

EXECUTIVE SUMMARY
Status Report of Current Regulatory and Legal Proceedings
as of February 3, 2010

The following activity, as more fully described in the attached litigation report, has occurred since the report dated January 5, 2010 was circulated. New matters/proceedings since the last report are preceded by an asterisk '*'. Page numbers precede the matter description.

I. Complaints

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| 1 | ICAP Import Contract Complaints -
CT DPUC/OCC (EL09-48); CT AG
(EL09-47) (consolidated) | Jan - Feb | Discovery on-going; Respondents' testimony due Feb 19 |
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II. Rate/ROE Filings

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| * 3 | ICR-Related Values and HQICCs -
2011/2012 ARA2
(ER10-714) | Feb 2 | ISO and NEPOOL jointly file ICR-Related Values and HQICCs for the second annual reconfiguration auction for the 2011/2012 Capability Year; comment date Feb 23 |
| 4 | ICR-Related Values for 2010/2011
Final ARA and Jump Ball Market
Rule Changes (ER10-438) | Jan 7-13
Jan 8 | ConEd, GDF Suez, MPUC and NAEA intervene
NEPOOL files supplemental comments; protests and comments filed by CT DPUC, CT OCC, LIPA, MA AG, MA DPU, Mirant, MMWEC, NECPUC, NESCOE, NGrid/UI/AIM/TEC, NSTAR, PSEG, VT DPS |
| | | Jan 25 | ISO responds to protests and comments |
| 4 | FCA3 Results Filing (ER10-186) | Jan 7 | ISO and NEPOOL respond to Dec 14, 2009 protests and comments |
| 4 | 2010 Administrative Costs Budget
(ER10-154) | Jan 27
Jan 29 | ISO files required report summarizing updated compensation survey data and explaining decision to retain 2.5% merit increase budget
Joint Advocates request rehearing of 2010 FERC accepts tariff revisions permitting collection of 2010 Budget Order |
| 6 | ROE Incentives for MPC Project
(CMP and MPS) (EL08-77) | Jan 19
Jan 20 | FERC issues tolling order to consider CMP/MPS request for rehearing of MPC Rehearing Order
CMP/MPS respond to Jan 5 Houlton answer |

III. Market Rule Changes, Interpretations And Waiver Requests

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| * 8 | Order 719 Compliance Filing
(ER10-588, ER09-1051) | Jan 8
Jan 21 | FERC issues agenda for Feb 4 technical conference
FERC accepts compliance filing, in part, and directs a further compliance filing within 90 days |
| * 9 | Ampersand Request for Limited
Waiver of FCM Rules
(ER10-600) | Jan 14 | Ampersand requests waiver to permit it to offer into FCA4 all of its capacity, rather than the amount listed in its qualification package, should the auction price fall below 0.75 * CONE; comment date Feb 4 |
| 9 | Removal of Pending LFTR Revisions
from Tariff Sheets (ER10-437) | Jan 21 | FERC accepts revised tariff sheets |
| 11 | Resources Needed for Reliability in
the FCM (ER08-1209) | Feb 3 | FERC issues an order (i) denying re-hearing of its October 28, 2008 order, (ii) granting a Mirant request for clarification, and (iii) accepting the pending compliance filings |
| 11 | Reports on Future of Load Response
Programs (ER08-830) | Jan 28 | CDRI files Request for Policy Guidance in response to Dec 18, 2009 Report |
| * 12 | Tie Benefits Calculation and
Allocation (ER08-41) | Jan 14 | ISO files update regarding plans to study and develop proposals to resolve issues related to the modeling of internal transmission constraints and tie benefits associated with individual lines |

IV. OATT Amendments / TOAs / Coordination Agreements

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| * 13 | NEITC Operating Agreement
(ER10-637) | Jan 22 | NEITC and ISO jointly file NEITC Operating Agreement; comment date Feb 12 |
| | | Jan 27, 29 | NEPOOL and NU intervene |

V. Financial Assurance/Billing Policy Amendments

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| 13 | FA Exemption for Certain Non-Commercial Capacity Resources
(ER10-423) | Jan 27 | FERC accepts change effective Feb 16, 2010, as requested |
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VI. Schedule 20/21 Changes

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| * 14 | Schedule 21-NU Localized Cost Sharing Agreements
(NextEra/Dynegy) (ER10-641) | Jan 25 | NU submits a Notice of Termination of the LCSA with Dynegy Power Marketing, Inc et al under ER10-641; comment date Feb 16 |
| 14 | Schedule 21-NU Localized Cost Sharing Agreements (ER10-315) | Jan 11 | FERC accepts LCSAs with Kleen Energy (effective Nov 1, 2009), Waterbury Generation and Dynegy (each effective Jan 23, 2010) and orders refunds for revenues collected under Waterbury Gen and Dynegy LCSAs prior to Jan 23 effective date |
| 15 | Schedule 21-CMP KLPD Local Service Agreement (ER10-199) | Jan 15 | Chief Judge Wagner designates Joseph R. Nancy as the replacement Trial ALJ; schedules Jan 27 pre-hearing conference |
| | | Jan 27 | Pre-hearing conference held |
| | | Jan 28 | Trial Judge Nancy issues order establishing procedural schedule |
| 15 | Schedule 21-BHE Change to Forward Looking Formula Rate
(ER09-934) | Jan 15 | Bangor Hydro files 8th settlement update |

