

MEMORANDUM

TO: NEPOOL Budget and Finance Subcommittee
FROM: Paul N. Belval, NEPOOL Counsel
DATE: February 6, 2008
RE: FCM-Related Changes to Financial Assurance Policies

At its February 11 teleconference meeting, the NEPOOL Budget and Finance Subcommittee will be asked to recommend to the NEPOOL Participants Committee that it approve changes to the ISO New England (“ISO”) Financial Assurance Policy for Market Participants (“Exhibit IA”) and the ISO Financial Assurance Policy for FTR-Only Customers and DRP-Only Customers (“Exhibit IC” and together with Exhibit IA, the “Financial Assurance Policies”). The changes, which are attached and are described below, were discussed preliminarily by the Subcommittee on its November 19 teleconference. The proposed changes to Exhibit IA are included in Attachment 1, and the proposed changes to Exhibit IC are included in Attachment 2. Each Attachment is marked to show the changes from the currently effective Financial Assurance Policies.

A Market Participant or DRP-Only Customer that has a capacity supply obligation has the ability to transfer that obligation in a Reconfiguration Auction or through a Bilateral Transaction and incur an obligation in connection with that transfer that is greater than the payment it would receive for the capacity. At our last meeting, the ISO and the Subcommittee agreed that those additional obligations should be covered under the Financial Assurance Policies. The group also agreed that penalties for failures to deliver capacity as required should also be covered under the Financial Assurance Policies. Both sets of changes are reflected in the attached proposed revisions to Exhibit IA and Exhibit IC.

In addition, the proposed changes to the Financial Assurance Policies in the Attachments require a Market Participant or DRP-Only Customer to pay any penalties assessed for a failure to deliver capacity before it can transfer its obligation to deliver that capacity in a Bilateral Transaction. The changes also do not permit Market Participants and DRP-Only Customers to use future Forward Capacity Market revenues to offset the financial assurance obligations described above. Both of these issues arose while we were drafting the changes and were not previously discussed with the Subcommittee.

If the Budget and Finance Subcommittee recommends these changes, we would plan to present both them and the other changes to the Financial Assurance Policies that were discussed on the November 19 teleconference (related to reliability concerns associated with the termination of offers, awards and bilateral transactions for Existing Capacity) to the Participants Committee at its March 7 meeting.

EXHIBIT IA

ISO NEW ENGLAND FINANCIAL ASSURANCE POLICY FOR
MARKET PARTICIPANTS

V. ADDITIONAL FINANCIAL ASSURANCE PROVISIONS FOR FORWARD
CAPACITY MARKETS

A. Existing Capacity

A Designated FCM Participant offering Existing Capacity into a Forward Capacity Auction or a Reconfiguration Auction or providing Existing Capacity during any Commitment Period must generally comply with the requirements of this Policy with respect to such transactions; provided, however, that for any Resource representing Existing Capacity that has been permitted to retire at the end of a current Commitment Period under Section I.3.9 of the ISO Tariff and whose obligation to provide all of such Existing Capacity during that Commitment Period has not been transferred to another Resource, the Designated FCM Participant for such Resource shall provide, at least five (5) Business Days prior to the applicable Commitment Period, additional financial assurance equal to two and one-half (2.5) times the monthly FCM Payment due to such Designated FCM Participant with respect to such Existing Capacity during the applicable Commitment Period. ~~Any additional financial assurance to be provided under this Section V.A must be provided to the ISO at least five (5) Business Days before the beginning of the applicable Commitment Period.~~

A Designated FCM Participant that seeks to transfer its obligation to provide Existing Capacity to another Market Participant or DRP-Only Customer in a Reconfiguration Auction must provide prior to the start of that Reconfiguration Auction and thereafter maintain~~Any~~ additional financial assurance equal to the positive difference, if any, between (x) the maximum

price offered by that Designated FCM Participant in that Reconfiguration Auction and (y) the amount that Designated FCM Participant would have received for its obligation to provide that Existing Capacity. If that Designated FCM Participant is successful in transferring its obligation to provide Existing Capacity to another Market Participant or DRP-Only Customer in such a Reconfiguration Auction, the amount of the additional financial assurance required from that Designated FCM Participant with respect to that transferred obligation shall be reduced to the positive difference, in any, between (x) the remaining awarded price to be paid by that Designated FCM Participant as a result of that Reconfiguration Auction and (y) the remaining amount that Designated FCM Participant is to receive for its obligation to provide that Existing Capacity.

A Designated FCM Participant that transfers its obligation to provide Existing Capacity to another Market Participant or DRP-Only Customer in a Bilateral Transaction must, prior to the effectiveness of that Bilateral Transaction, (1) pay, or cause another entity to pay on its behalf, any penalties assessed with respect to that obligation and (2) provide and thereafter maintain additional financial assurance equal to the positive difference, if any, between (x) the unpaid amount to be paid by that Designated FCM Participant in that Bilateral Transaction and (y) the remaining amount that Designated FCM Participant is to receive for its obligation to provide that Existing Capacity.

