

ORIGINAL



May 18, 2007

Via Hand Delivery

Honorable Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, D.C. 20426

FILED
OFFICE OF THE
SECRETARY
2007 MAY 18 P 4:15
FEDERAL ENERGY
REGULATORY COMMISSION

Re: Settlement of Dispute Over SEMA Charges
Docket No. ER07-921-000;
Expedited Consideration and Waiver of 60-Day Notice Requested;
Shortened Comment and Reply Comment Dates of June 4 and June 11
Requested

Dear Secretary Bose:

ISO New England Inc. (the "ISO-NE") hereby submits for approval by the Commission (1) a Settlement Agreement (the "Settlement Agreement") and Explanation in Support of Settlement Agreement (the "Explanatory Statement"), which ISO-NE is submitting jointly with other Settling Parties¹ pursuant to Section 205 of the Federal Power Act and Rule 602 of the Commission's Rules of Practice and Procedure,² and (2) Market Rule 1 revisions (the "Market Rule Revisions") and a statement in support of such Market Rule Revisions (the "Supporting Statement"), which ISO-NE is submitting jointly with the New England Power Pool ("NEPOOL") Participants Committee³ pursuant to Section 205 of the Federal Power Act.⁴ **In addition, ISO-NE is submitting**

¹ The Settling Parties are identified in the Explanatory Statement and the Settlement Agreement.

² 16 U.S.C. § 824(d) (2007); 18 C.F.R. § 385.602 (2007).

³ Capitalized terms used but not defined in this filing are intended to have the meaning given to such terms in the ISO New England Inc. Transmission, Markets and Services Tariff, FERC Electric Tariff No. 3 ("Tariff"), the Second Restated New England Power Pool Agreement, and the Participants Agreement.

⁴ 16 U.S.C. § 824(d) (2007).

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under separate cover for inclusion in this docket confidential Appendices to the Settlement Agreement, together with materials in support of the confidential treatment of those Appendices.

The Settlement Agreement and the Market Rule Revisions are the product of extended settlement discussions and consensus building in the New England region and at the Commission, both among the Settling Parties in confidential settlement negotiations and on a larger scale among all interested entities, including state regulators, load serving entities, suppliers, transmission owners, publicly owned entities, ISO-NE and NEPOOL. They resolve disputes generally over the appropriate allocation of out-of-merit operation costs for resources that are classified as local second contingency protection resources ("LSCPR") in New England, and specifically over the reasons for, appropriate allocation of, and bases for future reductions in costs for out-of-merit dispatch of the Canal Electric Generating Units 1 and 2 (the "Canal Units") in Southeast Massachusetts ("SEMA").

As described further in this filing, the Settlement Agreement and Market Rule Revisions are closely interrelated and interdependent. For that reason, ISO-NE, the other Settling Parties, and NEPOOL all join in requesting that the Commission consider both pieces together in a single docket. If the Commission concludes that a separate docket must be assigned to each piece, ISO-NE, the other Settling Parties and NEPOOL all join in requesting that the two dockets be consolidated.

The Settlement Agreement is the product of a non-docketed⁵ mediated settlement proceeding at the Commission before then-Deputy Chief Administrative Judge Lawrence Brenner (the "Proceeding") among interested entities. That Proceeding involved numerous formal settlement sessions with Judge Brenner, from August 2006 through March 2007, and many additional informal sessions. Those who participated in the Proceeding and have executed the Settlement Agreement as Settling Parties include ISO-NE, two Transmission Owners in Massachusetts, numerous Publicly Owned Entities in Massachusetts, and Market Participants that either have or have had load serving obligations in the SEMA Reliability Region. Representatives of the Massachusetts Department of Telecommunications and Energy ("MA DTE")⁶ and NEPOOL also participated in the Proceeding but are not signatories to the Settlement Agreement.

⁵ The Commission assigned an "ME" docket number to the settlement proceeding for purposes of tracking filings.

⁶ As of April 11, 2007, the MA DTE was dissolved and replaced with the Massachusetts Department of Public Utilities. *See An Act Reorganizing the Governor's Cabinet and Certain Agencies of the Executive Department*, 2007 Mass. Acts ch. 19.

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As described more fully in the Explanatory Statement and Supporting Statement, before and during the Proceeding, there were many notices and invitations for full participation in the discussions resolved by the Settlement Agreement. ISO-NE and NEPOOL invited state regulatory representatives and all interested entities to a forum to review a detailed explanation of the operational issues requiring the out-of-merit operation of the Canal units at and after the June 2, 2006 Participants Committee meeting and at a subsequent teleconference. The MA DTE also held a public discussion open to all interested parties and the ISO-NE conducted a technical conference to review and explain the conditions that caused the out-of-merit operation of the Canal units and the steps that might be taken to reduce dependence on that out-of-merit operation.

The Market Rule Revisions were derived and agreed to in negotiations over the Settlement Agreement and are an integral part of the Settlement Agreement. They reflect agreement among the Settling Parties as to the future allocation of Real-Time LSCPR Net Commitment Period Compensation ("NCPC") charges (referred to for convenience herein as "Real-Time LSCPR NCPC Charges").

The Market Rule Revisions were also considered fully within the Commission-approved NEPOOL stakeholder process. As described more fully in the Supporting Statement, a Cost Allocation Working Group was formed specifically to seek out and provide greater participation and input by state regulatory representatives on cost allocation issues. That Group was co-chaired by Commissioner Robert Keating from the MA DTE on behalf of the New England Conference of Public Utility Commissioners ("NECPUC"), and by ISO-NE and NEPOOL officers of the Markets Committee. The Working Group initially reviewed the formula for allocating Real-Time LSCPR NCPC Charges that is now reflected in the Market Rule Revisions. Subsequently, that formula was reflected in the Market Rule Revisions and presented to both the Working Group and the NEPOOL Markets Committee. The Markets Committee recommended it for approval to the Participants Committee, subject to the conditions that the Settlement Agreement be finalized and approved by the Commission as presented. The NEPOOL Participants Committee accepted that Markets Committee recommendation and approved the Market Rule Revisions by a 91.34% Vote, subject to the same conditions that the Settlement Agreement be finalized and approved by the Commission without modification or condition.

In short, the Settlement Agreement and the Market Rule Revisions included in this submittal are the products of a very extensive and open process that involved the participation of many parties. Anyone and everyone who had any desire to consider, comment, discuss, negotiate or influence in any way the discussion and outcome of this matter had repeated notice and many opportunities to do so. The Settlement Agreement reflects resolution of the very broad and diverse interests of those who elected to participate, and the Market Rule Revisions were considered fully within the Commission-approved NEPOOL Stakeholder Process and also in a separate working group process.

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Given this history and the nature of this filing, ISO-NE urges that the Commission respect the settlement that has been reached. As explained more fully in the Explanatory Statement, the Commission has long recognized that agreements like the Settlement Agreement should be afforded special weight given their roles in promoting market stability and reducing litigation.⁷ Further, as to the Market Rule Revisions, as detailed in the Supporting Statement, the Commission's inquiry need only confirm that the changes are within the zone of reasonableness.⁸ The Commission can and should dismiss, with or without prejudice for further filings, any suggested alternative Market Rule changes that also could be considered just and reasonable, even if the Commission or others find such changes to be preferable to the Market Rule Revisions.⁹

ISO-NE, the Settling Parties and NEPOOL all join in requesting a July 1, 2007 effective date for this submission. To the extent necessary, waiver of the Commission's filing and notice requirements is requested.

Normally, under Rule 602 of the Commission's Rules, initial comments would be due within twenty (20) days of this filing, which would be June 7, 2007. Reply comments would be due not later than thirty (30) days after this filing, or by June 18, 2007. **However, given the expedited consideration requested herein, ISO-NE, the Settling Parties and NEPOOL all join in requesting waiver of Rule 602 in order to establish a comment date (for both the settlement and the interrelated and interdependent Section 205 Market Rule Revisions filing) of June 4, 2007, and a reply comment date of June 11, 2007.**

Consistent with Commission rules and regulations, included with this filing are an original and fourteen copies of this letter and:

- the Explanatory Statement (Attachment 1);
- the Settlement Agreement, with all public Appendices (Attachment 2);
- the Supporting Statement (Attachment 3);
- the Market Rule Revisions - Clean (Attachment 4);

⁷ *Cities of Newark v. FERC*, 763 F.2d 533, 546 (3rd Cir. 1985); *Cities of Bethany v. FERC*, 727 F.2d at 1139; *Tejas Power Corp. v. FERC*, 908 F.2d 998, 1003 (DC Cir. 1990).

⁸ *See generally Atlantic City Elec. Co. v. FERC*, 295 F.3d 1 (D.C. Cir. 2002).

⁹ *Cf. Southern California Edison Co., et al.*, 73 FERC ¶ 61,219 at 61,608 n. 73 (1995) ("Having found the Plan to be just and reasonable, there is no need to consider in any detail the alternative plans proposed by the Joint Protesters." (citing *City of Bethany*, 727 F.2d at 1136)).

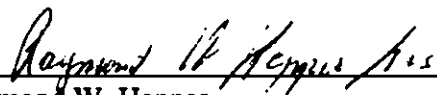
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- the Market Rule Revisions marked to show changes from current provisions on file with the Commission (Attachment 5);¹⁰
- a tabulation of the 91.34% Vote in favor of the Market Rule Revisions (Attachment 6); and
- a list of Non-Market Participant Transmission Customers, and governors and utility regulatory agencies in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont to which a paper copy of this filing has been sent (Attachment 7).

Please acknowledge receipt of this filing by date-stamping the enclosed extra copy of this filing and returning it to our courier. Should you have any questions or need further information concerning this filing, please contact the undersigned attorney at 413-540-4592.

Respectfully submitted,

ISO NEW ENGLAND INC.

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¹⁰ Redlined sheets are not provided for Original Sheets 8066A, 8066B and 8066C because all of the tariff language on those sheets is new. The change on Sheet 8065 shown on the redlined sheet is simply a formatting change (from double-spaced to single-spaced) necessitated due to the insertion of "(a)" on Sheet 8064 and the corresponding shift to single-spacing on the lower portion of Sheet 8064.

Attachment 1
Explanatory Statement

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

**ISO-NEW ENGLAND, INC.
SOUTHEAST MASSACHUSETTS AREA**

ISO-NEW ENGLAND, INC.

DOCKET No. ER07-____-000

**EXPLANATION IN SUPPORT OF
SETTLEMENT AGREEMENT**

The Parties, in accordance with Rule 602 of the Commission's Rules of Practice and Procedure, and those Parties who are public utilities under the Federal Power Act, in accordance with Section 35.13 of the Commission's regulations, tender this Explanation Supporting the Settlement Agreement ("ES").

Section 1 – Definitions:

The following definitions are used in this ES:

"Basic Service Contracts" means wholesale service contracts between one of the Transmission Owners and an LSE in order to satisfy state-mandated provider of last resort requirements for load in SEMA during 2006 and the Moratorium Period established in the Settlement Agreement.

"Canal" means the Canal Electric Generating Units 1 and/or 2.

"Canal Out-of-Merit Charges" means the charges incurred due to the out-of-merit operation of the Canal Units for reliability purposes. Canal Out-of-Merit Charges shall not include (i) VAR NCPC Charges, (ii) SCR NCPC Charges resulting from Resources that provide Special Constraint Resource Service under Schedule 19 of Section II of the

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ISO-NE Tariff, (iii) the monthly fixed-cost charges paid to Resources pursuant to Reliability Agreements negotiated under Section III.A.6 of the ISO-NE Tariff or successor provisions, and (iv) Economic NCPC Charges, except to the extent that the definition of Economic NCPC charges is changed during the Moratorium Period to include out-of-merit charges for reliability purposes other than those charges already excluded in (i) through (iii) above.

"Commission" means the Federal Energy Regulatory Commission.

"FPA" means the Federal Power Act.

"ISO-NE" means ISO New England Inc., an entity that serves as the regional transmission organization or "RTO" for most of New England.

"LSCPR" means Local Second Contingency Protection Resource as described more fully in Section III.6.1 of the ISO-NE Tariff.

"LSE" or "LSEs" means the following load serving entities: Constellation Energy Commodities Group, Inc., Constellation NewEnergy, Inc., Consolidated Edison Solutions, Inc., SUEZ Energy Resources NA, Inc., Direct Energy Services, Inc., Dominion Energy Marketing, Inc., Dominion Retail, Inc., PSEG Energy Resources & Trade LLC, Select Energy, Inc., Strategic Energy, TransCanada Power Marketing, Ltd., Integrys Energy Services, Inc., and Sempra Energy Solutions.

"Mirant" means Mirant Canal, LLC, the owner and operator of Canal.

"MDTE" means the Massachusetts Department of Telecommunications and Energy and any successor thereto.

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"MMWEC Systems" means the Hull Municipal Lighting Plant, Mansfield Municipal Electric Department, Middleborough Gas & Electric Department, and North Attleborough Electric Department.

"Moratorium Period" means the period from January 1, 2007 through May 31, 2010.

"Municipals" means MMWEC Systems and the Towns, collectively.

"NCPC" means Net Commitment Period Compensation.

"NERC" means North American Electric Reliability Council.

"NPCC" means Northeast Power Coordinating Council.

"NCPC Charges for LSCPR" means Local Second Contingency Protection Resource NCPC Charges under Section III.6.4 of the ISO-NE Tariff.

"National Grid" means Granite State Electric Company, Massachusetts Electric Company, New England Power Company, Nantucket Electric Company, and The Narragansett Electric Company.

"NSTAR" means NSTAR Electric Company.

"Parties" means ISO-NE, the LSEs, MMWEC Systems, NSTAR, National Grid, and the Towns.

"Proceeding" means the informal mediation proceeding conducted at the Commission before Deputy Chief Judge Lawrence Brenner concerning SEMA NCPC Charges for LSCPR arising from the out-of-merit operation of the Canal Units.

"Requested Billing Adjustment" or "RBA" means requests for adjustments to invoices made pursuant to the provisions of Section 6 of the ISO-NE Billing Policy, Attachment D to Section I of the ISO-NE Tariff.

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"SEMA" means an ISO-NE Reliability Region consisting of Southeastern Massachusetts and Newport, Rhode Island.

"SEMA NCPC Charges for LSCPR" means the out-of-merit charges incurred in the Real-Time and Day-Ahead Markets due to the operation of Canal flagged by ISO-NE as LSCPR.

"2006 SEMA NCPC Charges for LSCPR" are those SEMA NCPC Charges for LSCPR incurred with respect to service during calendar year 2006.

"Settlement" or "Settlement Agreement" means the settlement agreement among the Parties that is filed with this ES.

"Towns" means the Braintree Electric Light Department, Hingham Municipal Lighting Plant, and Taunton Municipal Lighting Plant.

"Transmission Owners" means NSTAR and National Grid.

Capitalized terms in this ES not otherwise defined shall have the meanings set forth in ISO-NE's Transmission, Markets and Services Tariff.

Section 2. – Background:

The proceeding arose out of disagreements between or among the LSEs, the Municipals, the Transmission Owners, ISO-NE, and/or Mirant (the owner of Canal), regarding the incurrence, classification, and allocation of charges associated with the out-of-merit operation of the Canal units beginning January 27, 2006. ISO-NE originally classified the out-of-merit operation of the Canal units as providing "SCR" (Special Constraint Resource) service. The effect of this SCR classification was to assign Canal out-of-merit costs to NSTAR network transmission loads in SEMA. NSTAR disagreed with this ISO-NE classification and submitted Requested Billing Adjustments ("RBA") to

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challenge that classification. Subsequently, ISO-NE reconsidered its original evaluation and, on April 15, 2006, reclassified the Canal units' out-of-merit operation as LSCPR and, in light of that reclassification, rejected NSTAR's RBAs as moot. As a consequence of this reclassification, the related out-of-merit charges were classified as NCPC Charges for LSCPR. ISO-NE applied this reclassification on a going forward basis and retroactively to January 27, 2006. The effect of this reclassification was to assign the SEMA NCPC Charges for LSCPR to the LSEs and the Municipals serving the SEMA area.

The LSEs and Municipals disagreed with ISO-NE's reclassification and submitted RBAs to ISO-NE challenging both the retroactive and prospective classification of Canal as LSCPR. Following a number of informal meetings among representatives of the interested parties, there was agreement to request mediation at FERC before then-Deputy Chief Administrative Law Judge Lawrence Brenner.

Notice of the mediation was provided through NEPOOL and ISO-NE, thereby affording all affected market participants, including all affected LSEs, the opportunity to participate in the mediation proceeding. The participants in the mediation included the LSEs, the Municipals, ISO-NE, NEPOOL, NSTAR, National Grid, and the MDTE. Certain LSEs ("Non-Participating LSEs"), representing a very small percentage of the total SEMA load in 2006, did not participate in the mediation for reasons not known by the Parties. The participants in the mediation proceeding met in numerous formal sessions with Judge Brenner, from August 2006 through March 2007, as well as in numerous informal meetings during this same period, in order to reach the understandings embodied in the Settlement.

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Section 3. - Settlement Agreement:

Section 2. This provision states that the Settlement is to be filed with and approved or accepted by the Commission and that the Commission's approval or acceptance of the Settlement gives it the status of a Commission approved rate schedule. Accordingly, the Settlement confers rights and obligations on the Parties both as a contract and also as a rate schedule pursuant to the provisions of the FPA.

Section 3.1 provides for reimbursement by the Transmission Owners to the LSEs and Municipals of a portion of the 2006 SEMA NCPC Charges for LSCPR. The LSEs and Municipals will be paid \$20.5 million and \$3.77 million, respectively, as shown in Table A of Section 3.1. Section 3.2 establishes that the Table A amounts, to the extent based on estimates of 2006 SEMA NCPC Charges for LSCPR, are not subject to revision based on actual data for those charges. Section 3.3 provides for the sharing of the Table A \$20.5 million reimbursement among the LSEs to the extent they were not compensated for those 2006 SEMA LSCPR charges through passthrough provisions of their Basic Service Contracts with NSTAR or National Grid. This provision also provides for the sharing of the \$3.77 million reimbursement among the Municipals. The Table A amount received by each LSE and each Municipal is set forth in a confidential document which is Appendix A to the Settlement.

Section 3.4 of the Settlement provides for the sharing of the reimbursement obligation as between NSTAR and National Grid. The amount to be paid by each Transmission Owner is set forth in Appendix B to the Settlement. Pursuant to Section 3.4, those reimbursements are to have the status of having been paid pursuant to Commission approved rate schedules and are to be recovered through each

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Transmission Owner's state jurisdictional transmission and/or retail tariffs that recover federally approved ISO-NE and transmission charges. Section 3.5 establishes that, upon approval or acceptance of the Settlement, ISO-NE is to implement the reimbursement provisions of Section 3 through charges or credits to the customers bills and also establishes that any RBAs submitted by a Party prior to the date of the Commission's approval or acceptance of the Settlement without modification or condition are to be deemed to be resolved, subject to the satisfaction of all conditions necessary under the Settlement. Section 3.5 contains a cross-reference to Section 10.7, which provides that litigation rights against or relating to Mirant are preserved.

Section 3.6 provides that NSTAR and National Grid are to honor their passthrough obligations under Basic Service Contracts with the LSEs. Reciprocally, Section 3.6 obligates the LSEs to honor their obligations under those contracts to NSTAR and National Grid and prohibits the LSEs from seeking adjustments of any kind attributable to Canal Out-of-Merit Charges under those contracts.