VII. RMR Agreements*No Activity to Report***VIII. Regional Reports**

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| * 16 | Quarterly Markets Reports - 2009 Q3
(ZZ10-4) | Feb 2 | ISO files report for 3rd Quarter of 2009 |
| * 16 | Quarterly Status Reports on LFTR Implementation
(ER07-476; RM06-08) | Jan 15 | ISO files 5th quarterly status report regarding LFTR implementation |

IX. Membership Filings

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| * 17 | February 2010 Membership Filing
(ER10-684) | Jan 29 | New Members (effective Feb 1, 2010): Ameresco CT LLC (AR Sector), Macquarie Energy, LLC (Supplier Sector), Starion Energy (Supplier Sector), and VCharge (AR Sector, LR Sub-Sector);
Terminations effective Jan 1, 2010: Bridgeport Energy II, LLC, Consolidated Hydro New Hampshire, Galt Power, GenPower Trading, IPA New Haven, Lowell Cogen, Montgomery Energy Billerica, Ridgewood Maine Hydro |
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17	December 2009 Membership Filing (ER10-326)	Jan 28	FERC accepts (i) the memberships, effective Dec 1, 2009, of American PowerNet Management; CHI Power Marketing; Discount Power; RMH Energy; and Saracen Energy Power Trading; and (ii) the terminations from the End User Sector of Correct Building Products and Correct Energy (Nov 1, 2009) and Northeastern Power and Old Town Lumber (Dec 1, 2009)
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X. Misc. - ERO Rules, Filings; Reliability Standards

18	Violation Security Levels – CIP-002-2 through CIP-009-2 (RD10-6)	Jan 8	Silicon Valley Power proposes 2 changes to proposed VSLs
18	Revised Reliability Standard - NUC-001-2 (RD09-10)	Jan 21	FERC approves NERC revisions to reliability standard NUC-001-2 (Nuclear Plant Interface Coordination)
19	Revised (Version 2) CIP Reliability Standards – CIP-002 – CIP-009 (RD09-7)	Jan 19	APPA moves to intervene
20	Order 729 - Revised MOD Reliability Standards (RM09-5; RM08-19; RM06-16)	Jan 20	FERC issues tolling order to consider NERC, EEI, Duke, APPA/TAPS, and ISO-NE requests for rehearing/clarification
22	Proposed Clarification to CIP Standards (RM06-22)	Jan 19	NERC submits additional information ordered by FERC to evaluate implementation plan; comment date Feb 9
22	Amendments to NERC Rules of Procedure to Eliminate Reliability Readiness Program (RR10-3)	Jan 14	FERC accepts NERC's elimination of the Reliability Readiness Program
22	Extension of RE Delegation Agreements to May 2011 (RR10-2)	Jan 14	FERC extends NERC's RE Delegation Agreements
22	2010 NERC/NPCC Business Plans and Budgets (RR09-9)	Jan 11	NERC submits compliance filing in response to requirements of Oct 15 order conditionally accepting 2010 NERC and Regional Entity Business Plans and Budgets; comment date Feb 10

XI. Misc. - of Regional Interest

* 24	PSNH Application to Terminate Mandatory Purchase Obligation from QFs > 5MW (QM10-4)	Jan 7	PSNH requests FERC terminate mandatory power purchase obligations for QFs with a net generating capacity of 5 MW or greater; comment date Feb 12
24	CMP/Patriot Renewables Engineering and Procurement Agreement (ER10-499)	Jan 21	FERC accepts Agreement (CMP-EP-1-S), effective Nov 24, 2009
24	CMP/Highland Wind Engineering and Procurement Agreement (ER10-498)	Jan 21	FERC accepts Agreement (CMP-EP-4), effective Dec 2, 2009
24	Integrays Complaint - NBP Generation Market Power in NMISA (EL09-32)	Jan 15	FERC requires NBP submit additional information before Feb 16
* 25	NYISO Report on Regional Markets; Long-Term Solutions to Lake Erie Loop Flow (ER08-1281)	Jan 12 Feb 2	NYISO files Report ISO files comments on aspects of Report related to proposed inter-area coordination between NYISO and ISO-NE

