

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

Richard Blumenthal, Attorney General for The
State of Connecticut

Docket No. EL09-47-000

v.

ISO New England Inc., Brookfield Energy Marketing
Inc., H.Q. Energy Services (U.S.) Inc., Constellation
Energy Commodities Group, Inc., and Other
Unidentified Installed Capacity Resources Committed to
Import Over the Northern New York AC Interface

The Connecticut Department of Public Utility Control
and the Connecticut Office of Consumer Counsel

Docket No. EL09-48-000

v.

ISO New England Inc., Brookfield Energy Marketing
Inc., H.Q. Energy Services (U.S.) Inc., Constellation
Energy Commodities Group, Inc., and Other
Unidentified Installed Capacity Resources Committed to
Import Over the Northern New York AC Interface

**FERC ENFORCEMENT LITIGATION STAFF'S
THIRD SET OF DATA REQUESTS TO
ISO NEW ENGLAND INC.**

Pursuant to Rule 406 of the Rules of Practice and Procedure of the Federal Energy
Regulatory Commission (Commission), 18 C.F.R. § 385.406, FERC Enforcement
Litigation Staff (staff) submits the following data requests to ISO New England, Inc.
(ISO-NE). Please provide all written and documentary responses as they become
available, and in any case, not later than January 27, 2010. Pursuant to Rules 406(b)(5)
and 410(a) of the Commission's Rules of Practice and Procedure, 18 C.F.R. §§
385.406(b)(5), 410(a), notice of any objections to full compliance with these data

requests should be given in writing as soon as reasonably possible, but not later than ten (10) business days after the receipt of these data requests.

Please provide responses to FERC Enforcement Litigation Staff directed to the following:

Geof Hobday
Room 52-73
Division of Investigations
Office of Enforcement
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426
Tel. (202) 502-6256
Fax (202) 208-0057
geof.hobday@ferc.gov

Your response to this data request is to follow the attached General Instructions, Specifications and Definitions (Attachment B). As noted there, all responses are to be made under oath.

ATTACHMENT A

FERC ENFORCEMENT LITIGATION STAFF'S FIRST SET OF DATA REQUESTS TO ISO NEW ENGLAND INC.

All references in the requests below to ISO New England Inc. include the directors, officers, employees, agents, contractors, consultants, attorneys, affiliates, subsidiaries, parents, holding companies, and any other person acting or purporting to act on behalf of ISO New England Inc. Unless otherwise indicated, all responses to these requests should cover the time period December 1, 2006 through July 1, 2009.

S/ISO-NE 3-1: On pages 17 - 18 of ISO-NE's May 6, 2009 Testimony, Messrs. David Laplante and John P. O'Connor state that their conclusion that market participants importing capacity over the Northern New York AC Interface followed existing market rules "could change based on new information about the energy supply offers used to export power from New York to New England." With reference to this statement:

- (a) Provide a narrative response detailing the analytical steps ISO-NE would perform in order to determine whether these market participants with capacity imports followed the existing market rules. For this narrative response, use information on the prices for the energy supply offers that market participants with capacity imports used in their corresponding energy exports from New York; and
- (b) Identify data and data sources necessary to perform the analysis described in S/ISO-NE 3-1(a), above.

S/ISO-NE 3-2: In response to S/ISO-NE 1-4, ISO-NE states on page 4 that "ISO-NE provides forecasts to all New England market participants with External Transactions and generating resources of how much of the transactions or resource might be expected to be needed throughout the operating day based on system condition at the time of the forecast." With reference to this statement:

- (a) Provide the date on which ISO-NE began providing the described forecasts to capacity importers in the New York market;
- (b) Provide a narrative response detailing the manner by which ISO-NE provides the described forecasts to capacity importers in the New York market, including the frequency and timing of such forecasts; and

(c) For the period beginning on the later of (a) December 1, 2006 or (b) the date specified in response to S/ISO-NE 3-2(a) above, provide in an Excel spreadsheet the names of capacity importers along with the dates, hours, quantity of energy forecast by ISO-NE, and the time that each forecast was created. Provide this data through June 30, 2009 for all hours during which the forecasts indicated that ISO-NE might need energy distributed from capacity importers in New York transacting over the Northern New York AC Interface.

ATTACHMENT B
GENERAL INSTRUCTIONS, SPECIFICATIONS AND DEFINITIONS

The following General Instructions, Specifications and Definitions apply to each data request.