A Designated FCM Participant with an obligation to provide Existing Capacity shall also provide additional financial assurance satisfying the requirements of this Policy in the amount of any penalties assessed to that Designated FCM Participant for a failure to deliver that Existing Capacity as required.

B. New Capacity

3. New Capacity in Reconfiguration Auctions and Bilateral Transactions

A Designated FCM Participant that has its offer of New Capacity accepted in a Reconfiguration Auction or enters into a valid Bilateral Transaction to provide New Capacity in the Forward Capacity Market must provide and thereafter maintain additional financial assurance within five (5) Business Days following the announcement of its winning offer or the entry into a Bilateral Transaction for New Capacity in an amount equal to (a) the Cost of New Entry (on a \$/kW-month basis) for that Reconfiguration Auction or Bilateral Transaction multiplied by (b) the number of kW of capacity awarded to that Designated FCM Participant in that Reconfiguration Auction or Bilateral Transaction (the product of the amounts described in clauses (a) and (b) being referred to herein as the “Reconfiguration FA Amount”) multiplied by (c) (i) two (2) if there is one Forward Capacity Auction scheduled before the Commitment Period applicable to such winning offer or such Bilateral Transaction or (ii) three (3) if there are no Forward Capacity Auctions scheduled before the Commitment Period applicable to such winning offer or such Bilateral Transaction. At least fifteen (15) days prior to any Forward Capacity Auction immediately preceding the applicable Commitment Period, the Designated FCM Participant must provide an additional amount required to make the total financial assurance provided with respect to that New Capacity equal three (3) times the Reconfiguration FA Amount.____

[A Designated FCM Participant that seeks to transfer its obligation to provide New Capacity to another Market Participant or DRP-Only Customer in a Reconfiguration Auction must provide prior to the start of the Reconfiguration Auction and thereafter maintain additional](#)

financial assurance equal to the positive difference, if any, between (x) the maximum price offered by that Designated FCM Participant in that Reconfiguration Auction and (y) the amount that Designated FCM Participant would have received for its obligation to provide that New Capacity. If that Designated FCM Participant is successful in transferring its obligation to provide New Capacity to another Market Participant or DRP-Only Customer in such a Reconfiguration Auction, the amount of the additional financial assurance required from that Designated FCM Participant with respect to that transferred obligation shall be reduced to the positive difference, in any, between (x) the remaining awarded price to be paid by that Designated FCM Participant as a result of that Reconfiguration Auction and (y) the remaining amount that Designated FCM Participant is to receive for its obligation to provide that New Capacity.

A Designated FCM Participant that transfers its obligation to provide New Capacity to another Market Participant or DRP-Only Customer in a Bilateral Transaction must, prior to the effectiveness of that Bilateral Transaction, (1) pay, or cause another entity to pay on its behalf, any penalties assessed with respect to that obligation and (2) provide and thereafter maintain additional financial assurance equal to the positive difference, if any, between (x) the unpaid amount to be paid by that Designated FCM Participant in that Bilateral Transaction and (y) the remaining amount that Designated FCM Participant is to receive for its obligation to provide that New Capacity.

The amount of any additional financial assurance provided by a Designated FCM Participant with respect to New Capacity shall be increased, in accordance with the provisions of this Policy, by the amount of any penalties assessed to that Designated FCM Participant for a failure to deliver that New Capacity as required.

EXHIBIT IC

ISO NEW ENGLAND FINANCIAL ASSURANCE POLICY FOR FTR-ONLY CUSTOMERS AND DRP-ONLY CUSTOMERS

III. FINANCIAL ASSURANCE REQUIREMENTS FOR DRP-ONLY CUSTOMERS

A. DRP-Only Customer Financial Assurance

2. FCM Requirement

a. Existing Capacity

_____ A DRP-Only Customer offering Existing Capacity into a Forward Capacity Auction or a Reconfiguration Auction or providing Existing Capacity during any Commitment Period must generally comply with the requirements of this Policy with respect to such transactions; provided, however, that for any Resource representing Existing Capacity that has been permitted to retire at the end of a current Commitment Period under Section I.3.9 of the ISO Tariff and whose obligation to provide all of such Existing Capacity during that Commitment Period has not been transferred to another Resource, the DRP-Only Customer for such Resource shall provide, at least five (5) Business Days prior to the applicable Commitment Period, additional financial assurance equal to two and one-half (2.5) times the monthly FCM Payment due to such DRP-Only Customer with respect to such Existing Capacity during the applicable Commitment Period. ~~Any additional financial assurance to be provided under this Section III.A.2.a must be provided to the ISO at least five (5) Business Days before the beginning of the applicable Commitment Period.~~