XII. Misc. - Administrative & Rulemaking Proceedings

* 26	RTO/ISO Performance Metrics (AD10-5)	Feb 3	FERC Staff issues notice requesting comments on proposed RTO/ISO performance metrics; Comments to be filed on or before Mar 5; Reply comments, Mar 19
* 26	Technical Conference on MBR Filings and EQR Reports (AD10-4)	Jan 28	FERC issues notice of Mar 3 technical conference on mechanics of MBR application and required filings
26	Small Hydropower Development Technical Conference (AD09-9)	Jan 18 – Feb 1	Parties file comments; comment date Feb 4, 2010
* 27	Credit Reform NOPR (RM10-13)	Jan 21	FERC issues NOPR seeking comments on proposed credit reforms; comment date Mar 29
* 27	Market Transparency / EQR NOI (RM10-12)	Jan 21	FERC issues NOI seeking comments on whether EQR filing reqs. should be extended and further revised; comment date Mar 30
* 27	Variable Energy Resources NOI (RM10-11)	Jan 21	FERC issues NOI seeking comments on whether wholesale electricity tariff reforms are necessary in light of the integration of variable energy resources into the electric grid; comment date Mar 29
* 28	NOPR – Exempting Non-Controlling Investments in Utilities from MBR Requirements (RM09-16)	Jan 21	FERC issues NOPR ensuring holding companies acquiring 10% or greater, but less than 20%, of a public utility do not trigger certain MBR requirements or cross-subsidization restrictions; comment date Mar 29
28	Order 676-E – WEQ Version 002.1 Business Practices (RM05-5)	Jan 20	FERC issues tolling order to consider Southern Company’s request for clarification/rehearing of Order 676-E
* 29	e-Tariff Filing Procedures (RM01-5)	Jan 21	FERC issues order establishing certain procedures related to the electronic filing of Tariffs that becomes mandatory on April 1, 2010 pursuant to Order No. 714

XIII. State Proceedings & Federal Legislative Proceedings

29	Congressional Developments - CFTC/FERC Jurisdiction Issues	Jan 21	Electric and gas industry associations issue a joint letter to US Senators outlining their recommendations to address oversight and transparency of OTC derivatives markets
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XIV. Federal Court Appeals

29	FCM Settlement (SC-08-674)	Jan 13	Supreme Court reverses DC Circuit Court of Appeals, finds public interest standard of review (<i>Mobile-Sierra</i>) applies to challenges brought both by contracting and non-contracting parties; remands to DC Circuit the open questions of whether the rates at issue in the FCM proceedings qualify as “contract rates” for purposes of a <i>Mobile-Sierra</i> review, and if not, whether the FERC had the discretion to treat them analogously
30	ICR Proceedings (SC-09-277)	Jan 11	Supreme Court denied the petition of the CT DPUC for <i>writ of certiorari</i>

M E M O R A N D U M

TO: NEPOOL Participants Committee Member and Alternates

FROM: Patrick M. Gerity, NEPOOL Counsel

DATE: February 4, 2010

RE: Status Report on Current Regional Wholesale Power and Transmission Arrangements Pending Before the Regulators, Legislatures, and Courts

We have summarized below the status through February 3, 2010 of key ongoing proceedings relating to NEPOOL matters before the Federal Energy Regulatory Commission (“FERC”), state regulatory commissions, and the Federal Courts and legislatures. If you have questions, please contact us.¹

I. Complaints

- **ICAP Import Contract Complaints - (EL09-48 and EL09-47) (consolidated)**

On August 24, the FERC established hearing procedures for, and consolidated the proceedings in, Docket Nos. EL09-48 and EL09-47.² As previously reported, the Connecticut Attorney General (“CT AG”) (EL09-47) and the Connecticut Department of Public Utility Control (“CT DPUC”) and the Connecticut Office of Consumer Counsel (“OCC”) (EL09-48) filed complaints against the ISO and certain unidentified Installed Capacity Resources committed to import over the Northern New York AC interface (“NNY Capacity Resources”). The FERC was asked to investigate and conduct a hearing on allegedly unlawful conduct of the NNY Capacity Resources during the December 2006 through January 2009 period. The complaints further sought orders (i) requiring the NNY Capacity Resources to disgorge any unlawful profits and be subject to such other civil penalties as the FERC determines appropriate; (ii) directing the ISO to identify the NNY Capacity Resources and the amount of capacity payments each received over the two-year period; and (iii) directing “substantial reforms to [the ISO’s] market monitoring structure to protect New England ratepayers” that exceed the changes to the market monitoring arrangements filed in the April 28 Order 719 compliance filing.

In the Capacity Imports Hearing Order, the FERC, noting the unique history of the allegations regarding the capacity importers’ bidding strategy raised in the complaints, including the inconsistency in the ISO’s position regarding those allegations, set the bidding strategy allegations for a trial-type evidentiary hearing before an administrative law judge pursuant to its authorities under FPA sections 306 and 307.³ The FERC declined, however, to set for hearing under FPA Section 206 the claims that the

¹ Capitalized terms used but not defined in this filing are intended to have the meanings given to such terms in the Second Restated New England Power Pool Agreement (the “Second Restated NEPOOL Agreement”), the Participants Agreement, or the ISO New England Inc. Transmission, Markets and Services Tariff (the “ISO Tariff”).

² Richard Blumenthal, Attorney General for The State of Conn. v. ISO New England Inc., Brookfield Energy Marketing Inc., H.Q. Energy Services (U.S.) Inc., Constellation Energy Commodities Group, Inc., and Other Unidentified Installed Capacity Resources Committed to Import over the Northern New York AC Interface and The Conn. Dept. of Pub. Util. Control and the Conn. Office of Consumer Counsel v. ISO New England Inc., Brookfield Energy Marketing Inc., H.Q. Energy Services (U.S.) Inc., Constellation Energy Commodities Group, Inc., and Other Unidentified Installed Capacity Resources Committed to Import over the Northern New York AC Interface, 128 FERC ¶ 61,182 (2009) (“Capacity Imports Hearing Order”), *clarification and reh’g granted in part*, 129 FERC ¶ 61,057 (2009).