Part (a) of Section 3.7 concerns the combination of the Table A reimbursement received by an LSE and the amount of 2006 SEMA NCPC Charges for LSCPR passed through by each LSE to its retail customers. If the combination would result in an LSE's recovery of more than 100% of the 2006 SEMA NCPC Charges for LSCPR for which the LSE is billed by ISO-NE, the LSE is to credit the excess to its retail customers pro-rata based on MWh served. Part (b) of Section 3.7 provides ground rules for the implementation of Part (a). Each LSE will be deemed to have fully recovered 2006 SEMA NCPC Charges for LSCPR under any contract to serve retail load in SEMA that such LSE entered into or amended on or after June 1, 2006 for retail service from July

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1, 2006 through the earlier of the termination date of such service or December 31, 2006. For purposes of calculating Price Passthroughs, for this period -- that is, recoveries of 2006 SEMA NCPC Charges for LSCPR through the contract price -- the amount determined to be recovered shall be the full amount billed by ISO-NE to the LSE and will not be reduced or prorated down based on any difference, due to transmission and/or distribution system losses. For purposes of calculating Contractual Passthroughs, each LSE will use all actual dollar amounts of Contractual Passthroughs of 2006 SEMA NCPC Charges for LSCPR under any contract to serve retail load in SEMA in 2006, regardless of the date of execution or amendment of the retail service contract.

Subsection (b) applies in the event that an LSE, through Contractual Passthrough and/or Price Passthrough, passes through or otherwise charges the aggregate of its retail customers 2006 SEMA NCPC Charges for LSCPR for more MWhs of service than the total number of MWhs of Contractual Passthroughs and Price Passthroughs of such 2006 SEMA NCPC charges for LSCPR supplied by the LSE to the Settlement Judge at the conclusion of the settlement negotiations and included in confidential Appendix C to the Settlement. For purposes of determining whether such a passthrough or such charges have occurred, each LSE is required to use the same basis for the MWh figures (*i.e.*, with or without losses) to calculate the amount of service provided to retail customers that was used to calculate MWhs in confidential Appendix C. Each LSE is required to inform ISO-NE whether it included losses in the MWh figures supplied for Appendix C. An affected LSE will pay to the Transmission Owners (subject to allocation between the Transmission Owners as they deem appropriate) forty

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percent of the dollar amount of the recoveries of 2006 SEMA NCPC Charges for LSCPR the LSE receives from its retail customers for MWhs of service greater than the number of MWhs of service supplied by the LSE to the Settlement Judge and included in Appendix C. The amount determined to be recovered in the preceding sentence will be the full amount billed by ISO-NE to the LSE and will not be reduced or prorated down based on any difference, due to transmission and/or distribution system losses, between the MWhs billed by the ISO-NE to the LSE and the MWhs billed by the LSE to its customers.

Part (c) of Section 3.7 states that except as provided in parts (a) and (b) thereof, the LSEs will retain all their contract rights under third party contracts (*i.e.*, contracts with parties other than Parties to the Settlement), including the right, as applicable, to passthrough of 2006 SEMA NCPC Charges for LSCPR and/or post-2006 SEMA NCPC Charges for LSCPR. It further states that, except for the prohibition on double recovery set forth above, the Settlement is not to be construed to expand or reduce any right under any such third party contracts that an LSE may have to pass through 2006 SEMA NCPC Charges for LSCPR or post-2006 SEMA NCPC Charges for LSCPR.

Section 3.8 establishes that, subject to an issue arising under Section 9.3, the final responsibility for 2006 SEMA NCPC Charges for LSCPR is established by Sections 3.1 through 3.7 of the Settlement. It states that no Party may seek any other recovery, or a different allocation of such 2006 charges.

Section 4.1 establishes that the present methodology for allocating Day-Ahead and Real Time NCPC Charges for LSCPR shall continue to apply during the Moratorium Period (January 1, 2007 through May 31, 2010) except that the methodology for such

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allocation of such costs is subject to the changes that would be permitted by Sections 4.2(a), 5.1, 5.2, 5.4, and 7. Section 4.2 stipulates that Section 4.1 does not prevent the submission or support of ISO-NE Market Rule amendments that do not increase the allocation of NCPC Charges for LSCPR to any Party. Section 4.2(a) also does not prohibit amendments to exclude only the Real-Time Load Obligation associated with Dispatchable Asset Related Demand pumps of pumped-storage generating resources from the Real-Time Load Obligations allocated Real-Time NCPC Charges for LSCPR. A non-Party to the Settlement, FirstLight Power Resources, Inc., has expressed the view that changes, which it may propose as soon as allowed under the normal stakeholder process, are needed to the market rules to exclude pumping load from the LSCPR allocation mechanism.

Section 4.2(b) provides that a party seeking to introduce a NEPOOL resolution or requesting initiation of a Commission proceeding for a change as contemplated by Section 4.2(a) is to inform the other Parties of the substance of the resolution or request prior to its submission. If a non-Party to the Settlement submits a resolution or a request for Commission action with respect to the Section 4.1 and 5 LSCPR allocation mechanisms, a Party is permitted by the Settlement to take a position with respect to such resolution or request provided that position is otherwise permitted by the Settlement and not prohibited by the Settlement. Section 4.2(c) of the Settlement clarifies that any Party submitting a request for Commission action pursuant to Section 4.2(b) is not relieved of any obligation it may have to utilize the ISO-NE stakeholder process prior to the submission of a request for Commission action.

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Sections 5.1 through 5.3 obligate the Parties to support and vote for Market Rule amendments to implement a revision to the current methodology used for the allocation of Real-Time NCPC Charges for LSCPR. The revised allocation methodology is set out in Sections 5.1 and 5.2, and the proposed Market Rule revisions reflecting the understandings in those sections are set forth in Appendix D to the Settlement. In essence, Sections 5.1 and 5.2 provide for the continued allocation of these charges to market participants serving Real-Time Load Obligations subject to certain ceilings or triggers set out in Section 5.1. In the event that Real-Time NCPC Charges for LSCPR in a Reliability Region for the month exceed both of the two triggers set out in Section 5.1, a reimbursement obligation is triggered. The reimbursement amount will be equal to the amount of such charges above the higher of the two triggers, with the reimbursement to be allocated to Network Load in the affected Reliability Region.

Section 5.4 reserves ISO-NE's rights to file under Section 205 of the FPA to change the Section 4.1, 5.1 and 5.2 allocations, but only if those allocations have a negative effect on either (1) system reliability or security, or (2) the competitiveness or efficiency of the market. Section 5.4 includes a stipulation that, as of the date of execution of the Settlement, ISO-NE is aware of no such negative effects. Section 5.4 states that if ISO-NE makes such a filing, the Parties have the right to challenge or support the ISO-NE modification. However, any such challenge or support must be consistent with a Party's obligations under provisions of the Settlement other than Section 5.4.

Section 6.1 concerns undertakings to reduce the need to operate the Canal units out-of-merit. Part (a) (i) introduces Appendix E which contains a description, estimated

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completion schedule and process for stakeholder review of a "Short Term Package" of transmission enhancements designed to reduce the frequency of reliance on the out-of-merit operation of the Canal units for reliability purposes. The Short Term Package was prepared for proposed inclusion in the project list of the Regional System Plan. This subpart recites that the Appendix E schedule is an estimate, is subject to contingencies, and does not represent a commitment, guarantee or other obligation that the schedule can in fact be met. This subpart also states that the Parties agree to support the inclusion of the items in the Short Term Package as part of the project list for the Regional System Plan.

Section 6.1(b) provides for ISO-NE's issuance of a Short Term Report within sixty days of the execution of the Settlement. In the Short Term Report ISO-NE will (1) evaluate whether, in lieu of reliance on operating either or both of the Canal units out-of-economic merit order, reliance on a Special Protection System ("SPS") and/or the implementation of Post-First Contingency Load Switching ("Load Switching") to provide second contingency protection for SEMA would be in accordance with applicable reliability criteria and (2) make its recommendations as to whether the transmission system in SEMA should be operated in that manner. This Short Term Report is also to assess the potential for the possible use of other generating facilities, including mobile generating facilities, to reduce reliance on the Canal units. The Short Term Report will include a list of potential alternatives considered, the technical feasibility and estimated costs of such alternatives, the degree to which each alternative is expected to reduce the need to run either one or both of the Canal units out-of-merit order prior to the first

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contingency, and the extent, duration and anticipated frequency of customer outages that might result from reliance on an SPS or on Load Switching.

Section 6.1(c) obligates ISO-NE to issue a "Long Term Report" within 18 months of execution of the Settlement that would identify, and provide costs estimates for, technically viable transmission enhancement or expansion projects to further reduce or eliminate the need to rely on the out-of-merit operation of the Canal units for reliability purposes. Sections 6.1(c) and (d) establish certain requirements applicable to the Short Term and Long Term Reports. There is no Section 6.1(e) as denoted by the term "Reserved" which is used to assure continuity of cross-references.

Section 6.1(f) provides that the Transmission Operating Agreement ("TOA") and the Regional System Planning Process controls (1) whether the "Short Term Package" or any option identified in the Short or Long Term Report is to be classified as a "Reliability Transmission Upgrade", a "Market Efficiency Transmission Upgrade" or an "Elective Transmission Upgrade"; (2) any obligation to construct or install facilities; and (3) compensation for such construction and/or installation. Section 6.1(f) also clarifies that the Settlement does not (1) predetermine the kind of transmission upgrade that might be constructed as a result of the Short Term or Long Term Report; or (2) obligate a Transmission Owner to build or install a facility except to the extent (i) that the obligation arises out of the TOA or the ISO-NE Tariff, (ii) such an obligation is ordered by ISO-NE or the Commission, and (iii) the Transmission Owner is compensated for its prudently incurred transmission installation and operating costs.

Section 6.1(g) provides for the Parties to expedite their participation in ISO-NE's Planning Procedures, for purposes of considering the subpart (a) Short Term Package

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and the subpart (b) Initiatives. Section 6.1(h) reserves the Parties' rights to raise any issues they deem appropriate during the Regional System Planning process. Section 6.1(i) states that all the Parties' Section 6 obligations are governed by the TOA or the ISO-NE Tariff to the extent the TOA or the Tariff is applicable and absent a statement in the Settlement specifically stating that a TOA or Tariff provision is inapplicable. Section 6.1(j) concerns Section 6 dispute resolutions. It provides that any such disputes are to be subject to the dispute resolution process of Section I.6 of the ISO-NE Tariff, with the disputing Parties to support procedures to achieve a final decision within a 90-day period and that the results of such dispute resolution are to be "final, not subject to appeal and binding on all the Parties." This provision is subject to an exception for the Municipals' rights to pursue litigation pursuant to Section 7 of the Settlement. Section 6 issues raised pursuant to the exercise of the Municipals' Section 7 rights need not be arbitrated.

Section 6.2 requires ISO-NE to issue reports in the event of increases in Real-Time NCPC Charges for LSCPR in SEMA or in any other ISO-NE reliability area that exceed the ceilings in Section 6.2(b). Section 6.3 requires ISO-NE within 60 days of approval of the Settlement by the Commission to inform the ISO-NE stakeholders of a report process regarding significant Out-of-Merit Charges other than Real-Time NCPC Charges for LSCPR.

Section 7.1(a) provides that the Settlement is not intended to prevent one or more of the Municipals from seeking relief from SEMA NCPC Charges for LSCPR through litigation against ISO-NE or the Transmission Owners over whether, consistent with the Section 6.1(b) Applicable Criteria, such charges could be or should be reduced

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through implementation of an SPS or Post-First Contingency arrangement. Any financial relief would be limited to the difference between the SEMA NCPC Charges for LSCPR imposed on the Municipals and the charges that would have been imposed if an SPS or Post-First Contingency Switching arrangement had been implemented. Such relief would also be prospective from the date the filing to initiate a proceeding (not to precede January 2, 2008) except that the Municipals may seek relief for the three month period prior to the date of initiating the proceeding.

Section 7.1(b) establishes that Section 7.1 does not create any rights that do not exist in the absence of the Settlement. Section 7.1(c) provides that each Party retains all rights to respond in opposition or remain silent with respect to any action or proceeding of the Municipals under Section 7.1.

Section 7.2 contains a commitment by the Parties, other than the Municipals, not to seek a change in the ISO-NE definition of the SEMA Reliability Region to become effective prior to June 1, 2010. The Municipals may seek such a change to the definition of the SEMA Reliability Region to become effective no earlier than January 1, 2008.

Section 8(a) prohibits the LSEs, including but not limited to those that are suppliers of National Grid and/or NSTAR Basic Service Contracts, from seeking in any forum any payments or reimbursements from the Transmission Owners for SEMA NCPC Charges for LSCPR for the period January 2006 through May 2010 above those payments and reimbursements authorized by the Settlement. Section 8(b) is a commitment by the Transmission Owners not to seek payments from the LSEs and the Municipals for 2006 SEMA NCPC charges for LSCPR in addition to those provided by

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the Settlement. These provisions also stipulate that they do not change any of the Parties' obligations to each other pursuant to bilateral contracts.

Section 8(c) applies to the period January 1, 2007 through May 31, 2010 and prohibits the Parties, other than as provided in Sections 4, 5 and 7 of the Settlement, from seeking, receiving and/or voting for a different allocation of NCPC Charges for LSCPR or from seeking a reclassification of Canal during this period. Except for amendments authorized by Section 4.2(a), this provision requires the Parties to oppose any Market Rule amendments proposed by persons who are not Parties to the Settlement that would provide for a different LSCPR allocation mechanism than contained in Section 4.1 and Sections 5.1 and 5.2 or any reclassification of ISO-NE's designation of Canal as LSCPR during the Moratorium Period.

Section 8(d) is a release provision and stipulates that the entry into the Settlement by each Municipal and each LSE constitutes a release by it of any claim, cause of action or liability against the Transmission Owners arising out of or related to Canal Out-of-Merit Charges during 2006 and the Moratorium Period. This release does not apply to the Municipals' reservation of litigation rights under Section 7.1; the Transmission Owners' satisfaction of their Settlement obligations to the LSEs and Municipals; dispute resolutions under Section 6.1(j) of the Settlement; rights of an LSE for passthrough of Canal Out-of-Merit charges under a Basic Service Contract; rights to recover NCPC Charges pursuant to the Section 5 allocation methodology; and actions to enforce the Settlement.

Section 9.1 concerns non-Municipal Market Participants who serve load in SEMA or are eligible to serve load in SEMA ("NMMPs") who have been or will be billed for

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SEMA NCPC Charges for LSCPR to the extent of their service to SEMA load. Although the NMMPs have been notified of the Proceeding through public notices and through normal NEPOOL channels, they did not participate in the proceeding. ISO-NE has also informed the Parties that the NMMPs have not submitted any RBAs with regard to 2006 Canal Out-of-Merit charges and ISO-NE's classification of those charges as NCPC charges for LSCPR. ISO-NE has also informed the Parties that, under ISO-NE rules, charges billed for service within a month are final and not subject to dispute unless an RBA is submitted within three months of the date the monthly bill for such service is issued. This time period has expired for all amounts billed pursuant to initial invoices covering 2006 service. Thus, as of the execution date of the Settlement, (1) any NMMP would be barred from submitting an RBA with respect to such amounts for LSCPR charges it incurred for service in 2006 under the applicable ISO-NE Billing Policy because the time period for submitting such RBAs has expired, and (2) any RBA for 2006 LSCPR charges that might be submitted based on resettlement invoices would be limited to the amount of any change between the initial settlement invoice and the resettlement invoice. ISO-NE has also informed the Parties that each Municipal and each LSE has preserved its 2006 rights and has already submitted RBAs for all of 2006 with respect to Canal Out-of-Merit charges and their classification as NCPC Charges for LSCPR.

Section 9.2 states that it is the intent of the Settlement to resolve all issues related to the classification of Canal as LSCPR and the allocation of SEMA NCPC Charges for LSCPR during 2006 and during the Moratorium Period that follows 2006 and extends through May 31, 2010. In that vein, in the interest of finality and dispute

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resolution, and in light of the facts that the NMMPs' did not participate in the Proceeding and have not submitted any timely RBAs for any month of 2006, Section 9.2 states that it is the further intent of the Parties that any NMMP who has not submitted a timely RBA related to 2006 service and not participated in the Proceeding should be precluded from sharing in the Section 3.1 reimbursement and should also be precluded from disputing the Settlement provisions regarding the allocation of 2006 NCPC Charges for LSCPR with respect to service in 2006 and in the Moratorium Period following 2006. Section 9.2 obligates each Party to support this position before the Commission and in any other forum in which this position may be challenged. Section 9.2 does not limit the rights established by Sections 4.2, 5.4 and 7.

Section 9.3 deals with contingencies in the event the Commission or ISO-NE determines that any NMMP should be entitled to share in the Section 3.1 \$20.5 million reimbursement. However, such a sharing for 2006 should not be permitted if the NMMP has not submitted a timely RBA without reasonable cause as defined in the Billing Policy. In the absence of the Settlement, NMMP would be required to comply with the applicable ISO-NE rules, and the Settlement is not intended to give any NMMP a basis for making claims that would be precluded absent the Settlement.

Section 9.3(a) provides that the Transmission Owners are absolved of any such NMMP claim which is to be paid out of the \$20.5 million reimbursement to the LSEs (thus effectively reducing the LSE reimbursement below \$20.5 million). Section 9.3(b) explains the limited circumstances in which an LSE would make a contribution to the payment to the NMMP out of the LSE's share of the \$20.5 million reimbursement. As noted above, however, the time period for submitting a timely RBA for 2006 LSCPR

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charges has expired and no NMMP has submitted such an RBA. As no NMMP has submitted a timely RBA for 2006, the Parties believe that any claims by a NMMP for a share of the \$20.5 million reimbursement pursuant to this Section are extinguished.

A key provision of Section 9.3(b) is that an NMMP's receipt of a portion of the \$20.5 million reimbursement binds the NMMP to all the obligations of the Settlement. This provision is an important protection against discrimination. Although the NMMPs did not participate in the Proceeding, the Settlement treats the NMMPs on the same basis as the LSEs by offering both LSEs and NMMPs equal pro rata reimbursement for 2006 NCPC Charges for LSCPR to the extent such charges are subject to dispute under the ISO-NE's RBA rules and the filed rate doctrine. Section 9.3(c) provides for the ability of an LSE to trigger termination of the Settlement in the event an LSE's payment to an NMMP as might be required by the Commission or ISO-NE exceeds the LSE's share of the \$20.5 million reimbursement.

Section 9.4 provides financial protection to the Transmission Owners. This provision establishes a ceiling on the amount a Transmission Owner could be allocated for any Canal Out-of-Merit Charges during 2006 and the Moratorium Period with respect to any load served by an LSE. For 2006, the ceiling is the payment a Transmission Owner paid under Section 3 of the Settlement. The ceiling for the Moratorium Period is the payment the Transmission Owner would be allocated by ISO-NE for such LSE load if the said Out-of-Merit Charges were classified as NCPC for LSCPR and if those charges were allocated as provided in Sections 4 and 5 hereof.

Section 9.5 concerns standards of review and the *Mobile-Sierra* doctrine. Through Section 9.5(a), the Parties state that the Commission's acceptance of the

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Settlement constitutes a determination that the treatment of Canal Out-of-Merit Charges and their classification as LSCPR and allocation as set forth in Sections 3, 4 and 5 of the Settlement is just and reasonable. That provision also expresses the Parties' intent that the Commission not approve any change sought by a Party to the Settlement during the Moratorium Period and that consideration of any change during the Moratorium Period be subject to the *Mobile-Sierra* public interest test. Section 9.5(a) explains that the reasons for application of that standard are that the Parties will change their behavior in reliance on the Commission's acceptance of the Settlement and that they could not recreate the *status quo ante* in the event of a future Commission order materially changing the Settlement terms. Section 9.5(b) provides that 9.5(a) does not apply to any changes sought by ISO-NE pursuant to Section 5 or changes sought by one or more Parties pursuant to Sections 4 or 7.

As further explanation of Section 9.5(a) and the request therein that the Commission apply the *Mobile-Sierra* public interest standard, among other things, there are differences in the timing of Parties' performances under the Settlement. The Transmission Owners pursuant to Section 3 are paying the LSEs and Municipals a total of \$24.27 million upon approval of the Settlement, although the consideration to the Transmission Owners for that payment is, in part, through Sections 4 and 5 of the Settlement which the Transmission Owners view as related to both 2006 and the following Moratorium Period. Therefore, the expectation that the Commission would not modify the Settlement during the Moratorium Period goes to the essence of the Settlement. The Settlement would not have been possible if the Transmission Owners believed that the Commission would initially approve the Settlement, but thereafter

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deprive them of this consideration through modification of the Settlement provisions during the Moratorium Period.