1) General Instructions

- a) Each response shall be made under oath, in the form of one or more affidavits signed by an authorized officer or agent of the respondent. The officer or agent shall state under penalty of perjury that the response has been prepared under his or her supervision and control and that the response constitutes a true, complete and accurate response to the request, to the best of his or her knowledge, information and belief. The response shall list the names, employers, titles and addresses of each person acting at the officer's or agent's direction in preparing the response.
- b) In response to each data request, provide information available from corporate and individual files. Where a data request is directed to a particular respondent, and an affiliate, subsidiary, contractor, or agent acts on behalf of that respondent or provides any support, technical or ancillary service relevant to the data request, the respondent shall include the information from the other party and indicate the source of the information.
- c) Each written response shall designate the respective data request and subpart or portion of the item under which it is provided. The data responses shall be provided in numerical order, and in a clear and concise fashion.
- d) Responses shall indicate which documents relate to which data request.
- e) If respondent objects to the production of any material responsive to any of the data requests on the ground of privilege or protection (such as attorney-client privilege or the attorney work product doctrine), respondent shall provide a detailed log containing the following information for each communication or document:
 - i) Identification of the nature of the privilege asserted;
 - ii) The type of communication or document;
 - iii) The subject matter of the communication or document;
 - iv) The date of the communication or document;
 - v) The author(s) or person(s) present and their title or position;
 - vi) The recipient(s) or person(s) present and their title or position;
 - vii) All other individuals who received or were present for the communication or

- document or had access to the item or document and their title or position;
- viii) The purpose for which the communication or document was created;
- ix) A detailed, specific explanation as to why the communication or document (or portion thereof) is privileged or otherwise immune from discovery, including a presentation of all factual grounds and legal analyses in a non-conclusory fashion; and
- x) The number of pages in the document.

NOTE: If respondent claims the attorney-client privilege, the log shall also indicate whether the communication claimed to be privileged was made by the attorney or the client, and whether the communication or document has been communicated to any person other than the attorney and client involved. If the communication claimed to be privileged has been so communicated, identify such third person(s) by name and relationship to the client and the attorney, and indicate the date of such communication. Produce the non-privileged portion(s) of the document or information, if the privileged portion of the document or information is capable of being excised, so that the remainder is no longer privileged.

- f) If any document responsive to any data request has been lost, discarded, destroyed, or is unavailable, state when, and explain why, such document was lost, destroyed, discarded, or is unavailable. Provide the names of all persons who have knowledge of the loss, destruction, or disposal of the document. If respondent claims that the destruction occurred pursuant to a document destruction program, identify and produce a copy of the guideline, policy or manual describing such program, and any correspondence or communication relating to the destruction.
- g) If any documents responsive to any data request are in existence but not in the custody, possession or control of the respondent, identify each such document and provides its present location and custodian.
- h) Each data request is continuing in nature and requires supplemental responses as soon as further information is located or obtained that is responsive to the request.
- i) The terms “and” and “or” shall be construed either disjunctively or conjunctively whenever appropriate in order to bring within the scope of each data request any information or document that might otherwise be considered to be beyond its scope.
- j) The singular form of a word shall be interpreted as plural, and the plural form of a word shall be interpreted as singular, whenever appropriate, in order to bring within the scope of each data request any information or document which might otherwise be considered to be beyond its scope.

2) Specifications

a) General

- i) Provide responses in both hard copy and electronic format. Please see detailed specifications below.
- ii) Respondent shall provide a transmittal letter with each response to a data request outlining the contents of the data request.
- iii) Each document shall bear a unique identifier, such as “Bates” labels.
- iv) All documents provided shall be scanned and delivered as single page group 4 TIFF images with an accompanying cross reference load file in a Concordance Image “.OPT” format. Along with the cross reference file to the images, provide the following coded data in a delimited text file (see (2) (a) (v) below):

Description	Field Name
First Page Bates Number	BegDoc
Last Page Bates Number	EndDoc
Attachment (First Page Bates Number of parent document)	Attachmt
The type of communication or document (See (2)(a)(vi) below)	DocType
Document Title or Description	DocTitle
The date of the communication or document	DocDate
The author(s) and Organization (Name/Organization)	Author
The recipient(s) and Organization	Recip
Any other recipient(s) and organization	CC
Response to Data Request Number	RespNum

- v) For the delimited text files in the above instructions, the field names shall be the first line and the following delimiters shall be used:

“□” (ASCII 20) Field Separator
“p” (ASCII 254) Text Delimiter
“®” (ASCII 174) New Line Character within a field
“;” (ASCII 59) Multi Entry Delimiter

- vi) The “DocType” field shall be populated with a substantive description of the

type of document, such as, but not limited to: letter; email; corporate minutes; organization charts; memoranda; securities filings; deal tickets; handwritten notes, calendars, agendas, deeds, invoices, policy statements, manuals, presentations, *etc.*

vii) Please deliver OCR text in a separate OCR folder. The OCR text should be in the format of one text file per document. Please supply an OCR text load file as a separate delimited text file.

b) Hard Copy Documents

i) Hard copy responses shall consist of an original and one hard copy of each answer and any accompanying documents, and shall be delivered by hand or by express delivery service (not U.S. Mail) to the indicated address.

ii) Each document of more than one page shall be stapled or otherwise bound.

c) Electronic Documents

i) Electronic responses may be submitted by email or delivered by hand or by express delivery service.

ii) Absent unusual circumstances, please provide electronic responses as follows: Microsoft Word for narratives, Excel for data, and Outlook 2003 “.PST” file format for emails. If respondent claims such unusual circumstances, it shall provide an explanation of the circumstances in its transmittal letter.

iii) The electronic versions or images of documents shall be provided in the format and with meta-data specified above. The electronic responses may be submitted by e-mail or hand delivered on standard electronic media.

iv) Provide audio recordings in “.wav” or “.mp3” formats.

v) For all audio recordings, provide a tab-delimited text file with at least the following fields: (i) audio file name; (ii) person calling; (iii) date of call; (iv) time of call; (v) duration of call; (vi) line recorded; (vii) person or number called; and (viii) any other meta-data or bibliographical information associated with call records that is maintained in the ordinary course of business.