³ Id. at PP 53-55.

region's market monitoring provisions are unreasonable, directing comments on that topic to the Order 719 compliance proceeding (*see* ER09-1051 below).⁴ On October 23, the FERC Commission granted in part and denied in part the Constellation and Brookfield requests,⁵ clarifying that that the FERC intended to set for hearing inquiry into the three requisite elements to establish market manipulation and therefore granted rehearing, in part, clarifying that the scope of the hearing is whether capacity importers' submission of energy supply offers at or near the \$1,000 per MWh price cap satisfy the three elements required to establish market manipulation (which elements do not include effects of the alleged behavior on market prices or applicable remedies).⁶

Hearings are now scheduled to begin May 12, with an order to be issued by August 4, 2010. Discovery in the proceeding is on-going. The Connecticut representatives (CT AG, CT DPUC, CT OCC) submitted their direct testimony on December 28, 2009. A summary of that testimony was separately included with the January 5 litigation report that was circulated with the additional materials for the January 8 meeting. Respondents' testimony is due on February 19, 2010. If you have any questions concerning these complaint proceedings, please contact Dave Doot (860-275-0102; dt_doot@daypitney.com).

- **Dartmouth Power Complaint (Requested Billing Adjustment Denial) (EL09-42)**

Dartmouth's request for rehearing of the FERC's June 18, 2009 order denying its complaint against the ISO,⁷ an appeal under the dispute resolution provisions of the ISO Billing Policy, remains pending. As reported previously, the Complaint followed the ISO's denial of Dartmouth's Requested Billing Adjustment ("RBA") on February 20, 2009, concluding that Dartmouth was not entitled to a June 2008 Installed Capacity ("ICAP") payment in the amount of \$231,952.50 because of Dartmouth's failure to timely notify the ISO of an unscheduled outage of Dartmouth's generating facility on June 14, 2008. In denying the complaint, FERC found that Dartmouth was not eligible for, and the ISO was not required to pay, a monthly ICAP Payment for the month of June 2008, because of Dartmouth's failure to comply with several of Market Rule 1 Section 8.3.1 and Manual 20 requirements pertaining to outages.⁸ On July 15, 2009, Dartmouth filed a request for rehearing. The FERC issued a tolling order on August 12 affording it additional time to consider the Dartmouth rehearing request, which remains pending. If you have any questions concerning this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **NECPUC ROE Complaint (EL08-69)**

Rehearing of the FERC's September 25, 2008 order⁹ denying NECPUC's complaint against the TOs remains pending. As previously reported, the FERC denied the June 12 complaint which sought, among other things, to limit application of the ROE adder for certain qualified project costs that substantially exceed the 2004 regional transmission expansion plan ("RTEP04") estimates. NECPUC had also proposed in the complaint a higher ROE (i.e., in excess of 100 basis points) be allowed if a project was completed below its estimated cost, with the ROE calibrated so that the total incentive return dollars would equal the incentive related income had the project been completed at its estimated cost. In denying the complaint, the FERC found that the cost increases identified by NECPUC did not change the circumstances underlying the FERC's decision to authorize the ROE incentive and did not render the cost of the incentive unjust and unreasonable. The FERC also found that NECPUC's attempt to restrict

⁴ *Id.* at P 57.

⁵ *Richard Blumenthal et al*, 129 FERC ¶ 61,057 (2009) ("Capacity Imports Re-Hearing Order").

⁶ *Id.* at P 22.

⁷ *Dartmouth Power Associates LP v. ISO New England Inc.*, 127 FERC ¶ 61,249 (2009), *reh'g requested*.

⁸ *Id.* at PP 24-29.

⁹ *NECPUC v. Bangor Hydro-Electric Co., et al.*, 124 FERC ¶ 61,291(2008) ("NECPUC ROE Order"), *reh'g requested*.

application of the ROE incentive to the originally estimated costs of incentive-eligible projects should have been raised in the Opinion No. 489 proceeding (ER04-157), and therefore denied the complaint and rejected the argument as a collateral attack on Opinion No. 489. In addition, the FERC explained the public purpose served by applying an approved incentive to prudently-incurred costs, and in this case, found that NECPUC had not made a showing sufficient to call into question whether costs associated with the identified projects were imprudently incurred. Rehearing of the NECPUC ROE Order was filed by NECPUC et al.¹⁰ and MA AG/CT OCC (sub-docket -001) on October 24, 2008. On November 21, 2008, the FERC issued a tolling order affording it additional time to consider the NECPUC and MA AG requests, which remain pending before the FERC. If you have any questions concerning this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **MPS LSCPR Complaint (EL08-48)**

As previously reported, the FERC, on July 2, 2009, denied two separate requests for rehearing of the MPS LSCPR Order¹¹ that were filed on August 18, 2008 by MPS, and NSTAR and NGrid.¹² The MPS¹³ petitioned the United States Court of Appeals for the DC Circuit for review of the MPS LSCPR Order and Rehearing Orders (09-1231). Developments with respect to that appeal, which is being held in abeyance, will be reported in Section XIV below.

