; Bridgeport Energy, LLC; Calpine Corporation; Casco Bay Energy Company, LLC; Central Marine Power Company (CMP); Connecticut Department of Public Utility Control; Cross Sound Cable Company, LLC; Dominion Energy Marketing, Inc.; Dominion Energy New England, Inc.; Dominion Nuclear Connecticut, Inc.; Dominion Resources Services, Inc.; ISO New England Inc. (ISO-NE); Lake Road Generating Company, L.P.; Long Island Power Authority; Maine Public Advocate Office; Maine Public Utilities Commission (MPUC); Massachusetts Department of Public Utilities; Millennium Power Partners, L.P.; Mirant Canal, LLC; Mirant Energy Trading, LLC; Mirant Kendall, LLC; National Grid USA; New England Power Pool (NEPOOL) Participants Committee; New Hampshire Public Utilities Commission (NHPUC); Northeast Utilities Service Company; and NSTAR Electric Company.

2. The Settling Parties agree to seek no change to the CC Rate pursuant to either section 205<sup>2</sup> or section 206<sup>3</sup> of the Federal Power Act (FPA) except for the limited purpose of addressing the issue of double recovery,<sup>4</sup> (1) if the Commission concludes on rehearing of its February 2007 Order<sup>5</sup> and/or in response to the Amended Complaint in Docket No. EL07-38-000 that changes are required to eliminate any such double recovery of capacity costs, and/or (2) in connection with the February 2007 Order's requirement that ISO-NE implement, prior to the commencement of the first FCA commitment year, tariff provisions to ensure that resources eligible for CC payments under Schedule 2 do not receive double compensation once the FCM is in place.<sup>6</sup>

3. The Settling Parties state that the Amended Complaint in Docket No. EL07-38-000 was filed contemporaneously with the settlement,<sup>7</sup> and that it was amended to clarify that MPUC's argument that generators are not entitled to receive reactive power capability payments within the Deadband (MPUC Deadband Proposal) is made only as a potential remedy where the double recovery of capacity costs arises from the combination of Schedule 2 CC Rate payments and payments made in accordance with the FCM Settlement. The Settling Parties agree that the proper forum for the Commission to consider the MPUC Deadband Proposal is in Docket No. EL07-38-000 rather than in the rehearing request in Docket No. ER07-397-001.

4. The Settling Parties agree to carry out refunds as prescribed in Paragraph B of the settlement, including applicable interest as provided under section 35.19a of the Commission's regulations.<sup>8</sup> The Settling Parties further agree that within thirty days after making such refunds, ISO-NE shall file with the Commission and serve on all Settling Parties a refund report, showing the amount of the refund and interest refunded. The Settling Parties agree that ISO-NE shall furnish copies of the report to the affected

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<sup>2</sup> 16 U.S.C. § 824d(a) (2000).

<sup>3</sup> *Id.* § 824e.

<sup>4</sup> The double recovery issue concerns payment of a CC Rate for reactive power capacity at the same time generators receiving such a payment are paid for installed capacity during the transition period to the Forward Capacity Market (FCM) and the Forward Capacity Auction (FCA).

<sup>5</sup> *ISO New England Inc. and NEPOOL Participants Committee*, 118 FERC 61,163 (2007) (February 2007 Order).

<sup>6</sup> *Id.* at P 30.

<sup>7</sup> The Amended Complaint is appended to the settlement as Attachment 1.

<sup>8</sup> 18 C.F.R. § 35.19a (2007).

customers and to each state commission within whose jurisdiction the affected wholesale customers distribute and sell electric energy at retail.

5. Paragraph J of the settlement states that the standard of review for changes to the settlement proposed by a Party, a non-Party, or the Commission acting *sua sponte* is the just and reasonable standard. The Commission retains the right to investigate the rates, terms, and conditions under the just and reasonable and not unduly discriminatory or preferential standard of section 206 of the FPA.

6. On October 9, 2007, Commission Trial Staff filed comments supporting the settlement. On October 31, 2007, the Chief Administrative Law Judge certified the settlement to the Commission as uncontested.

7. The settlement is fair and reasonable and in the public interest and is hereby approved. The tariff sheets contained in the settlement are in compliance with Order 614 and are made effective as set forth in the settlement.<sup>9</sup> The Commission's approval of this settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

8. This order terminates Docket Nos. ER07-397-000 and ER07-397-001. A new subdocket will be assigned in Docket No. ER07-397 upon receipt of the required compliance refund report.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.

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<sup>9</sup> See *Designation of Electric Rate Schedule Sheets*, Order No. 614, FERC Statutes & Regulations, Regulations Preambles July 1996-December 2000, ¶ 31,096 (2000).