



THE COMMONWEALTH OF MASSACHUSETTS
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Re: Why ISO-NE's RTO Proposal Does Not Deserve NEPOOL Support

Dear NEPOOL Participants:

Since 1996, the New England states have been national leaders in restructuring the operations and framework of the wholesale electricity markets. New England recognized early on that the hallmark of a well-designed market included rules that addressed both reliability and economics. Some of the specific changes over the past eight years have been quite contentious, and the utilities and others participating in the New England Power Pool (NEPOOL) continue to express strong disagreements and concerns about our wholesale market structures and rules. In general, however, we have moved to a framework similar to a Regional Transmission Organization (RTO) and we now have a structure in place that incorporates most of the essential features of FERC's Order 2000 requirements. As a result, New England is recognized by FERC and other states as a leader in wholesale market restructuring.

NEPOOL has scheduled a vote on October 3, 2003, on ISO New England's (ISO-NE) proposal that FERC designate it as the RTO for New England. ISO-NE, however, has not clearly identified any net benefits to New England consumers that would result from this change, given that the current structure already closely resembles an RTO and given that utilities currently have the obligation to build needed transmission facilities to fulfill their public service obligations. The proposed filing to convert to an RTO is critically flawed and would represent a step backward from many achievements over the past several years. We urge you to reject the proposal in its current form.

Currently, ISO-NE is a not-for-profit entity with an independent Board of Directors. Its functions include dispatching the regional electricity grid, controlling the operations of power generation and transmission facilities, scheduling use of the transmission system, and

administering the NEPOOL open-access transmission tariff. ISO-NE runs the wholesale power markets and collects and disburses the revenues associated with the markets and the tariff. ISO-NE also administers a regional transmission planning process and is in the process of expanding regional coordination and planning with adjacent control areas.

ISO-NE argues that we should make it more independent of market players by transferring to it NEPOOL's rights to file market rule changes at FERC. One small segment of New England stakeholders, the Transmission Owners (TOs), also would gain significant new authority through the Transmission Owners Agreement (TOA). The TOs would determine the rate design of the regional transmission tariffs, designate which facilities are Pool Transmission Facilities (PTF) whose costs will be paid regionally rather than locally, propose cost allocations for new facilities (including generation interconnections), schedule maintenance outages, and change billing and collection procedures. However, consistent with FERC's overall approach, these powers should be vested in the new RTO, not in the TOs. We are concerned that the TOA, as currently proposed, would be a return to the pre-1998 load-weighted NEPOOL governance structure that vested substantial authority in a few transmission-owning utilities.

ISO-NE's Filing Letter asks FERC to confirm that New England TOs will be eligible to receive automatic rate increases, which we estimate will add an annual surcharge of at least \$40 million to the New England transmission tariff. We adamantly oppose FERC's automatic incentive pricing policy for transmission assets. FERC already accounts for investment risk when it determines "return on equity" used to establish transmission rates. Automatically providing TOs with \$40 million in increased profits each year for constructing facilities that they have already built or are obligated to build is completely unjustified, contradicts decades of federal and state regulatory law and policy, and is not just and reasonable as required by law.

ISO-NE has not established any clear benefit for consumers from its RTO proposal. As an alternative to ISO-NE's proposal, NEPOOL should create an alternative framework that benefits both consumers and market participants. We look forward to working with you to craft such a proposal that ensures sufficient accountability and independence. We believe that we can develop a proposal that conforms with FERC's requirements and also satisfies the objectives of consumers, market participants, ISO-NE and state regulators.

Sincerely,

Attorneys General and Consumer Advocates of New England

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