On October 28, 2009, the FERC accepted the ISO's July 17, 2009 Compliance Report.¹⁴ In accepting the Report, the FERC agreed with the ISO's proposal that the SEMA zone should not be modified, either prospectively or for the period extending back to the refund effective date (March 28, 2008) established by the FERC. The FERC also rejected the MPS' objections to the ISO's reliance on the "guideline document," rejected requests for additional procedures, and found that the MPS were properly allocated a share of the costs to meet the reliability criteria.¹⁵ On November 30, the MPS requested rehearing of the LSCPR Compliance Order. The FERC issued a tolling order on December 30, 2009, affording it additional time to consider the MPS request, which remains pending before the FERC.

If you have any questions concerning this matter, please contact Dave Doot (860-275-0102; dt_doot@daypitney.com).

II. Rate/ROE Filings

- **ICR-Related Values and HQICCs - 2011/2012 ARA2 (ER10-714)**

On February 2, 2010, the ISO and NEPOOL jointly filed materials that identify the Installed Capacity Requirement ("ICR"), Local Sourcing Requirements ("LSR"), Maximum Capacity Limits ("MCL") (collectively, the "ICR-Related Values") and Hydro Quebec Interconnection Capability Credits ("HQICCs") for the second annual reconfiguration auction for the 2011/2012 Capability Year to be held in May 2010. The ICR-Related Values, HQICC's, and Market Rule changes were all supported by the Participants Committee through the approval of the January 8 Consent Agenda. An April 5, 2010

¹⁰ NECPUC was joined in its request for rehearing by the VT DPS, VT PSB, MA DPU, RI AG, RI DPU, and the MA AG.

¹¹ Braintree Municipal Light Dep't et al. v. ISO New England Inc., 124 FERC ¶ 61,061 (2008) ("MPS LSCPR Order"), *reh'g denied*, 128 FERC ¶ 61,008 (2009).

¹² Braintree Municipal Light Dep't et al. v. ISO New England Inc., 128 FERC ¶ 61,008 (2009) ("MPS LSCPR Rehearing Order").

¹³ "MPS" are, collectively, Braintree, Hingham, Hull, Mansfield, Middleborough, and Taunton.

¹⁴ Braintree Municipal Light Dep't et al. v. ISO New England Inc., 129 FERC ¶ 61,077 (2009) ("LSCPR Compliance Order").

¹⁵ Id. at PP 47-54.

effective date was requested. Comments on this filing will be due February 23, 2010. If you have any questions concerning these matters, please contact either Eric Runge (617-345-4735; ekrunge@daypitney.com) or Dave Doot (860-275-0102; dt_doot@daypitney.com).

- **ICR-Related Values for 2010/2011 Final ARA and Jump Ball Market Rule Changes (ER10-438)**

On December 15, 2009, as corrected by the ISO on January 5, 2010, the ISO and NEPOOL jointly filed a package of materials that included the ICR-Related Values that would be used in the final FCM reconfiguration auction for the 2010/2011 Capability Year. The package also included alternative changes to Market Rule Section 12.9, which for the first time could potentially be subject to the “jump ball” provisions of the Participants Agreement. The ICR-Related Values and the competing Market Rule changes were considered at the November 19, 2009 meeting at ISO headquarters. Interventions were filed by Boston Gen, Bridgeport Energy, ConEd, Dynegy, Exelon, GDF Suez, MA AG, Mirant, MPUC, NESCOE, NRG, and NU. Protests and/or comments were filed by a large number of parties, including CT DPUC, CT OCC, LIPA, MA AG, MA DPU, Mirant, MMWEC, NECPUC, NESCOE, NGrid/UI/AIM/TEC, NSTAR, PSEG, and VT DPS. On January 8, 2010, NEPOOL filed supplemental comments. On January 25, the ISO responded to the protests and comments. This matter is currently pending before the FERC. If you have any questions concerning these matters, please contact either Eric Runge (617-345-4735; ekrunge@daypitney.com) or Dave Doot (860-275-0102; dt_doot@daypitney.com).