A DRP-Only Customer that seeks to transfer its obligation to provide Existing Capacity to a Market Participant or another DRP-Only Customer in a Reconfiguration Auction must

provide prior to the start of that Reconfiguration Auction and thereafter maintain ~~Any~~ additional financial assurance equal to the positive difference, if any, between (x) the maximum price offered by that DRP-Only Customer in that Reconfiguration Auction and (y) the amount that DRP-Only Customer would have received for its obligation to provide that Existing Capacity. If that DRP-Only Customer is successful in transferring its obligation to provide Existing Capacity to a Market Participant or another DRP-Only Customer in such a Reconfiguration Auction, the amount of the additional financial assurance required from that DRP-Only Customer with respect to that transferred obligation shall be reduced to the positive difference, in any, between (x) the remaining awarded price to be paid by that DRP-Only Customer as a result of that Reconfiguration Auction and (y) the remaining amount that DRP-Only Customer is to receive for its obligation to provide that Existing Capacity.

A DRP-Only Customer that transfers its obligation to provide Existing Capacity to a Market Participant or another DRP-Only Customer in a Bilateral Transaction must, prior to the effectiveness of that Bilateral Transaction, (1) pay, or cause another entity to pay on its behalf, any penalties assessed with respect to that obligation and (2) provide and thereafter maintain additional financial assurance equal to the positive difference, if any, between (x) the unpaid amount to be paid by that DRP-Only Customer in that Bilateral Transaction and (y) the remaining amount that DRP-Only Customer is to receive for its obligation to provide that Existing Capacity.

A DRP-Only Customer with an obligation to provide Existing Capacity shall also provide additional financial assurance satisfying the requirements of this Policy in the amount of any penalties assessed to that DRP-Only Customer for a failure to deliver that Existing Capacity as required.

b. New Capacity

iii. New Capacity in Reconfiguration Auctions and Bilateral Transactions.

A DRP-Only Customer that has its offer of New Capacity accepted in a Reconfiguration Auction or enters into a valid Bilateral Transaction to provide New Capacity in the Forward Capacity Market must provide and thereafter maintain additional financial assurance within five (5) Business Days following the announcement of its winning offer or the entry into a Bilateral Transaction for New Capacity in an amount equal to (a) the Cost of New Entry (on a \$/kW-month basis) for that Reconfiguration Auction or Bilateral Transaction multiplied by (b) the number of kW of capacity awarded to that DRP-Only Customer in that Reconfiguration Auction or Bilateral Transaction (the product of the amounts described in clauses (a) and (b) being referred to herein as the “Reconfiguration FA Amount”) multiplied by (c) (i) two (2) if there is one Forward Capacity Auction scheduled before the Commitment Period applicable to such winning offer or such Bilateral Transaction or (ii) three (3) if there are no Forward Capacity Auctions scheduled before the Commitment Period applicable to such winning offer or such Bilateral Transaction. At least fifteen (15) days prior to any Forward Capacity Auction immediately preceding the applicable Commitment Period, the DRP-Only Customer must provide an additional amount required to make the total financial assurance provided with respect to that New Capacity equal three (3) times the Reconfiguration FA Amount.

A DRP-Only Customer that seeks to transfer its obligation to provide New Capacity to a Market Participant or another DRP-Only Customer in a Reconfiguration Auction must provide prior to the start of that Reconfiguration Auction and thereafter maintain additional financial assurance equal to the positive difference, if any, between (x) the maximum price offered by that DRP-Only Customer in that Reconfiguration Auction and (y) the amount that DRP-Only

Customer would have received for its obligation to provide that New Capacity. If that DRP-Only Customer is successful in transferring its obligation to provide New Capacity to a Market Participant or another DRP-Only Customer in such a Reconfiguration Auction, the amount of the additional financial assurance required from that DRP-Only Customer with respect to that transferred obligation shall be reduced to the positive difference, in any, between (x) the remaining awarded price to be paid by that DRP-Only Customer as a result of that Reconfiguration Auction and (y) the remaining amount that DRP-Only Customer is to receive for its obligation to provide that New Capacity.

A DRP-Only Customer that transfers its obligation to provide New Capacity to a Market Participant or another DRP-Only Customer in a Bilateral Transaction must, prior to the effectiveness of that Bilateral Transaction, (1) pay, or cause another entity to pay on its behalf, any penalties assessed with respect to that obligation and (2) provide and thereafter maintain additional financial assurance equal to the positive difference, if any, between (x) the unpaid amount to be paid by that DRP-Only Customer in that Bilateral Transaction and (y) the remaining amount that DRP-Only Customer is to receive for its obligation to provide that New Capacity.

The amount of any additional financial assurance provided by a DRP-Only Customer with respect to New Capacity shall be increased, in accordance with the provisions of this Policy, by the amount of any penalties assessed to that DRP-Only Customer for a failure to deliver that New Capacity as required.