3) Definitions

a) “Affiliate” means another person which controls, is controlled by, or is under common control with, such person.

- b) “All” or “each” shall be construed to mean all and each.
- c) “Communication(s)” includes all verbal and written communications of every kind, including, but not limited to, telephone calls, conferences, electronic mail and correspondence, instant messaging, text messaging, and all documents and memoranda concerning the communication.
- d) “Control” (including the terms “controlling,” “controlled by,” and “under common control with”) includes, but is not limited to, the possession, directly or indirectly and whether acting alone or in conjunction with others, of the authority to direct or cause the direction of the management or policies of a business entity. A voting interest of 10 percent or more creates a rebuttable presumption of control.
- e) “Documents”
 - i) “Documents” refers to the originals of all writings and records of every type in your possession, control, or custody, including but not limited to: memoranda, correspondence, letters, email, instant messaging, text messaging, testimony and exhibits, reports (including drafts, preliminary, intermediate, and final reports), surveys, analyses, studies (including economic and market studies), summaries, comparisons, tabulations, charts, books, pamphlets, photograph forms (including microfilm, microfiche, prints, slides, negatives, videotapes, motion pictures, and photocopies), maps, sheets, ledgers, transcripts, vouchers, accounting statements, budgets, work papers, engineering diagrams, communications, speeches, and all other records, written, electronic (including information on electronic or magnetic storage devices), mechanical, or otherwise, and drafts, attachments or appendices of any of the above.
 - ii) “Documents” includes copies of documents, where the originals are not in your possession, custody, or control. As to any document related to the matter herein that is not in your possession, but that you know or believe to exist, you are requested to identify and indicate to the best of your ability its present or last known location or custodian.
 - iii) “Documents” includes every copy of a document which contains handwritten or other notations or which otherwise does not duplicate the original or any other copies.
 - iv) “Documents” includes electronic data and records stored on computer equipment, including electronic devices which are capable of collecting, analyzing, creating, displaying, converting, storing, concealing or transmitting electronic, magnetic, optical, or similar computer impulses or data. These

devices include but are not limited to any data-processing hardware (such as central processing units, hard disks, memory typewriters, and self-contained “laptop” or “notebook” computers); internal and peripheral storage devices (such as fixed disks, external hard disks, floppy disk drives and diskettes, tape drives and tapes, optical storage devices, CD-ROMs, printer buffers, Bernoulli drives, smart cards, memory calculators and other memory storage devices); peripheral input/output devices (such as printers and scanners); and related communications devices (such as modems, recording equipment, and RAM or ROM units).

f) “Identify”

- i) “Identify” and “identification,” when used with respect to a document, includes (but is not limited to) stating the nature of the document (e.g., letter, memorandum, corporate minutes); the date, if known, on which the document was prepared; the title of the document; the general subject matter of the document; the number of pages in the document; the identity of each person who wrote, dictated, or otherwise participated in the preparation of the document; the identity of each person to whom the document was addressed; the location of the document; and the identity of the person having custody, possession or control of the document. Identification of a document includes identifying all documents known or believed to exist whether or not they are in your custody, possession or control.
- ii) “Identify” and “identification,” when used with respect to a person, includes, unless otherwise indicated, stating (i) his or her full name, (ii) his or her present title and position, (iii) his or her current daytime telephone number and address, and (iv) his or her present and prior connections or association with, the person or business entity in question.
- iii) “Identify” and “identification,” when used with respect to an electronic document or data, includes (but is not limited to) stating the computer software and computer related documentation used to create the document or data and the identity of the person(s) in charge of collecting, processing, programming (if any) and analyzing the electronic document or data.

g) “Person” means any natural person, or any business or legal entity.

h) “Related” or “relating to” means in whole or in part constituting, containing, concerning, embodying, reflecting, describing, analyzing, identifying, stating, referring to, dealing with, or in any way pertaining to.

CERTIFICATE OF SERVICE

In accordance with 18 C.F.R. § 385.2010 (2009), I hereby certify that I have this day served, via electronic mail or first class mail, the foregoing document upon each person designated on the official service list compiled by the Secretary in these proceedings.

Dated at Washington, D.C. on this 12th day of January, 2010.

_____/s/_____
Geof Hobday
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