- **FCA3 Results Filing (ER10-186)**

The ISO’s October 30, 2009 filing of the results of the third FCA (“FCA3”) held October 5-6 remains pending. The ISO reported that FCA3 resulted in two Capacity Zones for the New England region -- Maine and Rest-of-Pool -- with 36,995 MW (5,030 MW of excess capacity over the ICR of 31,965 MW) remaining in the auction at the floor price of \$2.951/kW-month. Accordingly, the ISO indicated, proration of either the price of capacity or the MWs provided will take place (because 641 MW of the excess supply above the Maximum Capacity Limit of 3,257 MW was in Maine, a separate proration will be applicable in Maine). The ISO further reported that two de-list bids (those of Salem Harbor 3 and 4, representing approximately 581 MW) were rejected for reliability reasons and the resources would be paid a combined rate of \$5.330/kW-month for the 2012/2013 Capacity Commitment Period. CONE for FCA4 will remain at \$4.918/kW-month, and that Permanent and Export De-list bids that are greater than, and Static De-list bids at or above, 0.8 times CONE (\$3.934/kW-month) must be submitted for review by the ISO’s Internal Market Monitoring Unit on or before December 1, 2009. The ISO asked the FERC to accept, as just and reasonable, the rates for capacity generated by FCA3 and to accept the FCA3 results, effective February 27, 2010, as requested. On December 14, interventions were filed by Dominion, Dynegy, MA DPU, MPUC, and NRG; comments and protests, by Exelon, PSEG, MMWEC, and Boston Gen and Mirant. Objections related to the ISO’s rejection of two Static De-List Bids from Salem Harbor, the underlying FCM design, and the possibility that some resources retained for reliability in the third Capacity Commitment Period may not receive the full clearing price for all of their MWs. On January 7, NEPOOL and the ISO responded to those comments, urging the FERC to refer any concerns with the FCM design to the on-going stakeholder process. This matter is currently pending before the FERC. If you have any questions concerning these matters, please contact Emile Buzaid (860-275-0272; ebuzaid@daypitney.com) or Dave Doot (860-275-0102; dt_doot@daypitney.com).

- **2010 Administrative Costs Budget (ER10-154)**

As previously reported, the FERC accepted the ISO’s filings for the recovery of its 2010 administrative costs (the “2010 Revenue Requirement”).¹⁶ The 2010 Revenue Requirement is \$137.2 million (reduced by 2009 over collections to \$133 million); the ISO’s administrative costs (i.e., the 2009 Core Operating Budget), \$106.2 million. In accepting the filing, the FERC directed the ISO to file a report, for informational purposes only, that (i) summarizes the updated survey results ISO indicated it

¹⁶ ISO New England Inc., 129 FERC ¶ 61,299 (2009) (“2010 ISO Budget Order”), *reh’g requested*.

would receive from the national compensation consultants it was using/tracking and (ii) explains any revisions to compensation levels that the ISO decides are appropriate. This report was filed by the ISO on January 27, 2010. In the report, the ISO noted that it had received updates from four of the five national compensation consulting firm surveys on merit increase budgets. Based on that information, the ISO reported that the Board Compensation and Human Resources Committee decided to retain the previously-determined 2.5% merit increase budget for 2010. As noted in the 2010 Budget Order, this report will not be noticed, nor does the FERC intend to act on it. On January 29, the CTAG and CT OCC (together, the “Joint Advocates”) requested rehearing of the 2010 Budget Order, urging the FERC to hold a full hearing to rehear the portion of the 2010 Budget Order that addressed the ISO’s requested executive compensation and salary structure. The Joint Advocates’ request is pending before FERC, with FERC action required on or before March 1, 2010, or the request will be deemed denied. If there are any questions on this matter, please contact Paul Belval (860-275-0381; pnbelval@daypitney.com).

- **CMP Inclusion of MPRP CWIP in RNS Rate; Conforming Changes to Schedule 21-CMP (ER09-938)**

Rehearing of the FERC’s August 7, 2009 CMP Revenue Requirement Order remains pending. As previously reported, the FERC accepted CMP’s revisions to the regional and local formula rates contained in the Attachment F Implementation Rule and Schedule 21-CMP of the ISO Tariff¹⁷ that implement certain incentive rate treatment for MPRP authorized by the FERC¹⁸ (See “ROE Incentives for MPRP (CMP) (EL08-74)” below), effective June 1, 2009. In accepting the revisions, the FERC directed the ISO to remove the requirement that *all* changes to the Attachment F Implementation Rule filed pursuant to section 3.04(a) of the TOA must be approved by the PTO AC, in light of the FERC’s finding that the TOs preserved their right under TOA section 3.04(a) to unilaterally file revisions to their own revenue requirements, and thus, to the Attachment F Implementation Rule, and to file a revised tariff sheet reflecting this change on or before October 6, 2009 (see October 6 Compliance Filing immediately below).

On September 8, the PTO AC, NEPOOL, NHEC and MMWEC, and the New England Consumer-Owned Systems (“NECOS”)¹⁹ requested rehearing and/or clarification of the CMP Revenue Requirement Order (sub-docket -001). On September 21, CMP filed a response to statements made in the NHEC and MMWEC requests. Answers were also filed by NGrid, NU and UI on September 23. On October 7, NEPOOL responded to the UI and NGrid/NU answers, and noted that NEPOOL and the PTOs had concluded that they were not going to be able to achieve a mutually satisfactory agreement regarding stakeholder review and votes on regional rate changes under the TOA that would allow NEPOOL to withdraw its request for rehearing.