Further, the Settlement does provide for flexibility to deal with contingencies. It is understood that the exercise of rights pursuant to Sections 4.2, 5.4 and 7 is consistent with the Settlement. The Settlement expressly preserves certain Section 7 litigation rights for the Municipals which they can exercise without abridgement of their Settlement obligations. Since those litigation rights are neither created nor prohibited by the Settlement, Section 9.5(a) does not apply to them and any adjudication of claims the Municipals would make pursuant to Section 7 would be subject to the just and reasonable standard. The Settlement also expressly preserves ISO-NE's FPA Section 205 authority to submit modifications to its Market Rules that may affect the Settlement understandings. As noted above, ISO-NE can exercise these Section 5.4 rights if it determines that the LSCPR allocation mechanisms created by Sections 4.1, 5.1 and 5.2 cause negative effects on (1) system reliability or security, or (2) the competitiveness or efficiency of the market. Since the Settlement specifically authorizes ISO-NE to exercise its Section 205 rights assuming those conditions arise and the requisite findings are made, any adjudication arising from that exercise would be pursuant to the just and reasonable standard.

Also, the Proceeding that produced the Settlement was open to all interested persons. The Settlement itself represents a resolution achieved by a broad spectrum of interests. These include transmission owners, load serving entities and municipal systems. The Settlement discussions also included representatives of the MDTE, NEPOOL and ISO-NE. NEPOOL and the MDTE, which is the Massachusetts

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regulatory agency having jurisdiction over retail consumers in the SEMA area, are not signatories to the Settlement, but their representatives have been active participants throughout the negotiations to produce the Settlement.¹

For the foregoing reasons, including the robust and open Settlement process, and the ISO-NE reservation of just and reasonable rights to protect reliability and market integrity, the Settlement rests on considerations and incorporates provisions providing assurance that concerns arising during the Moratorium Period, which will terminate approximately three years after the Commission's approval of the Settlement, will be fully and adequately addressed. As a consequence, concerns which the Commission has expressed in other proceedings concerning application of the *Mobile-Sierra* public interest standard are either not present here or are offset by other important countervailing considerations relating to the need for certainty regarding prospective rights and obligations in order to enter into settlements and the desirability of promoting and fostering settlements. Compare *Bridgeport Energy, LLC*, 118 FERC ¶ 61,243 (March 23, 2007) and *Pittsfield Generating Company, LP*, 119 FERC ¶ 61,001 (April 2, 2007).

Section 10 includes miscellaneous provisions including Section 10.1 stating that the Settlement does not constitute an admission by any Party. Section 10.2 provides

¹ See the considerations cited in the concurring opinions in *Entergy Services, Inc.*, 117 FERC ¶ 61,055 at 61,259-61,262 (2006): the Settlement concerns specific aspects of the ISO-NE tariff, preserves ISO-NE and Municipal just and reasonable rights for purposes of Sections 5.4 and 7, respectively, and results from negotiations open to all interested parties and agreement by a broad spectrum of stakeholders; the MDTE played an active role in the Settlement process; and maintaining the agreed-upon allocation of NCPC Charges for LSCPR during the Moratorium was the principal consideration received by the Transmission Owners for their agreement to reimburse the LSEs and Municipals for 2006 NCPC Charges for LSCPR.

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that the Settlement does not establish precedent, except as it provides for a change to the Market Rules. Section 10.3 provides that the Commission's acceptance of the Settlement Agreement does not constitute a determination on the merits of any allegations or contentions of any Party made during the mediation before the Commission's then-Deputy Chief Administrative Law Judge Lawrence Brenner. Section 10.4 states that the Settlement does not create new causes of action against ISO-NE aside from a cause of action to enforce the Settlement provisions.

Section 10.5 provides that each provision of the Settlement is in consideration for every other provision of the Settlement, that the provisions are not severable and that the Settlement is conditioned on the Commission's acceptance of all of the Settlement provisions, and upon the granting of certain waivers and approvals under Section 205 and the Commission's regulations thereunder.

Section 10.6 stipulates the Settlement is expressly contingent on the support of the LSEs and Municipals and their consequent vote in favor of the allocation mechanism in Section 5 of the Settlement (which vote has already occurred), upon the Commission's acceptance of that mechanism or retention of the existing mechanism. Section 10.6 also establishes the rights of the Parties in the case that NEPOOL does not approve the resolution (which is no longer of concern since NEPOOL has considered and voted in favor of the resolution) or the Commission does not approve the Settlement without modification or condition.

Section 10.7(a) establishes that the Settlement does not preclude litigation (including arbitration) by any Party against Mirant or against ISO-NE with respect to any ISO-NE failure to correct or mitigate any act or failure to act by Mirant. Section 10.7(b)

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concerns the treatment of any proceeds from such litigation conducted by the LSEs and provides that any amount an LSE would otherwise be entitled to receive will be transferred to the Transmission Owners up to the level of their Section 3 reimbursements to the LSEs plus any payments by the Transmission Owners to ISO-NE related to recovery from ISO-NE resulting from such litigation. Any amounts so received by the Transmission Owners shall be allocated between them and returned to their respective customers.

Section 10.7(c) concerns the treatments of any proceeds of such litigation conducted by the Municipals and provides in clause (i) that, if the Transmission Owners are not parties to such litigation, 33.76 percent of any recovery with respect to 2006 SEMA NCPC Charges for LSCPR a Municipal obtains from Mirant or ISO-NE is to be transferred to the Transmission Owners up to the level of the Transmission Owners' Section 3.1 reimbursement to the Municipals, net of 33.76 percent of the Municipals' litigation cost. Clause (ii) of this provision contains a similar provision addressing the situation in which the Transmission Owners are parties to the litigation. In that case, a Municipal has no obligation to pay any part of its recovery to the Transmission Owners unless the Municipal's recovery is based on or associated with the Transmission Owners' Section 3.1 payment to the Municipal. If the Municipal's recovery is based upon or associated with the Transmission Owners' Section 3.1 payment to the Municipal, the Municipal will pay the Transmission Owners 33.76 percent of its recovery, without deduction for Municipal litigation cost, up to the level of the Section 3.1 payment. Under clause (i) and (ii), a Municipal's obligation to pay is limited by any

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recovery a Transmission Owner has otherwise obtained from Mirant or ISO-NE that is attributable to the Transmission Owners' Section 3.1 reimbursement to the Municipal.

Clause (iii) of this provision contains certain definitions and also provides for the Transmission Owners to return to their customers any money they receive from the Municipals in the manner in which the Section 3.1 reimbursements to the Municipals was recovered from their customers, absent a contrary direction by the MDTE.

Section 10.8 stipulates that the Appendices to the Settlement are a part of the Settlement and that the Settlement supersedes prior negotiations, terms sheets and draft agreements. Section 10.9 affirms the confidentiality of the mediation and any related Settlement discussions. Section 10.10 provides for execution of the Settlement in counterpart. Section 10.11 provides that the Settlement (like a contract) cannot be modified except by the Parties' mutual agreement.

SECTION 4 - COMMISSION'S FIVE QUESTIONS CONCERNING SETTLEMENT INCLUDING STANDARD OF REVIEW

In accordance with the October 15 and 23, 2003 orders of Chief Administrative Law Judge Curtis L. Wagner, Jr., the Parties address the Commission's five questions in order to assist the Commission in its determination as to whether the Settlement should be accepted.

The Parties make the following responses to the Commission's questions:

- a. There are no issues or major implications for the Commission underlying the Settlement Agreement. The Settlement Agreement is a complete settlement as among ISO-NE, the LSEs, MMWEC Systems, NSTAR, National Grid and the Towns as to the matters addressed therein. If the Commission accepts the Settlement Agreement, all disputes between the Parties relating to and arising out of SEMA NCPC Charges for LSCPR during the period January 2006 through May 2010 will be resolved, except for the Municipals' exercise of Section 7 litigation rights and ISO-NE's exercise of rights under Section

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5.4. The Settlement Agreement provides for payments among the Parties to resolve disagreements among the Parties concerning charges for past services and to establish procedures for determining customer charges on a going forward basis. These charges for past and future services are consistent with cost of service principles.

- b. The Settlement Agreement does not raise any policy implications for the Commission. The document specifically states in Article 10.2 that it does not establish any principles or precedent, except as otherwise stated, and in Article 10.3 that it does not constitute a determination as to the merits regarding any issue in the proceeding.
- c. The Settlement Agreement does not affect any other pending cases before the Commission.
- d. The Settlement Agreement does not involve matters of first impression and does not involve any previous reversals on the issues involved.
- e. As explained in Article 9.5 of the Settlement Agreement, the Commission's initial review of the Settlement is subject to the just and reasonable standard of review. However, once the Settlement has been approved or accepted by the Commission and substantially performed by the Parties, which performance will occur shortly after the Settlement Agreement has been approved or accepted, it is the Parties' intent that the Settlement Agreement can be modified by a Party during the Moratorium Period only by the agreement of and the consensual filing by the Parties or pursuant to the *Mobile-Sierra* public interest standard.

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SECTION 5 - CONCLUSION

For the foregoing reasons, the Parties state that the Settlement serves each of their own interests and also serves important overriding public interest purposes and that the Settlement should be approved by the Commission in accordance with its terms as filed and without change or modification and that the public interest would further be served by the Commission acting on the Settlement as soon as it is able.

May 18, 2007

Attachment 2
Settlement Agreement

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

**ISO-NEW ENGLAND, INC.
SOUTHEAST MASSACHUSETTS AREA**

ISO-NEW ENGLAND, INC.

DOCKET No. ER07-____-000

SETTLEMENT AGREEMENT

This Settlement Agreement, submitted for approval by the Federal Energy Regulatory Commission ("Commission") pursuant to the provisions of Section 205 of the Federal Power Act and the Commission's regulations thereunder promulgated and Section 385.602 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.602, is sponsored by, and entered into among and between the Parties identified below. If approved by the Commission, this Settlement Agreement will resolve all disputes and controversies as between the Parties regarding NCPC Charges for LSCPR including the "out-of-merit" dispatch of the Canal Units in the SEMA area and the classification by ISO-NE of such costs, for the period January 1, 2006 through May 31, 2010, subject to the Municipals' exercise of their rights as set forth herein.

Section 1 – Definitions:

"Basic Service Contracts" means wholesale service contracts between one of the Transmission Owners and an LSE in order to satisfy state-mandated provider of last

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resort requirements for load in SEMA during 2006 and the Moratorium Period established in this Settlement Agreement.

"Canal" means the Canal Electric Generating Units 1 and/or 2.

"Canal Out-of-Merit Charges" means the charges incurred due to the out-of-merit operation of the Canal Units for reliability purposes. Canal Out-of-Merit Charges shall not include (i) VAR NCPC Charges, (ii) SCR NCPC Charges resulting from Resources that provide Special Constraint Resource Service under Schedule 19 of Section II of the ISO-NE Tariff, (iii) the monthly fixed-cost charges paid to Resources pursuant to Reliability Agreements negotiated under Section III.A.6 of the ISO-NE Tariff or successor provisions, and (iv) Economic NCPC Charges, except to the extent that the definition of Economic NCPC charges is changed during the Moratorium Period to include out-of-merit charges for reliability purposes other than those charges already excluded in (i) through (iii) above.

"Commission" means the Federal Energy Regulatory Commission.

"FPA" means the Federal Power Act.

"ISO-NE" means ISO New England Inc., an entity that serves as the regional transmission organization or "RTO" for most of New England.

"LSCPR" means Local Second Contingency Protection Resource as described more fully in Section III.6.1 of the ISO-NE Tariff.

"LSE" or "LSEs" means the following load serving entities: Constellation Energy Commodities Group, Inc., Constellation NewEnergy, Inc., Consolidated Edison Solutions, Inc., SUEZ Energy Resources NA, Inc., Direct Energy Services, Inc.,

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Dominion Energy Marketing, Inc., Dominion Retail, Inc., PSEG Energy Resources & Trade LLC, Select Energy, Inc., Strategic Energy, TransCanada Power Marketing, Ltd., Integrys Energy Services, Inc., and Sempra Energy Solutions.

"Mirant" means Mirant Canal, LLC, the owner and operator of Canal.

"MDTE" means the Massachusetts Department of Telecommunications and Energy and any successor thereto.

"MMWEC Systems" means the Hull Municipal Lighting Plant, Mansfield Municipal Electric Department, Middleborough Gas & Electric Department, and North Attleborough Electric Department.

"Moratorium Period" means the period from January 1, 2007 through May 31, 2010.

"Municipals" means MMWEC Systems and the Towns, collectively.

"NCPC" means Net Commitment Period Compensation.

"NERC" means North American Electric Reliability Council.

"NPCC" means Northeast Power Coordinating Council.

"NCPC Charges for LSCPR" means Local Second Contingency Protection Resource NCPC Charges under Section III.6.4 of the ISO-NE Tariff.

"National Grid" means Granite State Electric Company, Massachusetts Electric Company, New England Power Company, Nantucket Electric Company, and The Narragansett Electric Company.

"NSTAR" means NSTAR Electric Company

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"Parties" means ISO-NE, the LSEs, MMWEC Systems, NSTAR, National Grid, and the Towns.

"Proceeding" means the informal mediation proceeding conducted at the Commission before Deputy Chief Judge Lawrence Brenner concerning SEMA NCPC Charges for LSCPR arising from the out-of-merit operation of the Canal Units.

"Requested Billing Adjustment" or "RBA" means requests for adjustments to invoices made pursuant to the provisions of Section 6 of the ISO-NE Billing Policy, Attachment D to Section I of the ISO-NE Tariff.

"SEMA" means an ISO-NE Reliability Region consisting of Southeastern Massachusetts and Newport, Rhode Island.

"SEMA NCPC Charges for LSCPR" means the out-of-merit charges incurred in the Real-Time and Day-Ahead Markets due to the operation of Canal flagged by ISO-NE as LSCPR.

"2006 SEMA NCPC Charges for LSCPR" are those SEMA NCPC Charges for LSCPR incurred with respect to service during calendar year 2006.

"Settlement" or "Settlement Agreement" means this Settlement Agreement.

"Towns" means the Braintree Electric Light Department, Hingham Municipal Lighting Plant, and Taunton Municipal Lighting Plant.

"Transmission Owners" means NSTAR and National Grid.

Capitalized terms in this Settlement Agreement not otherwise defined shall have the meanings set forth in ISO-NE's Transmission, Markets and Services Tariff.

Section 2 –Rate Schedule Status:

It is a condition of this Settlement that it be filed with and approved or accepted by the Commission pursuant to Section 205 of the FPA. The Commission's approval or acceptance of this Settlement Agreement gives this Settlement Agreement the status of a Commission approved rate schedule that confers rights and obligations on the Parties both as a contract and also pursuant to the provisions of the FPA.

Section 3 – Reimbursement of Allocated 2006 SEMA NCPC Charges for LSCPR:

3.1 NSTAR and National Grid, as allocated between them pursuant to Section 3.4, shall reimburse the LSEs and Municipals for 2006 SEMA NCPC Charges for LSCPR in the aggregate amounts shown in Table A:

TABLE A

<u>Parties</u>	<u>Reimbursement</u>
LSEs	\$ 20.50 million
Municipals	\$ 3.77 million

3.2 The Table A reimbursements set forth above shall be final and shall not be trued-up based on any difference between the estimates used for developing those reimbursements and actual 2006 SEMA NCPC Charges for LSCPR.

3.3 The Section 3.1 reimbursements shall be shared among the LSEs solely with respect to service for which an LSE is not entitled to reimbursement by NSTAR or National Grid for 2006 SEMA NCPC Charges for LSCPR pursuant to passthrough provisions of Basic Service Contracts. Subject to the sharing limitation set forth in the preceding sentence, the percentage rights of reimbursement of each LSE and each Municipal have been calculated by ISO-NE pursuant to directions from the LSEs and

Municipals and are set forth in a confidential document prepared by ISO-NE and submitted by ISO-NE as a confidential attachment (Appendix A) to the Settlement Agreement.

3.4 The allocation of the Section 3.1 reimbursement obligation between National Grid and NSTAR for ISO-NE billing purposes will be determined between National Grid and NSTAR, in consultation with the MDTE, taking into account the amounts that already have been or will be assessed and passed through retail rates. National Grid and NSTAR have jointly provided the billing allocation to ISO-NE based on billings through December 2006 and the allocation is included as a confidential attachment (Appendix B) to this Settlement Agreement. Consistent with the said allocation determination, NSTAR and National Grid reimbursements for all amounts paid or to be paid for 2006 SEMA NCPC Charges for LSCPR shall be treated as Commission approved rate schedule provisions and shall be recovered fully under existing provisions of their respective state jurisdictional transmission and/or retail tariffs that recover federally approved ISO-NE and transmission charges.

3.5 On the next succeeding non-hourly services bills rendered not less than ten days after approval or acceptance by the Commission of the Settlement Agreement, ISO-NE will charge or credit each Party to implement the agreements reflected in this Section 3. The charges to the Transmission Owners and credits to the LSEs and Municipals will be shown as single line items on each bill as appropriate. Upon approval or acceptance of the Settlement Agreement by the Commission without modification or condition and the satisfaction of all conditions required to complete

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performance of the Settlement, including the making of the billing adjustments described herein and subject to Section 10.7, all Requested Billing Adjustments submitted by an LSE, a Municipal or a Transmission Owner prior to the date of approval or acceptance of this Settlement Agreement related to SEMA NCPC Charges shall be deemed to be resolved. No further actions or notices will be required to address any claims set forth in any such Requested Billing Adjustments.

3.6 In addition to reimbursements in accordance with Table A, (i) NSTAR and National Grid will honor their passthrough obligations under Basic Service Contracts with those LSEs with whom they have such contracts, and (ii) the LSEs will honor their obligations under Basic Service Contracts with NSTAR and National Grid, and will seek no adjustments of any kind attributable to Canal Out-of-Merit Charges under those contracts.

3.7 (a) (i) Upon approval of this Settlement, each LSE shall calculate the sum of "(x)" its reimbursement pursuant to Section 3 of this Settlement Agreement and "(y)" the amount of 2006 SEMA NCPC Charges for LSCPR passed through in any way or by any means to its retail customers through its contracts (including, but not limited, to negotiated settlements of contractual disputes) with such retail customers ("Contractual Passthrough") or otherwise through the overall price charged to the retail customers ("Price Passthrough"). If the sum of (x) and (y) results in that LSE recovering in excess of 100 percent of its 2006 SEMA NCPC Charges for LSCPR with respect to that LSE's total 2006 service to its retail customers, in aggregate, that LSE will credit such retail customers, pro-rata based on MWh served, for such excess.

(ii) The following rules shall apply to the implementation of subparagraph (a)(i) above. Each LSE will be deemed to have fully recovered 2006 SEMA NCPC Charges for LSCPR under any contract to serve retail load in SEMA that such LSE entered into or amended on or after June 1, 2006 with respect to retail service provided under such contract or amended contract from July 1, 2006 through the earlier of the termination date of such service or December 31, 2006. For purposes of calculating Price Passthroughs for this period, the amount determined to be recovered shall be the full amount billed by ISO-NE to the LSE and shall not be reduced or prorated down based on any difference, due to transmission and/or distribution system losses, between the MWhs billed by the ISO-NE to the LSE and the MWhs billed by the LSE to its customers. For purposes of calculating Contractual Passthroughs, each LSE will use all actual dollar amounts of Contractual Passthroughs of 2006 SEMA NCPC Charges for LSCPR under any contract to serve retail load in SEMA in 2006, regardless of the date of execution or amendment of the retail service contract.