October 6 Compliance Filings. The October 6 Compliance Filings and related pleadings are also currently pending before the FERC. On October 6, 2009, the PTO AC, on behalf of the PTOs and the ISO, submitted a compliance filing (sub-docket -003) as directed in the CMP Revenue Requirement Order proposing to delete the following sentence in Attachment F: “Any changes to that rule must be approved by the PTO Administrative Committee, and filed with the Commission.” No comments were filed by the October 27, 2009 comment date. Also on October 6, CMP submitted its compliance filing (i) specifying a method for allowing the FERC and other parties to review the cost schedules associated with the MPRP and (ii) submitting the attestation of a corporate officer verifying cost of service statements and supporting data previously submitted by CMP in this proceeding (sub-docket -002). The MPUC and NECOS each challenged the CMP Compliance Filing on the grounds that the method for allowing the

¹⁷ Central Maine Power Co., 128 FERC ¶ 61,143 (2009) (“CMP Revenue Requirement Order”), *reh’g requested*.

¹⁸ Central Maine Power Co., 125 FERC ¶ 61,079 (2008) (“MPRP ROE Order”), *reh’g requested*.

¹⁹ “NECOS” are Belmont, Braintree, Concord, Groton, Hingham, Littleton (MA), Middleborough, Pascoag, Reading, Taunton, Templeton, and Wellesley.

FERC and other parties to review the cost schedules associated with the MPRP would be insufficient. On November 12, CMP filed an answer to the NECOs and MPUC protests. The October 6 CMP Compliance Filing and related pleadings are currently pending before the FERC.

If you have any questions concerning this matter, please contact either Eric Runge (617-345-4735; erunge@daypitney.com) or Dave Doot (860-275-0102; dtdoot@daypitney.com).

- **ROE Incentives for MPC Project (CMP and MPS) (EL08-77)**

Rehearing of the FERC's MPC Rehearing Order,²⁰ requested December 18, 2009 by CMP and Maine Public Service Company ("MPS"), remains pending. As previously reported, in the MPC Rehearing Order, the FERC dismissed requests for rehearing of the MPC ROE Order,²¹ finding that they had been overtaken by subsequent events (the FERC noted that the MPC Project, as described in the petition for declaratory order,²² had ceased to exist). The FERC stated that any transmission rate incentive pursuant to Order No. 679 sought in connection with a redesigned MPC Project would require a new filing that demonstrates a nexus between their redesigned project. Addressing abandonment costs, the FERC found that CMP and MPS may not recover costs pursuant to the conditionally granted abandonment *incentive*, but could submit a section 205 filing seeking to recover prudently incurred, abandonment-related costs associated with the Project. On December 18, CMP and MPS requested clarification and/or rehearing of the statements in the MPC Rehearing Order that the recovery of the abandonment incentive was conditional and subject to the conditions that (1) the ISO include the MPC Project in the RSP as a Market Efficiency Transmission Upgrade; and (2) CMP and MPS submit a subsequent filing explaining how the Project's designation as a Market Efficiency Transmission Upgrade satisfies Section 219's eligibility requirement. Also on December 18, Horizon Wind filed a statement indicating that the Aroostook Wind Energy Project has not been cancelled. Answers to the CMP/MPS request were filed by the CT DPUC and Houlton Water Company on January 4 and 5, respectively. CMP and MPS jointly filed a reply to the CT DPUC and Houlton answers on January 20, 2010. On January 19, 2010, the FERC issued a tolling order affording it additional time to consider the CMP/MPS request, which remains pending before the FERC. If there are questions on this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **ROE Incentives for MPRP (CMP) (EL08-74)**

Rehearing of the MPRP ROE Order remains pending before the FERC. As previously reported, the FERC conditionally granted,²³ with one modification (a reduced 125-basis point, rather than the requested 150-basis point, incentive adder), CMP's request that the FERC authorize specific rate incentives for its \$1.4 billion Maine Power Reliability Program ("MPRP").²⁴ The ROE incentive will be bounded by the upper end of the zone of reasonableness established in Opinion 489 (13.5%), and is contingent upon the MPRP being approved as a Reliability Transmission Upgrade in the RSP. Public

²⁰ Central Maine Power Co. and Maine Public Service Co., 129 FERC ¶ 61,153 (2009) ("MPC Rehearing Order").

²¹ Central Maine Power Co. and Maine Public Service Co., 125 FERC ¶ 61,182 (2008) ("MPC ROE Order"), *reh'g dismissed*, 129 FERC ¶ 61,153 (2009) ("MPC Rehearing Order"), *reh'g requested*.

²² The MPC Project was proposed as a 200-mile, 345kV transmission line and the construction of new and upgraded substations, to be developed jointly by CMP and MPS, that would provide a direct electrical connection between northern Maine and the New England Control Area, and end MPS' dependence on its interconnection with New Brunswick to reach markets in the United States.

²³ Central Maine Power Co., 125 FERC ¶ 61,079 (2008) ("MPRP ROE Order"), *reh'g requested*.

²⁴ The MPRP Project is 485 miles of proposed transmission line construction, including a new 245-mile, 345kV transmission line that will run alongside CMP's and MEPCO's existing 345kV and 115kV transmission line from Orrington, Maine to the Maine-New Hampshire interconnection, and other proposed transmission line additions and upgrades to the existing transmission system.