(b) This subsection (b) applies in the event that an LSE, through Contractual Passthrough and/or Price Passthrough, passes through or otherwise charges the aggregate of its retail customers 2006 SEMA NCPC Charges for LSCPR for more MWhs of service than the total number of MWhs of Contractual Passthroughs and Price Passthroughs of such 2006 SEMA NCPC charges for LSCPR supplied by the LSE to the Settlement Judge at the conclusion of the settlement negotiations and included in confidential Appendix C to the Settlement. For purposes of determining whether such a passthrough or such charges have occurred, each LSE will use the same basis for the

MWh figures (*i.e.*, with or without losses) to calculate the amount of service provided to retail customers that was used to calculate MWhs in confidential Appendix C. Each LSE shall inform ISO-NE whether it included losses in the MWh figures supplied for Appendix C. For purposes of determining the reimbursement, the affected LSE will pay to the Transmission Owners (subject to allocation between the Transmission Owners as they deem appropriate) forty percent of the dollar amount of the recoveries of 2006 SEMA NCPC Charges for LSCPR the LSE receives from its retail customers for MWhs of service greater than the number of MWhs of service supplied by the LSE to the Settlement Judge and included in Appendix C. For purposes of determining the dollar amount of the recoveries in the preceding sentence, the amount determined to be recovered shall be the full amount billed by ISO-NE to the LSE and shall not be reduced or prorated down based on any difference, due to transmission and/or distribution system losses, between the MWhs billed by the ISO-NE to the LSE and the MWhs billed by the LSE to its customers.

(c) Except as provided in parts (a) and (b) hereof, the LSEs shall retain all their contract rights under third party contracts, including the right, as applicable, to pass through 2006 SEMA NCPC Charges for LSCPR and/or post-2006 SEMA NCPC Charges for LSCPR. Except for the prohibition on double recovery set forth above, this Settlement Agreement shall not be construed to expand or reduce any right under any such third party contracts that an LSE may have to pass through 2006 SEMA NCPC Charges for LSCPR or post-2006 SEMA NCPC Charges for LSCPR. A "third party

contract" as used herein is a contract between an LSE and a person who is not a Party to this Settlement.

3.8 Subject to Section 9.3, the final responsibility among the Parties for 2006 SEMA NCPC Charges for LSCPR shall be in accordance with Sections 3.1 through 3.7 of this Settlement Agreement, and no Party shall have the right to seek any other recovery or allocation of 2006 SEMA NCPC Charges for LSCPR. This Section 3.8 does not affect the distribution of litigation proceeds as established pursuant to Section 10.7.

Section 4 – Allocation of Post 2006 NCPC Charges for LSCPR:

4.1 Subject to Sections 4.2(a), 5.1, 5.2, 5.4 and 7, during the Moratorium Period, all NCPC Charges for LSCPR for all reliability regions and for both the Day-Ahead and Real-Time Markets, including the SEMA NCPC Charges for LSCPR, shall be allocated (i) on the same basis that NCPC Charges for LSCPR are allocated pursuant to the allocation mechanisms in Section III of the ISO-NE Tariff in effect on the date of this Settlement, and (ii) on the basis of those provisions as amended pursuant to Section 5 of this Settlement, if and as of the date those amended provisions become effective. Subject to the exceptions in the preceding sentence, no Party shall seek or support a different allocation mechanism prior to the end of the Moratorium Period, or seek or support reclassification of ISO-NE's designation of Canal as an LSCPR for service during the Moratorium Period.

4.2 (a) Section 4.1 shall not prevent the submission or support of proposed Market Rule amendments, in addition to those contemplated by Section 5, affecting NCPC Charges for LSCPR that (1) do not increase the allocation of NCPC Charges for

LSCPR to any Party, including but not limited to Network Load customers of the Transmission Owners, or (2) propose to exclude only the Real-Time Load Obligation associated with Dispatchable Asset Related Demand pumps of pumped-storage generating resources from the Real-Time Load Obligations for the purpose of allocating Real-Time NCPC Charges for LSCPR.

(b) Any Party that intends to introduce a NEPOOL resolution or to request that the Commission initiate a proceeding as contemplated by Section 4.2 (a) shall inform the other Parties of the substance of the resolution or request as soon as reasonably possible and, if asked by another Party or Parties, shall confer with such Party or Parties prior to submitting the resolution or request. In the event a person who is not a Party submits a NEPOOL resolution or seeks Commission action with respect to the Section 4.1 and 5 allocation mechanisms, in response to such resolution or request for Commission action, this provision does not prevent a Party from taking a position that is otherwise permitted by this Settlement, but does not authorize a Party to take a position that is prohibited by the Settlement.

(c) Section 4.2 (b) does not relieve any Party of any obligation that may exist to utilize the ISO-NE Stakeholder process prior to submitting a request for Commission action.

Section 5 – Prospective Mechanism for Allocating Real-Time NCPC Charges for LSCPR:

5.1 The Parties shall support and vote for amendments to the Market Rules which provide that (1) those entities responsible for paying Real-Time NCPC Charges for LSCPR in a Reliability Region will be reimbursed a portion of such Real-Time NCPC

Charges if and to the extent the amounts for the month exceed both of the two triggers set forth below, and that (2) the reimbursement will be equal to the amount of Real-Time NCPC Charges for LSCPR for the Reliability Region for the month above the level equal to the higher of the two triggers:

- i. The total Real-Time NCPC Charges for LSCPR in a Reliability Region (expressed in \$/MWh) for the month exceed 6% of the Load Weighted Real-Time LMP in that Reliability Region (also expressed in \$/MWh) for the month (Trigger #1); and
- ii. The total Real-Time NCPC Charges for LSCPR in a Reliability Region (in \$/MWh) for the month, expressed as a percent of the Load Weighted Real-Time LMP in the Reliability Region (also in \$/MWh) for the month, exceed 200% of the average total Real-Time NCPC Charges for LSCPR in that Reliability Region (in \$/MWh) for the immediate prior twelve months (again expressed as a percent of the Load Weighted Real-Time LMP (in \$/MWh)) (Trigger #2).

5.2 Any reimbursement required by Section 5.1 shall be allocated to Network Load in the affected Reliability Region.

5.3 Proposed Market Rule revisions to reflect the understandings in Section 5.1 and 5.2 are set forth in Appendix D hereto. All Parties commit to support the proposed Market Rule changes reflected in Appendix D, together with any non-substantive changes thereto that are approved by the Chair and Vice-Chair of the Markets Committee within the Participant Processes and before the Commission. The Transmission Owners and LSEs shall support such Market Rule changes before any other affected regulatory agencies that may consider same, and the Municipals shall not oppose such Market Rule changes before any such agencies.

5.4 ISO-NE shall retain its authority to file under Section 205 of the FPA modifications of the provisions of the Market Rules that implement the understandings

in Sections 4.1, 5.1, and 5.2. For the entire Moratorium Period, ISO-NE acknowledges that, in order to make such filing, it must demonstrate to the Commission that failure to implement the proposed change in the Market Rule would have a negative effect on (1) system reliability or security, or (2) the competitiveness or efficiency of the market. At the time of its execution of this Settlement, ISO-NE is aware of no such negative effects. If ISO-NE makes such a filing, the other Parties shall retain all rights to challenge or support such a filing before the Commission, provided that the position of a particular Party is consistent with its obligations under the provisions of this Settlement other than this Section 5.4.

Section 6 – Consultation and Reporting:

6.1 Lower SEMA Upgrades: The Parties recognize that the NCPC costs associated with the requirement to operate Canal as an LSCPR are substantial and that prompt efforts are required to attempt to identify and implement reliable solutions, if any exist, that can reduce or eliminate such NCPC costs. Accordingly, the Parties agree as follows:

- (a) (i) Appendix E contains a description, estimated completion schedule and process for stakeholder review, for inclusion in the project list of the Regional System Plan, of the "Short Term Package" of transmission enhancements prepared by the Transmission Owners and submitted to the Planning Advisory Committee and intended by them to reduce the frequency of reliance on the Canal Units for LSCPR purposes.

(ii) The Appendix E schedules are provided to illustrate the Transmission Owners' estimate, made as of the date of the Settlement, of the time required to complete the projects. The estimate does not constitute a guarantee of completion or of a completion date. The actual completion and the date by which completion can be achieved are subject to regulatory actions, actions by ISO-NE, actions by the Transmission Owners, permitting decisions and actions by state and local governments, and unknown contingencies that develop during the course of project construction.

(iii) To the extent not previously approved for inclusion in the project list of the Regional System Plan, nothing in this Settlement is intended to establish that the remaining items in Appendix E Short Term Package will automatically be included in the project list of the Regional System Plan. The Parties acknowledge that, regardless of the conclusions in subpart (b) of this section, the Transmission Owners are to proceed with seeking inclusion of the balance of the items in the Short Term Package in the project list of the Regional System Plan, and the Parties agree to support such inclusion.

(b) Within 60 days of the execution of the Settlement, ISO-NE will submit a report (the "Short Term Report") to the Parties and the Planning Advisory Committee. In the Short Term Report, ISO-NE, consistent with NPCC/NERC criteria and applicable ISO-NE planning criteria and/or operating procedures (collectively, "Applicable Criteria"), shall evaluate and shall state its determinations and recommendations as to whether in accordance with the aforesaid Applicable Criteria the transmission system in

the Lower SEMA sub-area (i) can be and (ii) should be operated through either (A) installation of a Special Protection System ("SPS"), or, (B) implementation of Post-First-Contingency Switching (the opening of various circuit breakers following the occurrence of the first contingency), both of which can entail load shedding upon the occurrence of a second contingency.

The ISO-NE analysis in the Short Term Report described in the preceding paragraph will include a list of the potential alternatives considered, the technical feasibility, estimated budgets, the estimated time period required to implement each potential alternative, the degree to which an alternative is expected to reduce the need to run either one or both Canal units out of economic merit order prior to the first contingency, the extent and duration of customer outages that an SPS or Post First-Contingency Switching arrangement would entail, and the anticipated frequency of any such customer outages.

The Short Term Report shall also assess whether the transmission system in the Lower SEMA sub-area can be operated in compliance with Applicable Criteria, but with less need to operate either one or both Canal units out of economic merit order prior to the first contingency, through the use of other generating facilities, including the possible use of mobile generating facilities, and will include an assessment of the degree to which an alternative is expected to reduce the need to run either one or both Canal units out of economic merit order prior to the first contingency. In this regard, the Short Term Report shall, at minimum, specify the capacity and characteristics of new or

existing generating facilities that could decrease reliance upon the Canal units to meet Applicable Criteria.

(c) Within 18 months of the completion of the Short Term Report, ISO-NE will submit a second report ("the Long Term Report") to the Parties and the Planning Advisory Committee evaluating and identifying and providing a cost estimate for technically feasible projects that constitute "Long Term Packages" that are deemed to achieve or maintain the reliability of the Lower SEMA sub-area in compliance with Applicable Criteria without a need to operate either one or both Canal units out of economic merit order and with or without the need to rely on the aforesaid load shedding arrangements. ISO-NE will estimate the cost effectiveness of such Long Term Packages based on a reasonable range of economic assumptions. The Long Term Report will separately identify the Long-Term Packages considered, the economic assumptions used in the assessment, the technical feasibility, estimated budgets, estimated time period required to implement each Long Term Package, and the degree to which implementation of a Long Term Package is expected to reduce reliance on the out-of-merit operation of one or both Canal units.

(d) (i) In conducting the evaluations described in Paragraphs (b) and (c) above, the ISO-NE will consult with NSTAR and National Grid as necessary, and the Transmission Owners will provide information and studies to the ISO-NE as requested, consistent with their obligations under Schedule 3.09(a) of the TOA.

(ii) The ISO-NE will include in the Short Term and Long Term Reports preliminary but detailed and itemized estimates of the costs of options reviewed in the

Short Term and Long Term Reports that ISO-NE has found to meet the objectives set forth in Paragraphs (b) and (c) above. The Transmission Owners will provide cost data to ISO-NE to assist it in the preparation of such estimates.

(iii) To the extent that ISO-NE concludes that any considered Paragraph (b) initiative or Long Term Package does not satisfy one or more Applicable Criteria or is not deemed to be an acceptable solution to the Canal problem, ISO-NE in the applicable Report will specifically identify each Applicable Criterion violated, will state the nature and extent of violation, and will state the reasons and considerations for each of its findings and determinations. ISO-NE also will provide supporting analyses and information to the Parties and to the Planning Advisory Committee, including Critical Energy Infrastructure Information to persons that both request and are authorized to view such analyses and information.

(e) **Reserved**

(f) (i) The Transmission Operating Agreement (including, but not limited to, Schedule 3.09(a) and Section 1.1 thereto concerning the obligation of the Transmission Owners to build) and/or the Regional System Planning Process as set forth in Section II.48 of the ISO-NE Tariff, as applicable, shall control: (1) whether the Short Term Package or any option identified in the ISO-NE Short Term Report or Long Term Report is classified as a Reliability Transmission Upgrade, a Market Efficiency Transmission Upgrade or an Elective Transmission Upgrade; (2) any obligation to construct or install the Short Term Package or any alternative identified in the Short Term Report or Long Term Report; and (3) the compensation for such construction and/or installation.

(ii) In order to resolve any possible ambiguity as to subparagraph (i) hereof and any other related provision of this Settlement, including specifically this Section 6, this Settlement does not (1) predetermine any ISO-NE findings as to whether a system upgrade is a Reliability Transmission Upgrade, a Market Efficiency Transmission Upgrade or an Elective Transmission Upgrade, or (2) obligate a Transmission Owner to build or otherwise install a system upgrade or load shedding arrangement pursuant to Paragraphs (a), (b) or (c) except to the extent that (1) such an obligation arises out of the said Transmission Operating Agreement and/or the said Tariff, (2) such an obligation is ordered by ISO-NE or the Commission, and (3) a Transmission Owner will be fully compensated for all its prudently incurred costs associated with any such construction, installation and operating cost in connection with such system upgrade or operating arrangement.

(g) In light of the need for expedited consideration of the Short-Term Package and the options identified in the Short Term Report, and to trigger any obligations to build set forth in Schedule 3.09(a) of the Transmission Operating Agreement, as soon as reasonably possible, the Parties agree to act in good faith to expedite their respective participation in the ISO-NE's Planning Procedures, particularly Sections II.48.3(d) and II.48.5 concerning additions of Transmission Upgrades to the Regional System Plan during the course of a given year.

(h) All Parties reserve their rights to raise such issues as they may think appropriate during the Regional System Planning process described in Paragraph (g) above and any proceeding initiated pursuant to Paragraph (j) below.

(i) Unless specifically stated to the contrary herein, all of the obligations of the Parties set forth in this Section 6 shall be governed by the Transmission Operating Agreement or the ISO-NE Tariff as applicable.

(j) Except as to any Section 6 matter raised by the Municipals pursuant to the exercise of their rights under Section 7, the following shall apply: any dispute of a decision by ISO-NE concerning the subject matter of this Section 6 will be subject to the dispute resolution process of Section I.6 of the ISO-NE Tariff; the Parties will support procedures in that dispute resolution procedure designed to achieve a final decision in no more than 90 days from the initiation thereof; and, the results of such dispute resolution process will be final, not subject to appeal, and binding on all the Parties.

6.2 Increases in Real-Time NCPC Charges for LSCPR: The following will apply in circumstances where there is an increase in Real-Time NCPC Charges for LSCPR that exceeds the triggers set forth below:

(a) If there is an increase in Real-Time NCPC Charges for LSCPR in a month that exceeds the criteria identified in Section 6.2 (b) (the "Reporting Criteria"), ISO-NE will post on its website within 15 days after the month a report setting forth the amount of the increase. Additionally, within 30 days of the report of the increase, ISO-NE will post a report that, to the extent permitted under the ISO New England Information Policy, identifies the reason(s) for such increase in Charges; an evaluation, based on the information available to it at the time, of the extent to which such increased level of Real-Time NCPC Charges for LSCPR are expected to continue; and whether there are any short-term solutions to reduce or eliminate such increased charges. ISO-NE will

then meet promptly with the appropriate NEPOOL stakeholder committee and with state representatives to discuss the above issues, including any appropriate potential remedial actions.

(b) The two Reporting Criteria, both of which must be satisfied in a month to trigger the obligations in the prior paragraph, are as follows:

- (i) The total Real-Time NCPC Charges for LSCPR in a Reliability Region (expressed in \$/MWh) for the month exceed 4% of the Load Weighted Real-Time LMP in that Reliability Region (also expressed in \$/MWh) for the month; and
- (ii) The total Real-Time NCPC Charges for LSCPR in a Reliability Region (in \$/MWh) for the month, expressed as a percent of the Load Weighted Real-Time LMP (also in \$/MWh) in the Reliability Region for the month, exceed 150% of the average total Real-Time NCPC Charges for LSCPR in that Reliability Region (in \$/MWh) for the immediate prior twelve months (again expressed as a percent of the Load Weighted Real-Time LMP (also expressed in \$/MWh)).

6.3 Increases in Other Charges: Within 60 days of approval of this Settlement, ISO-NE shall inform the ISO-NE stakeholders of a process for reporting significant out-of-merit charges other than Real-Time NCPC Charges for LSCPR. Under such process, the incurrence of such charges will trigger reasonable and appropriate reporting obligations comparable to the obligations imposed on ISO-NE in Section 6.2(a) above.

Section 7 – Municipals Reserved Litigation Rights:

7.1 (a) Nothing in this Settlement is intended to prevent one or more of the Municipals, as of January 2, 2008, from seeking relief from SEMA NCPC Charges for LSCPR through litigation against ISO-NE or the Transmission Owners over whether consistent with Applicable Criteria as defined in Section 6.1(b) such charges could be or

should be reduced through implementation of an SPS or Post-First Contingency Switching arrangement. However, any financial relief from such excess charges shall be limited to the difference between the SEMA NCPC Charges for LSCPR imposed on the Municipals and the charges that would have been imposed if an SPS or Post-First Contingency Switching arrangement had been implemented. Such relief shall be prospective from the date of filing of a proceeding seeking such relief (which date shall not be prior to January 2, 2008), except that the Municipals are entitled to seek relief for the three-month period prior to the date of initiating such proceeding.

(b) This Section 7.1 does not create any rights that would not exist in the absence of the Settlement.

(c) Each Party retains all rights to respond in opposition or to remain silent, as it sees fit, to any such actions taken or proceedings initiated by one or more Municipals under this Section 7.1.

7.2 The Parties, other than the Municipals, agree not to seek a change (in NEPOOL or before the Commission) in the ISO-NE definition of the SEMA Reliability Region to become effective prior to June 1, 2010; provided that the Municipals may seek such a change to become effective no earlier than January 1, 2008.

Section 8 – Further Adjustments:

(a) The LSEs, including but not limited to those that are suppliers of National Grid and/or NSTAR under Basic Service Contracts, will not seek any reimbursements or payments, in addition to those provided in this Settlement, from National Grid or NSTAR of any kind with respect to Canal Out-of-Merit Charges, including but not limited to

SEMA NCPC Charges for LSCPR, for the period January 2006 through May 2010 in any forum; provided that this sentence shall not be construed as reducing or modifying any obligations that NSTAR or National Grid otherwise have for passthrough of Canal Out-of-Merit Charges under Basic Service Contracts with the LSEs.

(b) NSTAR and National Grid will not seek any payments from the Municipals or LSEs with respect to 2006 SEMA NCPC Charges for LSCPR of any kind in any forum in addition to the payments provided for by this Settlement; provided that this sentence shall not be construed as reducing or modifying any obligations that the Municipals and LSEs otherwise have under bilateral contracts with NSTAR and National Grid.

(c) No Party shall propose, or argue, either to the Commission or within the ISO-NE or NEPOOL process, or vote within either process, for Market Rule amendments that would provide for a different mechanism for allocation of NCPC Charges for LSCPR, or shall seek or support reclassification of ISO-NE's designation of Canal as a LSCPR during the Moratorium Period other than as provided in Sections 4, 5, or 7 of this Settlement. Except for amendments authorized by Section 4.2(a), the Parties shall oppose any Market Rule amendments that would provide for a different mechanism for allocation of NCPC Charges for LSCPR than provided in Section 4.1 and Sections 5.1 and 5.2 or re-classification of ISO-NE's designation of Canal as a LSCPR during the Moratorium Period proposed by persons who are not Parties to the Settlement.

(d) Except (i) as limited by Section 7.1 as to the Municipals, (ii) as to the Transmission Owners' satisfaction of their obligations to the LSEs and Municipals under

this Settlement, (iii) as to dispute resolution under Section 6.1(j), (iv) as to rights of an LSE for passthrough of Canal Out-of-Merit charges under a Basic Service Contract, (v) as to any rights to recover NCPC charges pursuant to the allocation methodology in Section 5, and (vi) any action to enforce this Settlement, the entry into this Settlement by each Municipal and each LSE constitutes a release by it of any claim, cause of action or liability against the Transmission Owners before any federal or state court or administrative agency arising out of or related to Canal Out-of-Merit Charges during 2006 and the Moratorium Period.

Section 9 – Indemnification and Related Provisions:

9.1 Despite being notified of the Proceedings through public notice and normal NEPOOL channels, certain non-Municipal Market Participants who serve load, or are eligible to serve load, in SEMA and who have been or will be billed for SEMA NCPC Charges for LSCPR to the extent they serve load in SEMA did not participate in the Proceeding ("Non-Participating LSE"). In addition, ISO-NE has informed the Parties that (i) under the ISO-NE Billing Policy a Market Participant, including a Non-Participating LSE, is allowed to submit an RBA within three months of the date of the monthly bill for which adjustment is sought; (ii) each LSE has submitted a timely RBA contesting its bills for SEMA NCPC Charges for LSCPR with respect to service provided in January 2006 and thereafter; (iii) as of the date of execution of this Settlement Agreement, no Non-Participating LSE has submitted an RBA disputing its bills based on being charged for SEMA NCPC Charges for LSCPR; (iv) the time period under the ISO-NE Billing Policy for submission of RBAs for 2006 SEMA NCPC Charges for LSCPR

reflected in initial settlement invoices expired prior to the date of execution of the Settlement Agreement; and (v) any RBAs for 2006 SEMA NCPC Charges for LSCPR that might be submitted based on resettlement invoices would be limited to the amount of any change between the initial settlement invoice and the resettlement invoice.

9.2 It is the intent of the Parties that this Settlement Agreement resolve all issues relating to the classification of Canal as LSCPR during its operation Out-of-Merit and to the allocation of NCPC Charges for LSCPR during the period from January 1, 2006 through May 31, 2010. The Parties further intend that any Non-Participating LSE that does not submit a timely RBA for 2006 SEMA NCPC Charges for LSCPR or does not participate in Settlement negotiations in the Proceeding is: (a) ineligible to participate in the \$20.5 million reimbursements to LSEs set forth in Section 3 of this Settlement; and (b) should be precluded from disputing SEMA NCPC Charges for LSCPR through May 31, 2010. Subject to the exceptions in the last sentence of this Section 9.2, all Parties agree to support those positions before the Commission and in any other forum in which the issue may arise, and shall oppose any attempt by the Commission or any non-Party to change the allocation of NCPC Charges for LSCPR as provided for in this Settlement during such period. This provision does not limit the rights established by Sections 4.2, 5.4 and 7 of this Settlement.

9.3 In the event that, despite Section 9.2 above, the Commission ultimately finds that one or more Non-Participating LSEs is entitled to share in the \$20.5 million reimbursement to be provided under this Settlement, the following shall occur:

(a) NSTAR and National Grid shall not make any additional payments to such Non-Participating LSEs or be otherwise responsible for increasing the \$20.5 million reimbursement identified in Section 3 in order to satisfy the claims of any such Non-Participating LSE for 2006 SEMA NCPC Charges for LSCPR and shall not be responsible for any other compensation to resolve the claims of such Non-Participating LSEs for 2006 SEMA NCPC Charges for LSCPR.

(b) The LSEs agree to share the proceeds of the \$20.5 million they receive with certain Non-Participating LSEs to the following extent. First, such sharing shall be limited to Non-Participating LSEs that on a timely basis submit RBAs applicable to 2006 SEMA NCPC Charges for LSCPR after the date of execution of the Settlement Agreement. Second, such sharing shall be limited to paying an eligible Non-Participating LSE up to its *pro rata* share of the \$20.5 million in proceeds from the Settlement, which share shall not exceed 40 percent of such eligible Non-Participating LSE 2006 NCPC Charges for LSCPR for which a timely RBA was submitted. Third, responsibility for any amount paid to a Non-Participating LSE as provided in this subsection (b) will be shared among the LSEs who are Parties in the same percentages as their percentage distributions of the \$20.5 million payment under the Settlement. Fourth, any Non-Participating LSE's receipt of such payment binds that LSE to all the provisions of the Settlement Agreement. And fifth, a claim for a share of the \$20.5 million payment by such Non-Participating LSE shall have been made prior to the date that this Settlement Agreement is approved by the Commission.

(c) In the event that the offer to share reimbursement in the amount set forth in Section 9.3(b) is insufficient to satisfy a Commission order to pay any Non-Participating LSE for a claim related to 2006 SEMA NCPC Charges for LSCPR, the LSEs shall make such additional payment, unless one or more LSEs requests to terminate this Settlement Agreement within 30 days of such Commission Order. If the Settlement Agreement is terminated, ISO-NE will credit the Transmission Owners and bill the LSEs and Municipals for the reimbursements paid pursuant to Section 3, and the Parties shall reacquire all pre-existing rights and claims, including RBA claims covered by Section 3.5.

9.4 This Settlement establishes ceilings on the amount that a Transmission Owner could be allocated for any Canal Out-of-Merit Charges for 2006 and during the Moratorium Period with respect to any load served by an LSE. The 2006 ceiling is the amount paid by the Transmission Owners to the LSEs under Section 3. The Moratorium Period ceiling is the payment that the Transmission Owner would be allocated for such LSE load if the said charges were classified as NCPC Charges for LSCPR and if those charges were allocated as provided in Sections 4 and 5 hereof. The said ceilings do not include any payments that the Transmission Owners are required to make in order to pass through Canal Out-of-Merit Charges under Basic Service Contracts with the LSEs. Each LSE shall be financially responsible for any amounts in excess of the above-described ceilings associated with load served by such LSE.

9.5 (a) Subject to subsection (b) below, (i) the Commission's acceptance of the Settlement Agreement shall constitute a determination that the methods for assessing NCPC Charges for LSCPR set out in Sections 3, 4 and 5 are just and reasonable and shall be binding on all Transmission Owners, LSEs, Municipals, and Non-Participating LSEs during the Moratorium Period; and (ii) it is the intent of the Parties that, to the fullest extent permitted by law, the agreed upon methods for assessing NCPC Charges for LSCPR shall be fixed and shall not be subject to change prior to the end of the Moratorium Period. No other change sought by a Party during the Moratorium Period shall be approved except pursuant to a finding that such methods are no longer in the public interest as defined in *FPC v. Sierra Pacific Power Co.*, 350 U.S. 348, 355 and *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956). In expressing this intent, the Parties state that they will have very substantially performed many of their obligations under this Settlement Agreement shortly after the Settlement Agreement has been approved thus causing the Parties to substantially change their circumstances and thus precluding precise recreation of the *status quo ante* in the event the Commission subsequently modifies the Settlement Agreement.

(b) Subsection (a) does not apply to any changes sought by ISO-NE pursuant to Section 5 or changes sought by one or more Parties pursuant to Sections 4 or 7 hereof.

Section 10 – Mutual Approvals and Later Litigation:

10.1 This Settlement Agreement shall not be deemed in any respect to constitute an admission of any Party that any allegation or contention in this proceeding

is true or valid. In this Settlement Agreement, subject to the rights reserved to the Municipals in Section 7, the Parties are agreeing that they will not challenge ISO-NE's flagging of Canal as LSCPR for hours when it is operated out of economic merit order during the period January 1, 2006 through May 2010.

10.2 This Settlement Agreement establishes no principles and no precedent with respect to any issue in this proceeding except as it provides for a change in the Market Rules. The making of this Settlement Agreement shall not be deemed to foreclose any Party from making any contention in any future proceeding or investigation, except as to those issues and matters that are being specifically resolved by the Parties' entry into and the Commission's approval of the Settlement Agreement.

10.3 Acceptance or approval of the Settlement Agreement by the Commission shall not in any way constitute a determination by the Commission as to the merits of any allegations or contentions of any Party.

10.4 Except for actions to enforce the provisions of this Settlement, this Settlement does not create any new causes of action against ISO-NE.

10.5 Each provision of this Settlement Agreement is consideration for every other provision of this Settlement Agreement and no provision of this Settlement Agreement is severable. This Settlement Agreement is expressly conditioned upon the Commission's approval or acceptance of all its provisions, without change or condition. The Settlement is also conditioned upon the following further Commission actions:

(a) waiver of the requirements of Section 35.3 of the Commission's regulations for 60 days' prior notice under the Federal Power Act with respect to any filings required to effectuate the provisions of the Settlement.

(b) waiver by the Commission of the requirements of Section 35.13 of the Commission's regulations with respect to any such filings; and

(c) acceptance of any such filings without suspension under Section 205 of the Federal Power Act, effective as of the dates necessary to implement the Settlement.

10.6 (a) The support and vote of the LSEs and Municipals in favor of the allocation mechanism in Section 5 in NEPOOL shall be with the express understanding that the Section 5 mechanism is an essential condition of the Settlement, and the resolution that will be supported by the Parties and submitted to NEPOOL to vote on the allocation mechanism in Section 5 will include a provision stating as such and also that the vote by NEPOOL will be voided and the issue as to the appropriate allocation of NCPC Charges for LSCPR will be resubmitted to NEPOOL for a new vote if the Settlement is not approved by the Commission in its entirety without modification or condition unless such modification or condition is agreed to by the Parties.

(b) The Settlement Agreement is also expressly contingent either (i) upon retention of the existing mechanisms in Section III of the ISO-NE Tariff in effect on the date of this Settlement for allocating NCPC Charges for LSCPR (except for any change permitted by Section 4.2(a)) or, (ii) upon the approval of the said resolution by NEPOOL and approval or acceptance of the allocation mechanism in Section 5 by the

Commission. In the event (i) the said existing mechanism is not retained, and (ii) NEPOOL fails to approve the said resolution or NEPOOL does approve but the Commission does not approve the allocation mechanism in Section 5, this Settlement Agreement is to be withdrawn and deemed to be null and void and of no force or effect, and the rights of the Parties shall be fully preserved as if the Settlement had never been executed.

10.7 (a) Nothing in this Settlement Agreement will (1) preclude litigation (including arbitration) by any Party against Mirant, or against ISO-NE with respect to any failure by ISO-NE to correct, or to mitigate pursuant to Market Rule 1 and Appendix A of the Tariff, any act or failure to act by Mirant, or (2) require any Party to engage in such litigation. The claims against Mirant or ISO-NE described in the previous sentence shall be preserved for purposes of satisfying the ISO-NE Billing Policy despite the resolution of RBAs as set forth in Section 3.5 hereof.

(b) Any recovery that an LSE obtains from Mirant or ISO-NE with respect to 2006 SEMA NCPC Charges for LSCPR, including the associated amounts of the reimbursements recovered by their customers, and that an LSE would otherwise be entitled to receive, will be transferred to NSTAR and National Grid up to the level of (i) the Transmission Owners' Section 3 reimbursements to the LSEs, plus (ii) any payments by the Transmission Owners to ISO-NE related to the recovery from ISO-NE

resulting from such litigation.¹ Any such transferred amount shall be allocated between NSTAR and National Grid as they deem appropriate with such allocated amounts returned to their respective customers. In addition, aside from the said transferred amounts, this provision does not modify any rights and obligations, including any rights to adjustments, credits or refunds, in Basic Service Contracts regarding passthrough of 2006 SEMA NCPC Charges for LSCPR under such contracts. Any additional recovery obtained by an LSE in excess of the aforesaid level and the aforesaid such rights to adjustments, credits or refunds, share shall be the property of such LSE.

(c) (i) If the Transmission Owners are not parties to the Section 10.7(a) litigation, 33.76 percent of any recovery a Municipal obtains from Mirant or ISO-NE with respect to its 2006 SEMA NCPC Charges for LSCPR (including any 2006 NCPC Charges for LSCPR for which the Municipal has been reimbursed pursuant to Section 3.1) will be transferred to the Transmission Owners up to the level of the Transmission Owners' Section 3.1 reimbursements to the Municipal less any recovery otherwise obtained by the Transmission Owners from Mirant or ISO-NE that is attributable to the Transmission Owners' Section 3.1 reimbursement to the Municipal. The amount transferred to the Transmission Owners under this subsection (i) shall be net of 33.76 percent of the Municipal's litigation cost. Thus, for example, if all Municipals participate

¹ The clause (ii) payments are included in the ceiling for transfers to NSTAR and National Grid because ISO-NE has no funds of its own and could assess against the Transmission Owners any amounts owed to the LSEs as a result of the subparagraph (a) litigation. If the clause (ii) payments were not included in the ceiling, the Transmission Owners would not be compensated for their Section 3 reimbursements.

in the litigation, if the total recovery is \$7 million, and if the Municipal litigation costs total \$500,000, the amount that would be transferred to the Transmission Owners would be 33.76 percent of \$7 million minus 33.76 percent of \$500,000. Accordingly, the amount that would be transferred to the Transmission Owners would be \$2,194,400.

(ii) If the Transmission Owners are parties to the litigation, then the following applies. If litigation recoveries are calculated in such a way that a Municipal recovers sums that are based on or associated with the Transmission Owners' Section 3.1 payment to the Municipal (the "Municipal Section 3.1 component"), then 33.76 percent of any recovery a Municipal obtains from Mirant or ISO-NE with respect to its 2006 SEMA NCPC Charges for LSCPR will be transferred to the Transmission Owners without deduction for Municipal litigation costs up to the level of the Municipal Section 3.1 component less any recovery otherwise obtained by the Transmission Owners from Mirant or ISO-NE that is attributable to the Transmission Owners' Section 3.1 reimbursement to the Municipal.

(iii) Any amounts paid to NSTAR and National Grid under this Section 10.7(c) shall be allocated between NSTAR and National Grid as they deem appropriate, and all amounts received by them shall be returned to their respective customers in the manner in which the money for the Section 3.1 reimbursements was recovered from those customers unless otherwise directed by the MDTE. Except as otherwise provided in subsection (i) or subsection (ii), any recovery obtained by a Municipal shall be the property of such Municipal. As used herein, "Municipal" refers to a single Municipal if

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Settlement Agreement
Page 33

only one Municipal participates in the litigation against Mirant or ISO-NE or collectively to all the Municipals who participate in that litigation.

10.8. This Settlement consists of the terms and conditions set forth herein, as well as the Appendices hereto. This Settlement contains the entire agreement between the Parties and supersedes all prior negotiations, terms sheets and draft agreements.

10.9 The discussions among the Parties which produced this Settlement have been conducted on the explicit understanding, pursuant to Rule 606 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.606 (2006), that all Settlement Agreements and discussions relating thereto shall be privileged and confidential, shall be without prejudice to the position of any Party presenting any such offer or participating in any such discussion, and are not to be used in any manner in connection with this proceeding, any other proceeding, or otherwise.

10.10 Any number of counterparts of this Settlement may be executed, and each shall have the same force and effect as an original instrument, and as if all the Parties to all the counterparts had signed the same instrument.

10.11 This Settlement may not be amended without the written agreement of all Parties.

IN WITNESS WHEREOF, the Parties hereto, as of May 18, 2007, through their respective representatives who represent that they are fully authorized to do so on behalf of their principals, have hereunto set their hands and seals.

[COUNTERPART SIGNATURE PAGES ATTACHED]

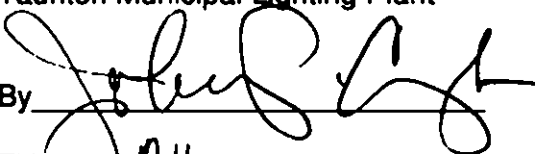
SETTLEMENT AGREEMENT

Docket No. ER07-__-000

Counterpart Signature Pages

Braintree Electric Light Department,
Hingham Municipal Lighting Plant, and
Taunton Municipal Lighting Plant

Date: May 16, 2007

By 
Title Attorney

SETTLEMENT AGREEMENT

Docket No. ER07-__-000

Counterpart Signature Pages

Date: _____

Consolidated Edison Solutions, Inc.

By


Stephen B. Brax

Title GROUP PRESIDENT, CONSOLIDATED EDISON BUSINESSES

SETTLEMENT AGREEMENT

Docket No. ER07-__-000

Counterpart Signature Pages

Date: _____

5/11/07

Constellation Energy Commodities Group, Inc.

By _____

[Signature]

Title V.P. AND GENERAL COUNSEL

SETTLEMENT AGREEMENT

Docket No. ER07-__-000

Counterpart Signature Pages

Date: 5/11/07

Constellation NewEnergy, Inc.

By 

Title CEO

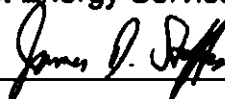
SETTLEMENT AGREEMENT

Docket No. ER07-__-000

Counterpart Signature Pages

Date: 5.17.07

Direct Energy Services, Inc.

By 

Title VICE PRESIDENT

2nd W6W

SETTLEMENT AGREEMENT

Docket No. ER07-__-000

Counterpart Signature Pages

Date: May 10, 2007

Dominion Retail, Inc.

By Jeffrey L Jones

Title Authorized Representative

SETTLEMENT AGREEMENT

Docket No. ER07-__-000

Counterpart Signature Pages

Hull Municipal Lighting Plant, Mansfield
Municipal Electric Department, Middleborough
Gas & Electric Department, and North
Attleborough Electric Department

Date: 5/16/07

By 

Title Counsel

SETTLEMENT AGREEMENT

Docket No. ER07-__-000

Counterpart Signature Pages

Date: 5/11/07

Integrus Energy Services, Inc.

By Dan J. Vukobratovic

Title Chief Operating Officer

SETTLEMENT AGREEMENT

Docket No. ER07-__-000

Counterpart Signature Pages

Date: May 18, 2007

ISO New England Inc.

By 

Title VP and Assistant General Counsel

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Settlement Agreement
Page 38

ISO New England Inc.

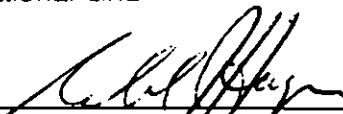
Date: _____

By _____

Title _____

National Grid

Date: May 11, 2007

By 

Title VICE PRESIDENT
AUTHORIZED SIGNATORY

NSTAR Electric Company

Date: _____

By _____

Title _____

SETTLEMENT AGREEMENT

Docket No. ER07-__-000

Counterpart Signature Pages

NSTAR Electric Company

Date: May 16, 2007

By Carroll H. Grotz

Title Its Attorney

SETTLEMENT AGREEMENT

Docket No. ER07-__-000

Counterpart Signature Pages

Date: May 11, 2007

PSEG Energy Resources & Trade LLC

By

[Signature]

Title

V.P. Commercial

SETTLEMENT AGREEMENT

Docket No. ER07-__-000

Counterpart Signature Pages

Date: May 11, 2007

Select Energy

By

William Bell

Title

President

SETTLEMENT AGREEMENT

Docket No. ER07-__-000

Counterpart Signature Pages

Date: May 10, 2007

Sempra Energy Solutions

By Royce Barton

Title STRATEGIC PLANNING & POLICY MANAGER - EAST

SETTLEMENT AGREEMENT

Docket No. ER07-__-000

Counterpart Signature Pages

Date: 5/14/07

Strategic Energy

By [Signature]

Title General Counsel & VP market Dev.

SETTLEMENT AGREEMENT

Docket No. ER07-__-000

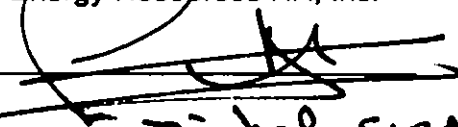
Counterpart Signature Pages

Date: May 10, 2007

SUEZ Energy Resources NA, Inc.

By

Title

 JSA
Michel SIRAT
CEO.

SETTLEMENT AGREEMENT

Docket No. ER07-__-000

Counterpart Signature Pages

Date:

5/14/07

TransCanada Power Marketing, Ltd.

By

Title

VICE-PRESIDENT

Date:

5/14/07

By

Title

Director

**APPENDIX A
REIMBURSEMENTS**

**[PRIVILEGED INFORMATION PROVIDED SEPARATELY UNDER
CONFIDENTIAL COVER]**

Appendix B

Section 3.4 Allocation of Section 3.1 Reimbursement as between National Grid and NSTAR

**[PRIVILEGED INFORMATION PROVIDED SEPARATELY
UNDER CONFIDENTIAL COVER]**

APPENDIX C
LSE CONTRACTUAL AND PRICE PASSTHROUGHS

[PRIVILEGED INFORMATION PROVIDED SEPARATELY
UNDER CONFIDENTIAL COVER]

APPENDIX D

MARKET RULE CHANGES

ISO New England Inc.
FERC Electric Tariff No. 3
Section III – Market Rule 1 – Standard Market Design
Appendix F – Net Commitment Period Compensation Accounting
Charges for NCPC

3rd Rev Sheet No. 8064
Superseding 2nd Rev 8064

III.F.3.2.16 Local Second Contingency Protection Resource NCPC

Charges, Real-Time Energy Market. The ISO calculates for each Operating Day the Local Second Contingency Protection Resource NCPC Charges for the Real-Time Energy Market for each Market Participant within each affected Reliability Region by allocating the total Real-Time Local Second Contingency Protection Resource NCPC cost to each Market Participant within each affected Reliability Region based on its daily pro-rata share of the daily sum of the hourly Real-Time Load Obligations for the affected Reliability Region.

(a) For purposes of the calculation of Local Second Contingency Protection Resource NCPC Charges, for hours in which there is a Local Second Contingency Protection Resource NCPC cost (as calculated in Section III.F.3.2.8) and ISO is selling Emergency energy to an adjacent Control Area, the scheduled amount of Emergency energy at the applicable External Node will be included in the calculation of proportional shares of Real-

ISO New England Inc.
 FERC Electric Tariff No. 3
 Section III – Market Rule 1 – Standard Market Design
 Appendix F – Net Commitment Period Compensation Accounting
 Charges for NCPC

3rd Rev Sheet No. 8065
 Superseding 2nd Rev 8065

Time Load Obligations as if the Emergency energy sale were a Real-Time Load Obligation within the affected Reliability Region(s). The proportionate share calculated for the Emergency Energy Transaction shall be included in the charges under an agreement for purchase and sale of Emergency energy with the applicable adjacent Control Area.

For purposes of the calculation of Local Second Contingency Protection Resource NCPC Charges, Emergency energy sales by the New England Control Area to an adjacent Control Area at the External Nodes (see ISO New England Manual 11 for further discussion of the External Nodes) listed below shall be associated with the Reliability Region(s) indicated in the table:

External Node Common Name	Associated Transmission Facilities	Reliability Region(s)	Allocator
NB-NE External Node	Keswick-Orrington (396 Line)	Maine	100% to Maine
HQ Phase I/II External Node	HQ-Comerford 451 & 452 Lines HQ-Sandy Pond 3512 & 3521 Lines	New Hampshire West Central Massachusetts	When Phase 1 operates, 100% to New Hampshire When Phase 2 operates, 100% to West Central

ISO New England Inc.
 FERC Electric Tariff No. 3
 Section III – Market Rule 1 – Standard Market Design
 Appendix F – Net Commitment Period Compensation Accounting
 Charges for NCPC

Original Sheet No. 8066A

(b) For each month, the ISO performs an evaluation of total Real-Time Local Second Contingency Protection Resource NCPC charges for each Reliability Region. If, for any Reliability Region, the magnitude of such charges is sufficient to satisfy two conditions, a partial reallocation of the charges, from Market Participants with a Real-Time Load Obligation in that Reliability Region to Transmission Customers with Network Load in that Reliability Region, is triggered. For calculations performed under the provisions of this sub-paragraph b, the term Market Participant will include an adjacent Control Area and the term Real-Time Load Obligation will include MWh of Emergency energy sold in the circumstances described in sub-paragraph a above.

(i) Evaluation of Conditions –

Condition 1 – is the

Local Second Contingency Protection Resource Charge
 (Reliability Region, month) > .06 X Load Weighted Real-Time LMP (Reliability Region, month)

Condition 2 – is the

Local Second Contingency Protection Resource Charge %
 (Reliability Region, month) > 2 X Twelve Month Rolling Average Local Second Contingency Protection
 Resource Charge % (Reliability Region)

Where:

Real-Time Load Obligation (Reliability Region, month) equals the sum of the hourly values of total Real-Time Load Obligation for each hour of the month in the Reliability Region.

Local Second Contingency Protection Resource Charge
 (Reliability Region, month) equals the sum of hourly Local Second Contingency Protection Resource charges for each hour of the month in the Reliability Region divided by the Real-Time Load Obligation (Reliability Region, month).

Load Weighted Real-Time LMP (Reliability Region, month) equals the sum of the hourly values of Real-Time LMP times the associated Real-Time Load Obligation

ISO New England Inc.
 FERC Electric Tariff No. 3
 Section III – Market Rule 1 – Standard Market Design
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 Charges for NCPC

Original Sheet No. 8066B

for each hour of the month in the Reliability Region, divided by the Real-Time Load Obligation
 (Reliability Region, month)•

Local Second Contingency Protection Resource Charge %
 (Reliability Region, month) equals the Local Second Contingency Protection Resource Charge (Reliability
 Region, month) divided by the Load Weighted Real-Time LMP (Reliability Region, month)•

Twelve Month Rolling Average Local Second Contingency
 Protection Resource Charge % (Reliability Region) equals the sum of the prior 12 months' values, not
 including the current month, of Local Second Contingency Protection Resource Charge %
 (Reliability Region, month) divided by 12. (For the purposes of other calculations which include the
 Twelve Month Rolling Average Local Second Contingency Protection Resource Charge %
 (Reliability Region), a value of .001 will be substituted for any Twelve Month Rolling Average Local
 Second Contingency Protection Resource Charge % (Reliability Region) value of 0.)

If both conditions are met, a reallocation of a portion of
 Local Second Contingency Protection Resource Charge (Reliability Region, month) is triggered.

(ii) Determination of the portion of Local Second Contingency
 Protection Resource Charge (Reliability Region, month) to be reallocated –

Local Second Contingency Protection Resource Charge
 (Reliability Region, month) to be reallocated = Real-Time Load Obligation (Reliability Region, month) X Min
 (Condition 1 Rate (Reliability Region, month), Condition 2 Rate (Reliability Region, month))

Where:

Condition 1 Rate (Reliability Region, month) equals the Local
 Second Contingency Protection Resource Charge (Reliability Region, month) minus .06 times the Load
 Weighted Real-Time LMP (Reliability Region, month)•

Condition 2 Rate (Reliability Region, month) equals the Local
 Second Contingency Protection Resource Charge (Reliability Region, month) minus 2 times the Twelve
 Month Rolling Average Local Second Contingency Protection Resource Charge % (Reliability Region)
 times the Load Weighted Real-Time LMP (Reliability Region, month)•

ISO New England Inc.
 FERC Electric Tariff No. 3
 Section III – Market Rule 1 – Standard Market Design
 Appendix F – Net Commitment Period Compensation Accounting
 Charges for NCPC

Original Sheet No. 8066C

(iii) Determination of Local Second Contingency Protection Resource Charge (Reliability Region, month) reallocation credits to Market Participants and reallocation charges to Transmission Customers –

Market Participant reallocation credit =

$$\frac{\text{Real-Time Load Obligation (Participant, Reliability Region, month)}}{\text{Real-Time Load Obligation (Reliability Region, month)}} * \text{Local Second Contingency Protection Resource Charges (Reliability Region, month) to be reallocated}$$

Where:

Real-Time Load Obligation (Participant, Reliability Region, month) equals the sum of the Market Participant's hourly values of total Real-Time Load Obligation in the Reliability Region for each hour of the month.

Transmission Customer reallocation charge =

$$\frac{\text{Network Load (Transmission Customer, Reliability Region, month)}}{\text{Network Load (Reliability Region, month)}} * \text{Local Second Contingency Protection Resource Charges (Reliability Region, month) to be reallocated}$$

Where:

Network Load (Reliability Region, month) equals:

The monthly MWh of Network Load of all Transmission Customers in the Reliability Region

Network Load (Customer, Reliability Region, month) equals:

The Transmission Customer's monthly MWh of Network Load in the Reliability Region.

APPENDIX E

SEMA Schedule

ACTION	DATE	COMMENTS
NSTAR and ISO presented Short Term Alternatives for PAC consideration.	5-Dec-06	ISO presented the transmission line and substation alternatives for the Short Term Upgrade Plan to the Planning Advisory Committee (PAC). The plan* consists of: (1) 115kV development of Brook St, Plympton, Mass substation and interconnection of new 115kV line from Auburn St substation, Whitman, Mass to Brook St; (2) 345kV expansion of Carver, Mass substation to create a new source with transmission Line 355; (3) install 2nd 345kV autotransformer at Carver, (4) construct a 2nd 115kV line from Carver to Tremont Station, Wareham (or from Brook St. to Manomet), and (5) a dynamic reactive source to be located at Barnstable switch. *Upgrades 1 and 2 are already included as Reliability Benefit Upgrades in the 2006 Regional System Plan.
Short Term Upgrade Plan – Upgrade #4 Option Selected	19-Jan-07	115 kV line upgrade portion of the Carver Option will be from Carver to Tremont.
NSTAR initial briefing of Stability Task Force (STF)	29-Jan-07	Began getting feedback from NEPOOL participants to identify study parameters for transient and dynamic analysis
NSTAR filing with Mass DTE for zoning and Section 72 at Brook St Station expansion	23-Feb-07	Zoning exemption required for the proposed 7 - 115kV breaker build out of Brook St substation
NSTAR placed order for <ul style="list-style-type: none"> Carver Circuit Brkrs 345/115kV autotransformer 	Dec-06 15-Mar-07	Lead time for manufacture and delivery of autotransformer exceeds 12 months so early order placement is needed. A second long lead time element is 345kV circuit breakers.
NSTAR and ISO make presentation to the TTF	20-Mar-07	Present results of steady state thermal and voltage testing of the Short Term Upgrade Plan for TTF review. (The TTF and STF are necessary tech evaluation precursors to proceeding to the NEPOOL Reliability Committee (RC))

NSTAR to present stability testing results to the STF	21-Mar-07	Receive initial comments on test results and additional requirements to complete review of the design. Report to be sent out two weeks in advance of the meeting. The report must include short circuit testing results.
NSTAR filing with Mass DTE for zoning for Carver Station expansion and for Chapter 72 review	15-Apr-07	Zoning exemptions are required for the station expansion and Chapter 72 review is required for the proposed 115kV line from Tremont to Carver.
ISO and NSTAR to present final report to the TTF	24-Apr-07	Report will incorporate comments and additional study as required such that it will be presented for TTF recommendation for approval. Report to be sent out two weeks in advance of the meeting.
NSTAR to present final report to the STF	25-Apr-07	Report will incorporate comments and additional study as required such that it will be presented for STF recommendation for approval. Report to be sent out two weeks in advance of the meeting.
Identification of the dynamic reactive device requirements based on system needs	30-April-07	
NSTAR (with ISO support) to present Short Term Upgrade update to PAC	May 07	NSTAR (with ISO support) to update PAC as to the 115 kV line alternative selected for Upgrade 4 above. This is an update to the 05-Dec-06 presentation which discussed various options. ISO to indicate plan to add Upgrades (3) and (4) to revised Project Listing
NSTAR and National Grid to send Proposed Plan Applications (PPA) to the RC for review	22-May-07	This provides one month after the final reports are presented to the TTF and STF to allow for resolution of any task force concerns before submission to the RC
RFP issued for the dynamic reactive device	30-May-07	
ISO adds project to 2 nd quarter project listing update	31-May-07	Revised project list includes Carver auto and 115 kV line alternative selected.
NSTAR and National Grid to present the PPAs to the RC	5-Jun-07	Recommendation for approval expected at this meeting

NSTAR (with ISO support) to present Short Term Upgrade update plan to PAC	June -07	NSTAR (with ISO support) to update PAC as to the dynamic reactive device selected for Upgrade (5) above. This is an update to the 05-Dec-06 presentation which discussed various options. ISO to indicate plan to add Upgrades (5) to revised Project Listing
ISO issues I.3.9 determination letter	29-Jun-07	
Begin update of I.3.9 for dynamic reactive device (if necessary)	30-July-07	
Tentative DTE zoning on Brook St	1-Aug-07	With the help of expedited treatment at the Dept early approval by this time is requested for Brook St
NSTAR to begin site work Brook St	15-Aug-07	Initial clearing leading to reconfiguration and temp /interim station installed by 10/30/2007 to permit clearing and full build out of the station to begin
ISO adds project to 2 nd quarter project listing update	30-Sept-07	Revised project list includes dynamic reactive device.
Ordering of dynamic reactive device and associated equipment	1-Aug-07	
Tentative DTE zoning on Carver Station	1-Oct-07	With the help of expedited treatment at the Dept early approval by this time is requested for Carver Station.
Brook St Station, Auburn Station and 115kV line completion	Summer 2008	This applies to Upgrade #1 (see Dec 6 item)
Carver Station and 115kV line completion	Fall 2008	This applies to Upgrades #2 through #4 (see Dec 6 item).
Dynamic reactive device completion	Late 2008	This applies to Upgrade #5 (see Dec 6 item).

Attachment 3
Supporting Statement



**JOINT STATEMENT IN SUPPORT OF MARKET RULE
REVISIONS CHANGING THE FORMULA FOR ALLOCATING
REAL-TIME OUT-OF-MERIT COSTS
FOR LOCAL SECOND CONTINGENCY PROTECTION**

ISO New England Inc. (the “ISO-NE”) and the New England Power Pool (“NEPOOL”) Participants Committee¹ (collectively, the “Filing Parties”) jointly submit as part of this filing pursuant to Section 205 of the Federal Power Act (“FPA”),² an original and six (6) copies of this statement (the “Supporting Statement”) and Market Rule 1³ revisions (the “Market Rule Revisions”) to the present allocation of certain Real-Time out-of-merit operation costs incurred for resources that are classified as local second contingency protection resources (“LSCPR”). In general, the Market Rule Revisions retain the current allocation of such Real-Time costs to load serving entities in accordance with Real-Time Load Obligation (“RTLO”), except that such costs to be allocated based on RTLO will be subject to a two-part cap, as described more fully in Section IV of this Supporting Statement. As described therein, during any month in which both components of the cap are exceeded, Real-Time LSCPR charges above the higher of two components of the cap will be allocated based on Network Load rather than RTLO.

The Market Rule Revisions were derived and agreed to among some Market Participants and with ISO-NE in settlement negotiations over certain out-of-merit operation costs incurred and continuing to be incurred in Southeast Massachusetts (“SEMA”). The settlement resulting from those negotiations (the “Settlement Agreement”) has been entered into among ISO-NE, two Transmission Owners in Massachusetts, a number of Publicly Owned Entities in Massachusetts, and a number of other Market Participants that either have or have had load serving obligations in the

¹ Capitalized terms used but not defined in this filing are intended to have the meaning given to such terms in the ISO New England Inc. Transmission, Markets and Services Tariff, FERC Electric Tariff No. 3 (“ISO-NE Tariff”), the Second Restated New England Power Pool Agreement, and the Participants Agreement.

² See 16 U.S.C. § 824(d) (2007).

³ Market Rule 1 is Section III of the ISO-NE Tariff.

SEMA Reliability Region. While NEPOOL is not a signatory to the Settlement Agreement, the Market Rule Revisions are a critical component of that Settlement Agreement and the effectiveness of the Settlement Agreement is conditioned on Commission acceptance or approval without modification or condition of both the Settlement Agreement and the Market Rule Revisions included in this Section 205 filing.

The Market Rule Revisions not only are a part of the Settlement Agreement, but also were approved separately by a 91.34% Vote of the NEPOOL Participants Committee. That vote was subject to the conditions that the Settlement Agreement be finalized and accepted or approved by the Commission without modification or condition.

A July 1, 2007 effective date is requested for the revisions, subject to the conditions discussed in detail in this Supporting Statement. The basis for this request and a requested waiver of the Commission's filing requirements are contained in Section VI of this Supporting Statement below.

I. BACKGROUND OF MARKET RULE REVISIONS

Under the current Market Rule provisions, the allocation of out-of-merit operation costs depends on the reasons such costs were incurred. One of a number of reasons to incur such out-of-merit costs is to ensure that the reliability of the grid is maintained following a first contingency event. Resources dispatched for this reason are classified as LSCPR and incremental out-of-merit costs incurred in Real Time for such operation are recovered from Market Participants as Real-Time LSCPR Net Commitment Period Compensation ("NCPC") charges (referred to for convenience herein as "Real-Time LSCPR NCPC Charges"). Under Section 6.4.4 of the current Market Rule, Real-Time LSCPR NCPC Charges are allocated in the Real-Time Energy Market to each Market Participant with load within the Reliability Region where the LSCPR is located based on the Market Participant's daily pro-rata share of the daily sum of the hourly RTLO for that Reliability Region. The current Market Rule has a different allocation for out-of-merit costs for the operation of units classified as Special Constrained Resources ("SCR"). SCRs are defined in Schedule 19 of ISO-NE's Open Access Transmission Tariff ("OATT"),⁴ in Section III.6.2.1 of Market Rule 1 and Section 6.3.3 of Manual 11 as Resources that are committed and dispatched by ISO-NE at the request of a Transmission Owner or distribution company to commit or change the incremental loading on otherwise committed Resources to provide relief for constraints not reflected in the ISO's systems or procedures for operating the New England Transmission System. Under Section I of Schedule 19 of the ISO-NE's OATT and Sections III.6.2.1 and III.F.2.1.16 of Market Rule 1, out-of-merit costs for SCRs are allocated to the utility requesting that

⁴ The OATT is Section II of the ISO-NE Tariff.

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Supporting Statement For Market Rule Revisions
Page 3

operation. The utility, in turn, would recover such costs, if and as appropriate from its distribution or transmission customers.

The decision to revisit the issue of how to allocate Real-Time LSCPR NCPC Charges was driven by disagreements among Market Participants over the allocation of costs associated with the out-of merit operation of the Canal Generating Station ("Canal"). Canal is a two-unit generating station located on Cape Cod in SEMA with aggregate capacity ratings above 1100 MWs, split about equally between an oil-fired unit and a unit capable of burning oil or natural gas. Historically, Canal was operated in merit. That changed, however, as the prices of oil rose relative to natural gas.

Beginning in January 2006, based on bids submitted for Canal by Mirant, the owner and operator of Canal, the Canal units in most hours were no longer in merit. Consequently, ISO-NE was required to assess whether, and if so, under what circumstances and for what reasons it was necessary to operate Canal. As discussed more fully in the Explanatory Statement included with the Settlement Agreement in this filing, ISO-NE initially concluded that reliability in SEMA and the broader region could be maintained during many hours without operating Canal.⁵ NSTAR, which has an affiliated distribution company that serves SEMA, disagreed with that conclusion and requested that Canal be operated to support reliability. Given this initial disagreement, ISO-NE dispatched Canal as requested by NSTAR and classified each unit during such out-of-merit operation as an SCR, with the result that all of the out-of-merit costs for SCR were allocated to NSTAR network transmission loads in SEMA. Subsequently, ISO-NE in March and April reconsidered its earlier conclusion that Canal was not needed to be on-line in accordance with its systems and procedures, and concluded in mid-April that operation of Canal was necessary for local second contingency protection in SEMA. Based on that conclusion, the ISO classified the Canal units as LSCPR during hours in which they were operated out of merit, both prospectively and retroactively to January 27, 2006. Consequently, the related charges were designated as Real-Time LSCPR NCPC Charges.

The effect of ISO-NE's reclassification of Canal as an LSCPR was to assign related Real-Time LSCPR NCPC Charges to Market Participants, including the Municipals, with RTLO in the SEMA Reliability Region. Market Participants that were assigned these costs challenged ISO-NE's reclassification of Canal and the resulting allocation of related out-of-merit operation costs.

⁵ During some hours, ISO-NE concluded it must run Canal in order to provide VAR support for the region, and flagged the units as being run for such purposes, with the resulting allocation of such costs under Schedule 2 of the ISO-NE Tariff.

Because of the ongoing Canal out-of-merit operation and the mounting costs for such operation,⁶ the stakeholders and ISO-NE began exploring the following three issues in parallel: (1) whether the allocation mechanism for Real-Time LSCPR NCPC Charges should be changed; (2) the allocation since January 2006 in the particular circumstances in SEMA of the costs associated with the out-of-merit operation of Canal; and (3) appropriate adjustments to the operation of or upgrades to the bulk power system in and into SEMA. As described in greater detail in Section VI of this Supporting Statement below, all three of these issues were explored in mediated settlement discussions, informed by more general, public discussions that were taking place on the first and third issues. The first of these three issues culminated for NEPOOL in its 91.34 % Vote of the Participants Committee to approve the Market Rule Revisions, subject to condition as noted.

II. DESCRIPTION OF THE SUBMITTING PARTIES; COMMUNICATIONS

ISO-NE is the private, non-profit entity that serves as the regional transmission organization ("RTO") for New England. ISO-NE operates the New England bulk power system and administers New England's organized wholesale electricity market pursuant to the ISO-NE Tariff and the Transmission Operating Agreement with the New England transmission owners. In its capacity as an RTO, the ISO-NE also has the objective to assure that the bulk power supply system within the New England Control Area conforms to proper standards of reliability as established by the Northeast Power Coordinating Council ("NPCC") and the North American Electric Reliability Corporation ("NERC").

NEPOOL is a voluntary association organized in 1971 pursuant to the New England Power Pool Agreement, and it has grown to include more than 300 members. The Participants include all of the electric utilities rendering or receiving services under the ISO-NE Tariff, as well as independent power generators, marketers, load aggregators, brokers, consumer-owned utility systems, end users and a merchant transmission provider. Pursuant to revised governance provisions accepted by the Commission in *ISO New England Inc. et al.*, 109 FERC ¶ 61,147 (2004), the Participants act through the NEPOOL Participants Committee. The Participants Committee is authorized by Section 6.1 of the Second Restated NEPOOL Agreement and Section 8.1.3(c) of the Participants Agreement to represent NEPOOL in proceedings before the Commission. NEPOOL is the principal stakeholder organization for the New England RTO.

⁶ Since January 27, 2006, out-of-merit costs in SEMA have totaled more than \$ 97 million through March 2007, and continue to be incurred.

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III. STANDARD OF REVIEW

The Market Rule Revisions are being filed by ISO-NE and NEPOOL under Section 205 of the FPA, which “gives a utility the right to file rates and terms for services rendered with its assets.”⁸ Under Section 205, the Commission “plays ‘an essential passive and reactive’ role”⁹ whereby it “can reject [a filing] only if it finds that the changes proposed by the public utility are not ‘just and reasonable.’”¹⁰ The Commission limits this inquiry “into whether the rates proposed by a utility are reasonable – and [this inquiry does not] extend to determining whether a proposed rate schedule is more or less

⁷ Due to the joint nature of this filing, the Filing Parties respectfully request a waiver of Section 385.203 of the Commission’s regulations to allow the inclusion of more than two persons on the service list in this proceeding.

reasonable than alternative rate designs.”¹¹ The changes proposed herein “need not be the only reasonable methodology, or even the most accurate.”¹² As a result, even if an intervenor or the Commission has an alternate proposal, the Commission must accept the Market Rule Revisions filed here pursuant to Section 205 if it finds that the filing is within the just and reasonable range.¹³

IV. THE MARKET RULE REVISIONS

In general, the Market Rule Revisions maintain the current allocation mechanism for Real-Time LSCPR NCPC Charges, which assigns cost responsibility to load serving entities based on RTLO rather than to those entities that are principally transmission providers and responsible for costs allocated to Network Load. That general rule, however, is limited by the addition of a self-adjusting, cap on charges to RTLO. The cap is defined by reference to two triggers—one based on the suddenness of the increase in out-of-merit costs and a second based on the relative magnitude of such out-of-merit costs. If both triggers are exceeded, the Real-Time LSCPR NCPC Charges that exceed the higher of the two triggers will be allocated to Network Load rather than RTLO. If this increase in out-of-merit costs is sustained over time, the triggers automatically adjust the cap over time to reflect the new status quo, such that the allocation to Network Load gradually shifts back to RTLO. *This capping mechanism is not designed to allocate such Real-Time LSCPR NCPC Charges to Network Load on a permanent basis.*

Under the Market Rule Revisions, ISO-NE must calculate for each month the total Real-Time LSCPR NCPC Charges for each Reliability Region. If that calculation

(...continued)

⁸ *Atlantic City Elec. Co. v. FERC*, 295 F.3d 1, 9 (D.C. Cir. 2002).

⁹ *Id.* at 10 (quoting *City of Winnfield v. FERC*, 744 F.2d 871, 876 (D.C. Cir 1984)).

¹⁰ *Id.*

¹¹ *See ISO New England Inc.*, 114 FERC ¶ 61,315 at P 33 and n.35 (2005), citing *Pub. Serv. Co. of New Mexico v. FERC*, 832 F.2d 1201, 1211 (10th Cir. 1987) and *City of Bethany v. FERC*, 727 F.2d 1131, 1136 (D.C. Cir. 1984) (“*City of Bethany*”), cert. denied, 469 U.S. 917 (1984).

¹² *Oxy USA, Inc. v. FERC*, 64 F.3d 679, 692 (D.C. Cir. 1995).

¹³ *Cf. Southern California Edison Co., et al.*, 73 FERC ¶ 61,219 at 61,608 n. 73 (1995) (“Having found the Plan to be just and reasonable, there is no need to consider in any detail the alternative plans proposed by the Joint Protesters.” (citing *City of Bethany*, 727 F.2d at 1136)).

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reveals for any Reliability Region that the magnitude of such charges allocated to RTLO exceeds the both of the defined triggers, the Market Participants with RTLO would be entitled to a reimbursement of that portion of the Real-Time LSCPR NCPC Charges that exceeds the higher of the two triggers. The reimbursement would be charged to Transmission Customers with Network Load in that Reliability Region.

In accordance with revised Section III.F.3.2.16 of Market Rule 1, the two triggers that would need to be tripped for any reimbursement are as follows:

- (1) the total Real-Time LSCPR NCPC Charges in a Reliability Region for the month exceed six (6) percent of the Load Weighted Real-Time LMP in that Reliability Region for the month ("Trigger One"); and
- (2) the total Real-Time LSCPR NCPC Charges in a Reliability Region for the month, expressed as a percent of the Load Weighted Real-Time LMP in the Reliability Region for the month, exceed two hundred (200) percent of the average Real-Time LSCPR NCPC Charges in that Reliability Region for the immediately prior twelve months (again expressed as a percent of the Load Weighted Real-Time LMP) ("Trigger Two").

These Market Rule Revisions preserve under most circumstances the current allocation of Real-Time LSCPR NCPC Charges, which the Commission has already accepted as just and reasonable.¹⁴ The introduction of a trigger mechanism, however, will mitigate for load serving entities the risks of sudden growth in and significant charges for Real-Time LSCPR NCPC Charges. This mitigation mechanism may produce lower risk premiums to customers for wholesale power. Further, if Real-Time LSCPR NCPC Charges remain high in a Reliability Region, the trigger mechanism will automatically adjust over time to reflect that change, gradually reducing and ultimately eliminating any reimbursement funded through Network Load. Thus, overall the revisions generally preserve the current allocation of Real-Time LSCPR NCPC Charges, but provide an adjustment, which can be analogized to catastrophic risk insurance, that is designed to provide some limited protection for load serving entities, potentially reducing risk premiums for wholesale power, without shifting large reimbursement charges to Transmission Customers with Network Load.

¹⁴ See, e.g., *ISO New England Inc.*, 117 FERC ¶61,171 at PP 5-6 (2006). The existing allocation of Real-Time LSCPR NCPC Charges is addressed in Section III.F.3.2.16 of the ISO-NE Tariff.

V. STAKEHOLDER PROCESS FOR MARKET RULE REVISIONS

The Market Rule Revisions, as noted above, are an integral part of the Settlement Agreement, and as such were preceded by considerable notice and discussions. The Settlement Agreement is the product of extended discussions and negotiations among all interested entities following broad notices and periodic updates to all Market Participants. To appreciate the level of compromise and consensus building inherent in these changes, this section of the Supporting Statement recounts the processes that have resulted both in the Settlement Agreement and the Market Rule Revisions contained in this Section 205 filing. Representatives who elected to participate in some or all of the stakeholder processes leading up to the Settlement Agreement and this filing, either actively or by monitoring the discussions, included state regulators, load serving entities, suppliers, transmission owners, publicly owned entities, ISO-NE and NEPOOL. In addition, representatives of the Alternative Resource Sector and End User Sector, having not participated in the settlement process, had the opportunity for full participation in the NEPOOL process to consider the proposed Market Rule changes identified in Settlement Agreement and have had, and will have, the opportunity to participate in the planning process to address the future operation of or upgrades to the bulk power system in and into SEMA.

In light of recurring questions confronting the region relating to allocation of dispatch costs that were not fully reflected in locational marginal prices, a joint decision was made among ISO-NE, NEPOOL and New England Conference of Public Utility Commissioners ("NECPUC") representatives to form a Cost Allocation Working Group to be co-chaired by representatives of each organization. The Co-Chairs selected were the Chair and Vice-Chair of the Markets Committee (ISO-NE and NEPOOL representatives, respectively) and Commissioner Robert Keating from the Massachusetts Department of Telecommunications and Energy ("MA DTE").¹⁵

In addition to the general efforts of the Cost Allocation Working Group, ISO-NE and NEPOOL worked to involve and educate all affected entities and to resolve disputes over the appropriate allocation of Canal out-of-merit costs without the need for formal proceedings and litigation before this Commission. The issues that the Settlement Agreement resolves were brought to the attention of all Market Participants with the issuance by ISO-NE on May 15, 2006 of a report describing the need for and handling of the out-of-merit operation of Canal. A discussion of the reasons for and costs experienced with the out-of-merit operation of Canal was placed on the agenda of the June 2, 2006 Participants Committee meeting, and Participants were briefed at that

¹⁵ As of April 11, 2007, the MA DTE was dissolved and replaced with the Massachusetts Department of Public Utilities. *See An Act Reorganizing the Governor's Cabinet and Certain Agencies of the Executive Department*, 2007 Mass. Acts ch. 19. Commissioner Keating is a member of that newly constituted agency.

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meeting on the associated issues. All interested entities were also invited to stay following the Participants Committee meeting for a more detailed explanation of the operational issues requiring the out-of-merit operation of Canal, and a conference call the following week to further discuss those issues. Representatives who elected to participate in these discussions included representatives of transmission owners, load serving entities, publicly owned entities, and Maine and Massachusetts regulatory commissions. Following those two meetings, summaries of the discussions were sent to all Members and Alternates of the more than 300 Participants and the extremely broad group of entities that have been placed on a list to receive copies of all Participants Committee information.

As described more fully in the Explanatory Statement, early discussions resulted in the initiation of a non-docketed¹⁶ mediated settlement proceeding (the "Proceeding") with settlement assistance from the Honorable Lawrence Brenner, who was then the Deputy Chief Administrative Law Judge for the FERC. On August 7, 2006, Judge Brenner issued an order scheduling a settlement conference, which the NEPOOL Secretary and Counsel circulated to all Participants and interested entities, urging all interested entities to join in the settlement discussions. The Judge accepted participation in the Proceeding by any entity requesting to do so, and issued subsequent orders scheduling eight more settlement conferences, many of them spanning more than one day. All of these discussions were agreed to be confidential settlement discussions and were subject to the settlement privilege.¹⁷

While the Proceeding was underway, a formal request was made of the MA DTE to hold public discussions of the matter in Boston. The MA DTE responded by issuing a public notice and holding a technical discussion on this matter on September 22, 2006. The MA DTE served the notice of the technical session on the Electric Power Division's full service list of competitive suppliers, distribution companies and transmission owners. This notice was also circulated by NEPOOL to all members and alternates of the NEPOOL Markets Committee.

Also in September, ISO-NE conducted a technical conference in Springfield, MA to review and explain the conditions that caused the out-of-merit operation of the Canal units and the steps that might be taken to reduce dependence on that out-of-merit operation.

Throughout these discussions, beginning August 2006 and subsequently for the duration of these discussions, NEPOOL Counsel reported each month on the status of the Proceeding. It provided these reports in writing to all Participants and interested entities,

¹⁶ An "ME" docket number was assigned by the Commission for purposes of tracking filings.

¹⁷ 18 C.F.R. §§ 385.602, 385.606 (2007).

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including all Market Participants and many interested entities that requested to be copied on Participants Committee materials. In addition, it was posted on the ISO-NE website. Then at each monthly meeting of the NEPOOL Participants Committee, all Market Participants were provided the opportunity to raise whatever questions they had on the matter.

In addition, following its initial meetings to educate interested parties, the Cost Allocation Working Group invited proposals from any interested entity on changes to the current allocation mechanism for Real-Time LSCPR NCPC Charges. Working Group members were advised of the Proceeding and invited to participate if they wished. Late in December, the Working Group was presented a proposal that was identical to the allocation ultimately reflected in the Settlement Agreement but, because of the confidential nature of the settlement discussions, was not told at that time that the proposal was being considered as part of a comprehensive settlement.

With the knowledge that the settling parties reached an agreement in principle on the Settlement Agreement, the Cost Allocation Working Group and Markets Committee on April 13, 2007 met together to consider the Market Rule changes proposed by the Settlement. The members of the Working Group and Markets Committee were all advised that support for the Market Rule changes was required by the settling parties as part of a comprehensive package.¹⁸ Recognizing this fact, following full and public discussion of the proposed Market Rule changes, the Markets Committee entertained and approved by a 90.74% Vote a resolution recommending these changes to the Participants Committee, subject to the condition that “(a) such support is contingent upon the execution, and the approval by the FERC without modification or condition, of the settlement agreement regarding the out-of-merit dispatch of the Canal Units in SEMA, and (b) if the FERC fails to do so, the issue of allocating Real-Time Local Second Contingency Protection Resource NCPC Charges will be resubmitted to this committee for additional consideration and a new vote before any revisions are made to those provisions of Market Rule 1 that address such issue.”

The Participants Committee then considered the Markets Committee recommendation. Unlike the Markets Committee, the Participants Committee has procedures for receiving confidential materials and meeting in confidential executive session. In accordance with these procedures, the Participants Committee considered a confidential draft of the full Settlement Agreement along with the publicly-available Market Rule changes recommended by the Markets Committee. At the Participants

¹⁸ Note that while the Settlement Agreement could not be shared with the Markets Committee due to confidentiality requirements, the Markets Committee was given a general explanation of the settlement to the extent it would impact its consideration of the Market Rules.

Committee, the representative of FirstLight Power Resources, Inc. ("FirstLight") expressed concern with the unchanged portion of the allocation formula for Real-Time LSCPR NCPC Charges because the formula currently used for that allocation includes load associated with Dispatchable Asset Related Demand for the pumping load of pumped-storage hydroelectric generating facilities in the region. In discussing that concern in executive session of the Participants Committee, FirstLight highlighted that its concern was compounded by a moratorium in the Settlement Agreement. While that moratorium would not apply to NEPOOL or any other Market Participant not executing the Settlement Agreement, it would preclude until 2010 ISO-NE and the other settling parties, except as specifically noted, from proposing or supporting changes to allocation formula for Real-Time LSCPR NCPC Charges that could conceivably be made to address First Light's concerns. Given these expressed concerns, the settling parties agreed to modify the moratorium provisions of the Settlement Agreement to carve this narrow and particular issue out of the moratorium, and all agreed to allow for a more complete discussion and exploration of FirstLight's proposal to exclude pumping load for pumped-storage hydroelectric generating facilities from the allocation formula for Real-Time LSCPR NCPC Charges. On that basis, FirstLight indicated its support for the Market Rule changes as far as they went, and committed to seek to address its concerns prospectively and not in response to the filing of the SEMA Settlement or the Market Rule changes.

Thereafter, the NEPOOL Participants Committee voted to support these proposed changes with a vote of 91.34 percent in favor, subject to the same condition recommended by the Markets Committee that Settlement Agreement be fully executed by the parties to that settlement and approved by the Commission without modification or condition. Twenty-two (22) Participants abstained on that vote.¹⁹ Attachment 6 to the transmittal letter for this filing reflects this vote in tabular form.

In short, the Market Rule changes included in this filing are a critical part of a settlement and also the product of a very extensive and open process that involved the participation of many parties. Anyone and everyone who had any desire to consider, comment, discuss, negotiate or influence in any way the discussion and outcome of this matter had repeated notice and many opportunities to do so. The Settlement Agreement reflects resolution of the very broad and diverse interests of those who elected to participate, and the Market Rule changes were considered fully within the Commission-approved NEPOOL Stakeholder Process and also in a separate working group process

¹⁹ Representatives of certain Real-Time demand response providers sought at the Participants Committee to change the unchanged portion of the allocation formula for Real-Time LSCPR NCPC Charges so as to exclude all Dispatchable Asset Related Demand, including pumping load. The Participants Committee considered but did not support that request.

designed specifically to seek out and provide even greater opportunity for participation and input by State regulatory representatives.

VI. REQUESTED EFFECTIVE DATE AND WAIVER REQUEST

With respect to the requested effective date for the Market Rule Revisions, ISO-NE and NEPOOL note the conditional nature of this Market Rule Revisions filing and approvals leading up to it. The changes in the Market Rule Revisions are supported by ISO-NE, NEPOOL, and some Participants only with the understanding that they will be part of the Settlement Agreement and that the Agreement is executed as proposed and approved or accepted by the Commission without change. Given the ongoing incurrence of Real-Time LSCPR NCPC Charges in SEMA, the settling parties and NEPOOL are all anxious to implement the understandings in the Settlement Agreement as soon as practical. For that reason, ISO-NE and NEPOOL join in seeking a waiver of the notice requirements of 18 C.F.R. § 35.3 (2006) of the Commission's regulations to permit the Revisions to be effective on July 1, 2007, subject to the Commission also approving the Settlement Agreement without change, condition or deletion also to be effective on that date.

VII. ADDITIONAL SUPPORTING INFORMATION

Section 35.13 of the Commission's regulations generally requires public utilities to file certain cost and other information related to an examination of traditional cost-of-service rates.²⁰ However, the Market Rule Revisions are not traditional "rates" and the ISO-NE is not a traditional investor-owned utility. Therefore, in support of the Market Rule Revisions, ISO-NE and NEPOOL submit the following additional information in substantial compliance with Section 35.13 of the Commission's regulations and request waiver of those regulations to the extent this information is considered by the Commission not satisfy fully the Commission's filing requirements:

- This Supporting Statement;
- Clean sheets of the ISO-NE Tariff reflecting the changes to be effected by this filing (Attachment 4 to the transmittal letter for this filing);
- Redlined sheets of the ISO-NE Tariff reflecting the changes to be effected by this filing (Attachment 5 to the transmittal letter for this filing); and
- A tabulation of the 91.34% Vote in favor of the Market Rule Revisions (Attachment 6 to the transmittal letter for this filing);

²⁰ 18 C.F.R. § 35.13 (2006).

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- A list of Non-Market Participant Transmission Customers, and governors and utility regulatory agencies in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont to which a paper copy of this filing has been sent (Attachment 7 to the transmittal letter for this filing).

35.13(b)(2) – As set forth in Section VI above, ISO-NE and NEPOOL join in requesting that the Market Rule Revisions become effective on July 1, 2007, subject to the conditions discussed.

35.13(b)(3) - Pursuant to Section 17.11(e) of the Participants Agreement, Governance Participants are being served electronically rather than by paper copy. The names and addresses of the Governance Participants are posted on the ISO-NE's website at http://www.iso-ne.com/regulatory/ferc/nepool/gov_ptcpnts_eserved.pdf. A paper copy of this transmittal letter and the accompanying materials have also been sent to the Non-Market Participant Transmission Customers, the governors and electric utility regulatory agencies for the six New England states that comprise the New England Control Area, and to the New England Conference of Public Utility Commissioners, Inc. The names and addresses of these Customers, governors and regulatory agencies are shown in Attachment 7 to the transmittal letter. In accordance with Commission rules and practice, there is no need for the Governance Participants or the entities identified on Attachment 7 to the transmittal letter to be included on the Commission's official service list in the captioned proceeding unless such entities become intervenors in this proceeding.

35.13(b)(4) - A description of the ISO-NE Tariff materials submitted with this part of the filing is contained in Sections I and IV of this Supporting Statement.

35.13(b)(5) - The reasons for this portion of the filing are discussed in Sections I and III of this Supporting Statement.

35.13(b)(6) - The review and approval of the Market Rule Revisions is discussed fully in Section V of this Supporting Statement. ISO-NE and NEPOOL approval also is evidenced by inclusion of the Market Rule Revisions in this filing.

35.13(b)(7) – Neither the ISO-NE nor NEPOOL has knowledge of any relevant expenses or costs of service that have been alleged or judged in any administrative or judicial proceeding to be illegal, duplicative, or unnecessary costs that are demonstrably the product of discriminatory employment practices.

VIII. CONCLUSION

For the reasons stated more fully in the transmittal letter for this filing and in this Supporting Statement, ISO-NE and NEPOOL request that the Commission accept the Market Rule Revisions without change, subject to Commission approval of the Settlement Agreement.

Attachment 4
Market Rule Revisions - Clean

ISO New England Inc.
FERC Electric Tariff No. 3
Section III – Market Rule 1 – Standard Market Design
Appendix F – Net Commitment Period Compensation Accounting
Charges for NCPC

3rd Rev Sheet No. 8064
Superseding 2nd Rev 8064

III.F.3.2.16 Local Second Contingency Protection Resource NCPC

Charges, Real-Time Energy Market. The ISO calculates for each Operating Day the Local Second Contingency Protection Resource NCPC Charges for the Real-Time Energy Market for each Market Participant within each affected Reliability Region by allocating the total Real-Time Local Second Contingency Protection Resource NCPC cost to each Market Participant within each affected Reliability Region based on its daily pro-rata share of the daily sum of the hourly Real-Time Load Obligations for the affected Reliability Region.

(a) For purposes of the calculation of Local Second Contingency Protection Resource NCPC Charges, for hours in which there is a Local Second Contingency Protection Resource NCPC cost (as calculated in Section III.F.3.2.8) and ISO is selling Emergency energy to an adjacent Control Area, the scheduled amount of Emergency energy at the applicable External Node will be included in the calculation of proportional shares of Real-

ISO New England Inc.
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 Section III – Market Rule 1 – Standard Market Design
 Appendix F – Net Commitment Period Compensation Accounting
 Charges for NCPC

3rd Rev Sheet No. 8065
 Superseding 2nd Rev 8065

Time Load Obligations as if the Emergency energy sale were a Real-Time Load Obligation within the affected Reliability Region(s). The proportionate share calculated for the Emergency Energy Transaction shall be included in the charges under an agreement for purchase and sale of Emergency energy with the applicable adjacent Control Area.

For purposes of the calculation of Local Second Contingency Protection Resource NCPC Charges, Emergency energy sales by the New England Control Area to an adjacent Control Area at the External Nodes (see ISO New England Manual 11 for further discussion of the External Nodes) listed below shall be associated with the Reliability Region(s) indicated in the table:

External Node Common Name	Associated Transmission Facilities	Reliability Region(s)	Allocator
NB-NE External Node	Keswick-Orrington (396 Line)	Maine	100% to Maine
HQ Phase I/II External Node	HQ-Comerford 451& 452 Lines HQ-Sandy Pond 3512 & 3521 Lines	New Hampshire West Central Massachusetts	When Phase 1 operates, 100% to New Hampshire When Phase 2 operates, 100% to West Central

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 Charges for NCPC

Original Sheet No. 8066A

(b) For each month, the ISO performs an evaluation of total Real-Time Local Second Contingency Protection Resource NCPC charges for each Reliability Region. If, for any Reliability Region, the magnitude of such charges is sufficient to satisfy two conditions, a partial reallocation of the charges, from Market Participants with a Real-Time Load Obligation in that Reliability Region to Transmission Customers with Network Load in that Reliability Region, is triggered. For calculations performed under the provisions of this sub-paragraph b, the term Market Participant will include an adjacent Control Area and the term Real-Time Load Obligation will include MWh of Emergency energy sold in the circumstances described in sub-paragraph a above.

(i) Evaluation of Conditions –

Condition 1 – is the

Local Second Contingency Protection Resource Charge
 $(\text{Reliability Region, month}) > .06 \times \text{Load Weighted Real-Time LMP}_{(\text{Reliability Region, month})}$

Condition 2 – is the

Local Second Contingency Protection Resource Charge %
 $(\text{Reliability Region, month}) > 2 \times \text{Twelve Month Rolling Average Local Second Contingency Protection Resource Charge \%}_{(\text{Reliability Region})}$

Where:

Real-Time Load Obligation $_{(\text{Reliability Region, month})}$ equals the sum of the hourly values of total Real-Time Load Obligation for each hour of the month in the Reliability Region.

Local Second Contingency Protection Resource Charge $_{(\text{Reliability Region, month})}$ equals the sum of hourly Local Second Contingency Protection Resource charges for each hour of the month in the Reliability Region divided by the Real-Time Load Obligation $_{(\text{Reliability Region, month})}$.

Load Weighted Real-Time LMP $_{(\text{Reliability Region, month})}$ equals the sum of the hourly values of Real-Time LMP times the associated Real-Time Load Obligation

ISO New England Inc.
 FERC Electric Tariff No. 3
 Section III – Market Rule 1 – Standard Market Design
 Appendix F – Net Commitment Period Compensation Accounting
 Charges for NCPC

Original Sheet No. 8066B

for each hour of the month in the Reliability Region, divided by the Real-Time Load Obligation
 (Reliability Region, month)-

Local Second Contingency Protection Resource Charge %
 (Reliability Region, month) equals the Local Second Contingency Protection Resource Charge (Reliability
 Region, month) divided by the Load Weighted Real-Time LMP (Reliability Region, month)-

Twelve Month Rolling Average Local Second Contingency
 Protection Resource Charge % (Reliability Region) equals the sum of the prior 12 months' values, not
 including the current month, of Local Second Contingency Protection Resource Charge %
 (Reliability Region, month) divided by 12. (For the purposes of other calculations which include the
 Twelve Month Rolling Average Local Second Contingency Protection Resource Charge %
 (Reliability Region), a value of .001 will be substituted for any Twelve Month Rolling Average Local
 Second Contingency Protection Resource Charge % (Reliability Region) value of 0.)

If both conditions are met, a reallocation of a portion of
 Local Second Contingency Protection Resource Charge (Reliability Region, month) is triggered.

(ii) Determination of the portion of Local Second Contingency
 Protection Resource Charge (Reliability Region, month) to be reallocated –

Local Second Contingency Protection Resource Charge
 (Reliability Region, month) to be reallocated = Real-Time Load Obligation (Reliability Region, month) X Min
 (Condition 1 Rate (Reliability Region, month), Condition 2 Rate (Reliability Region, month))

Where:

Condition 1 Rate (Reliability Region, month) equals the Local
 Second Contingency Protection Resource Charge (Reliability Region, month) minus .06 times the Load
 Weighted Real-Time LMP (Reliability Region, month)-

Condition 2 Rate (Reliability Region, month) equals the Local
 Second Contingency Protection Resource Charge (Reliability Region, month) minus 2 times the Twelve
 Month Rolling Average Local Second Contingency Protection Resource Charge % (Reliability Region)
 times the Load Weighted Real-Time LMP (Reliability Region, month)-

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Original Sheet No. 8066C

(iii) Determination of Local Second Contingency Protection Resource Charge (Reliability Region, month) reallocation credits to Market Participants and reallocation charges to Transmission Customers –

Market Participant reallocation credit =

$$\frac{\text{Real-Time Load Obligation (Participant, Reliability Region, month)}}{\text{Real-Time Load Obligation (Reliability Region, month)}} * \text{Local Second Contingency Protection Resource Charges (Reliability Region, month) to be reallocated}$$

Where:

Real-Time Load Obligation (Participant, Reliability Region, month) equals the sum of the Market Participant's hourly values of total Real-Time Load Obligation in the Reliability Region for each hour of the month.

Transmission Customer reallocation charge =

$$\frac{\text{Network Load (Transmission Customer, Reliability Region, month)}}{\text{Network Load (Reliability Region, month)}} * \text{Local Second Contingency Protection Resource Charges (Reliability Region, month) to be reallocated}$$

Where:

Network Load (Reliability Region, month) equals:

The monthly MWh of Network Load of all Transmission Customers in the Reliability Region

Network Load (Customer, Reliability Region, month) equals:

The Transmission Customer's monthly MWh of Network Load in the Reliability Region.

Attachment 5
Market Rule Revisions - Blacklined

ISO New England Inc.
 FERC Electric Tariff No. 3
 Section III – Market Rule 1 – Standard Market Design
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 Charges for NCPC

3rd Rev Sheet No. 8064
 Superseding 2nd Rev 8064

III.F.3.2.16 Local Second Contingency Protection Resource NCPC

Charges, Real-Time Energy Market. The ISO calculates for each Operating Day the Local Second Contingency Protection Resource NCPC Charges for the Real-Time Energy Market for each Market Participant within each affected Reliability Region by allocating the total Real-Time Local Second Contingency Protection Resource NCPC cost to each Market Participant within each affected Reliability Region based on its daily pro-rata share of the daily sum of the hourly Real-Time Load Obligations for the affected Reliability Region.

(a) For purposes of the calculation of Local Second Contingency Protection Resource NCPC Charges, for hours in which there is a Local Second Contingency Protection Resource NCPC cost (as calculated in Section III.F.3.2.8) and ISO is selling Emergency energy to an adjacent Control Area, the scheduled amount of Emergency energy at the applicable External Node will be included in the calculation of proportional shares of Real-

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Time Load Obligations as if the Emergency energy sale were a Real-Time Load Obligation within the affected Reliability Region(s). The proportionate share calculated for the Emergency Energy Transaction shall be included in the charges under an agreement for purchase and sale of Emergency energy with the applicable adjacent Control Area.

For purposes of the calculation of Local Second Contingency Protection Resource NCPC Charges, Emergency energy sales by the New England Control Area to an adjacent Control Area at the External Nodes (see ISO New England Manual 11 for further discussion of the External Nodes) listed below shall be associated with the Reliability Region(s) indicated in the table:

External Node Common Name	Associated Transmission Facilities	Reliability Region(s)	Allocator
NB-NE External Node	Keswick-Orrington (396 Line)	Maine	100% to Maine
HQ Phase I/II External Node	HQ-Comerford 451& 452 Lines HQ-Sandy Pond 3512 & 3521 Lines	New Hampshire West Central Massachusetts	When Phase 1 operates, 100% to New Hampshire When Phase 2 operates, 100% to West Central

Issued by: Kathleen A. Carrigan, Senior Vice President and General Counsel
 Issued on: ~~May 18~~ December 2, 2007

Effective: ~~July~~ January 1, 2007

Attachment 6
Vote Tabulation

**VOTES TAKEN AT APRIL 13, 2007
PARTICIPANTS COMMITTEE MEETING**

TOTAL

Participant Name	VOTE 1
GENERATION	17.37
TRANSMISSION	17.37
SUPPLIER	17.37
ALTERNATIVE RESOURCES	6.33
PUBLICLY OWNED ENTITY	17.37
END USER	15.53
% IN FAVOR	91.34

GENERATION SECTOR

Participant Name	VOTE 1
ANP Funding I, LLC	F
Boston Generating, LLC	F
Calithness New England Services Co LLC	F
Consolidated Edison Energy, Inc.	F
Dominion Energy Marketing, Inc.	F
Entergy Nuclear Power Marketing LLC	F
FPL Energy LLC	F
Lake Road Generating Company, LP	F
Mirant New England, LLC	F
TransCanada Power Marketing Ltd.	F
IN FAVOR (F)	10
OPPOSED (O)	0
TOTAL VOTES	10
ABSTENTIONS (A)	0

TRANSMISSION SECTOR

Participant Name	VOTE 1
Bangor Hydro-Electric Company	F
Central Maine Power Company	F
New England Power Company	F
The United Illuminating Company	A
Northeast Utilities System Companies	F
NSTAR Electric Company	F
Vermont Electric Power Company, Inc.	A
IN FAVOR (F)	5
OPPOSED (O)	0
TOTAL VOTES	5
ABSTENTIONS (A)	2

SUPPLIER SECTOR

Participant Name	VOTE 1
BOC Energy Services, Inc.	A
BP Energy Company	F
Brookfield Energy Marketing Inc.	A
Calpine Energy Services, LP	A
Constellation Energy Commodities Group	F
Cross Sound Cable Company, LLC	A
DC Energy, LLC	A
Dynegy Power Marketing, Inc.	A
Edison Mission Marketing and Trading	F
El Paso Marketing, LP	F
Energy America, LLC	F
Epic Merchant Energy NE, LP	F
Exelon Generation, LLC	F
FirstLight Power Resources Inc.	A
H.Q. Energy Services (U.S.) Inc.	F
LIPA	F
PPL EnergyPlus, LLC	A
PSEG Energy Resources & Trade LLC	F
Sempra Energy Trading Corp.	F
Strategic Energy Ltd.	F
SUEZ Energy Marketing NA, Inc.	F
Unitil Corporation Participants Companies	F
IN FAVOR (F)	14
OPPOSED (O)	0
TOTAL VOTES	14
ABSTENTIONS (A)	8

ALTERNATIVE RESOURCES SECTOR

Participant Name	VOTE 1
Renewable Generation	
Gas Recovery Systems, Inc.	A
Indeck Maine	F
Ridgewood Rhode Island	F
Distributed Generation	
Pinpoint Power LLC	O
Seneca Energy II, LLC	A
Load Response	
Conservation Services Group	A
EnerNOC, Inc.	O
Vermont Energy Investment Corporation	A
Small Load Response Group Member	A
IN FAVOR (F)	2
OPPOSED (O)	2
TOTAL VOTES	4
ABSTENTIONS (A)	5

**VOTES TAKEN AT APRIL 13, 2007
PARTICIPANTS COMMITTEE MEETING**

PUBLICLY OWNED ENTITY SECTOR

Participant Name	VOTE 1
Ashburnham Municipal Light Plant	F
Belmont Municipal Light Department	A
Boylston Municipal Light Department	F
Braintree Electric Light Department	F
Chicopee Municipal Lighting Plant	F
Concord Municipal Light Plant	A
Conn. Municipal Electric Energy Coop.	A
Danvers Electric Division	F
Georgetown Municipal Light Department	F
Groton Electric Light Department	F
Hingham Municipal Lighting Plant	F
Holden Municipal Light Department	F
Holyoke Gas & Electric Department	F
Hull Municipal Lighting Plant	F
Ipswich Municipal Light Department	F
Littleton Electric Light Department	F
Mansfield Municipal Electric Department	F
Marblehead Municipal Light Department	F
Mass. Municipal Wholesale Electric Co.	F
Middleborough Gas and Electric Dept.	F
Middleton Municipal Electric Department	F
North Attleborough Electric Department	F
Pascoag Utility District	F
Paxton Municipal Light Department	F
Peabody Municipal Light Plant	F
Rowley Municipal Lighting Plant	F
Shrewsbury's Electric & Cable Operations	F
South Hadley Electric Light Department	F
Sterling Municipal Electric Light Dept.	F
Taunton Municipal Lighting Plant	F
Templeton Municipal Lighting Plant	F
Wakefield Municipal Gas and Light Dept.	F
West Boylston Municipal Lighting Plant	F
Westfield Gas & Electric Light Department	F
IN FAVOR (F)	31
OPPOSED (O)	0
TOTAL VOTES	31
ABSTENTIONS (A)	3

END USER SECTOR

Participant Name	VOTE 1
Associated Industries of Massachusetts	F
CT, State of, Office of Consumer Counsel	A
Conservation Law Foundation	O
Fairchild Semiconductor Corporation	F
Harvard Dedicated Energy Limited	F
Hardwood Products Company	F
Industrial Energy Consumer Group	O
J&L Electric	A
Lincoln Paper and Tissue, Inc.	F
Maine Skiing, Inc.	A
Marden's Inc.	F
NH Office of Consumer Advocate	F
Old Town Lumber Co.	F
PowerOptions, Inc.	F
Praxair, Inc.	A
Quality Egg of New England	F
Robbins Lumber	F
Saint Anselm College	F
Silkman, Richard	A
The Energy Consortium	F
The Energy Council of Rhode Island	F
Union of Concerned Scientists	F
The Westerly Hospital	F
Z-TECH, LLC	F
IN FAVOR (F)	17
OPPOSED (O)	2
TOTAL VOTES	19
ABSTENTIONS (A)	5

Attachment 7
Non-Market Participant Transmission Customers
New England Governors and Utility Regulatory Agencies

Non-Market Participant Transmission Customers

May 17, 2007

Miller Hydro Group
P.O. Box 97
Lisbon Falls, ME 04252-0097

Town of Wolfeboro Municipal Electric
Department
84 S. Main St.
Wolfeboro, NH 03894

Princeton Municipal Light Department 168
Worcester Road, PO Box 247
Princeton, MA 01541

**New England Governors
and Utility Regulatory
and Related Agencies**

May 17, 2007

Connecticut

The Honorable M. Jodi Rell
State Capitol
210 Capitol Ave.
Hartford, CT 06106

Connecticut Department of Public Utility Control
10 Franklin Square
New Britain, CT 06051-2605

Maine

The Honorable John E. Baldacci
One State House Station
Rm. 236
Augusta, ME 04333-0001

Maine Public Utilities Commission
State House, Station 18
242 State Street
Augusta, ME 04333-0018

Massachusetts

The Honorable Deval Patrick
Office of the Governor
Rm. 360 State House
Boston, MA 02133

Massachusetts Department of Public Utilities
One South Station
Boston, MA 02110

New Hampshire

The Honorable John H. Lynch
State House
25 Capitol Street
Concord, NH 03301

New Hampshire Public Utilities Commission
21 South Fruit Street
Suite 10
Concord, NH 03301-2429

Rhode Island

The Honorable Donald L. Carcieri
State House Room 115
Providence, RI 02903

Rhode Island Public Utilities Commission
89 Jefferson Boulevard
Warwick, RI 02888

Vermont

The Honorable James H. Douglas
109 State Street, Pavilion
Montpelier, VT 05609

Vermont Public Service Board
112 State Street, Drawer 20
Montpelier, VT 05620-2701

**New England Governors
and Utility Regulatory
and Related Agencies**

May 17, 2007

Anne C. George, President
New England Conference of
Public Utilities Commissioners, Inc.
c/o Connecticut Department of Public
Utility Control
10 Franklin Square
New Britain, CT 06051-2605

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Executive Director
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Public Utilities Commissioners, Inc.
500 U.S. Route 1, Suite 21C
Yarmouth, ME 04096

Harvey L. Reiter, Esq.
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1150 18th Street, NW, Suite 800
Washington, DC 20036-3816

Power Planning Committee
New England Governors' Conference, Inc.
76 Summer Street, 2nd Floor
Boston, MA 02110-1226