Parties²⁵ and MMWEC, individually, requested rehearing of the MPRP ROE Order on November 19. The FERC issued a tolling order on December 17, 2008, affording it additional time to consider the Public Parties and MMWEC requests, which remain pending before the FERC. If there are questions on this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **ROE Incentives for NEEWS (NU and NGrid) (ER08-1548)**

Rehearing of the NEEWS ROE Order remains pending before the FERC. As previously reported, the FERC granted,²⁶ with one modification, the joint request by NU²⁷ and NGrid for specific rate incentives for their \$2.1 billion New England East-West Solution project (“NEEWS”) and accepted the associated proposed tariff amendments, effective November 18, 2008. The NEEWS ROE Order was challenged on December 17, 2008 by the Massachusetts Municipals²⁸ and jointly by a number of Public Parties²⁹ and the Massachusetts Municipals. On January 16, 2009, the FERC issued a tolling order affording it additional time to consider the rehearing requests, which remain pending before the FERC. On April 17, 2009, National Grid submitted FERC Form 730 (Report of Transmission Investment Activity), which identified actual and projected annual capital spending and certain project detail. If there are questions on this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **FCA1 Results Filing (ER08-633)**

Requests for rehearing of the FCA1 Results Order remain pending. As previously reported, the FERC accepted on June 20, 2008 the results of the first FCA (held February 4-6, 2008) (“FCA1”) filed by the ISO.³⁰ PSEG, CT DPUC, and the CT AG requested rehearing of the June 20 order on July 21, 2008. Answers to the CT DPUC request were filed by NEPOOL and the ISO, and the CT DPUC filed an answer to the PSEG request, on August 5. In turn, the CT DPUC filed a response to the NEPOOL and ISO answers on August 20, 2008. The FERC issued a tolling order on August 20, 2008 affording it additional time to consider the rehearing requests, which remain pending before the FERC.

FCA1 Proration Results Filing. On November 18, 2008, the ISO submitted an informational filing reporting the prorations from FCA1. Pursuant to Market Rule 1 § 13.2.7.3, Resources could elect to prorate their final offered megawatts that cleared in FCA1 by choosing to restore the payment rate to \$4.50/kW-month and reducing their Capacity Supply Obligation, subject to a reliability review, by an equivalent percentage. The ISO reported that during the proration window (September 10 - 16, 2008), resources representing 28,449 MW elected to prorate by 1,555 MW their cleared megawatts. Following the ISO’s reliability review, resources representing 22,590 MW of capacity were allowed to prorate by 1,235 MW. No resources in Connecticut were allowed to prorate (in order to avoid a shortfall in that sub-region’s transmission security requirement). After proration, the final amount of capacity purchased in FCA1 was 32,842 MW. Protests and comments, each related to the fact that no Connecticut resources were allowed to prorate, were filed by PSEG and CT DPUC. On December 23, 2008, the ISO filed an answer to the PSEG and CT DPUC protests and comments. This matter remains pending before the FERC.

²⁵ “Public Parties” are: CT DPUC, CT OCC, MA AG, MA DPU, MMWEC, MPUC, Maine Public Advocate, and NECPUC.

²⁶ Northeast Utilities Service Co. and National Grid USA, 125 FERC ¶ 61,183 (2008) (“NEEWS ROE Order”), *reh’g requested*.

²⁷ Northeast Utilities Service Co., on behalf of its transmission-owning affiliates, CL&P, WMECO, PSNH, Holyoke Power and Electric Co., and Holyoke Water Power Co. (collectively, “NU”).

²⁸ “Massachusetts Municipals” are MMWEC, Chicopee, and South Hadley.

²⁹ In this proceeding, “Public Parties” are NECPUC, CT DPUC, CT OCC, MA DPU, MA AG, MPUC, NHPUC, RI AG, and RI DPUC.

³⁰ ISO New England Inc., 123 FERC ¶ 61,290 (2008) (“FCA1 Results Order”), *reh’g requested*.

If you have any questions concerning these matters, please contact either Pat Gerity (860-275-0533; pmgerity@daypitney.com) or Dave Doot (860-275-0102; dtdoot@daypitney.com).

III. Market Rule Changes, Interpretations and Waiver Requests

- **Order 719 Compliance Filings (ER10-588; ER09-1051)**

On January 21, 2010, the FERC accepted a portion of, with certain modifications, the ISO's compliance filing, filed on April 28, 2009 in response to Order 719, which was joined by NEPOOL. The FERC did not make any findings with respect to the Responsiveness issues, which will be addressed in a later order following its technical conference to be held on February 4. The FERC accepted all the changes filed by ISO and NEPOOL with respect to the Long-Term Power Contracting and Market Monitoring issues with no further compliance filing necessary (other than if the ISO voluntarily elected to use the PJM-operated bulletin board). On Demand Response issues, the FERC ordered a further compliance filing to address additional concerns regarding demand response participation in the region's Ancillary Services Markets, particularly with respect to compensation in the Forward Reserve Market. The FERC ordered that the current stakeholder process for evaluating the treatment of Price-Responsive Demand ("PRD") should consider how demand response resources are compensated in the reserve and regulation markets. Further, the FERC stated that if the region committed to retaining the Dispatchable Asset Related Demand ("DARD") structure, it would require an examination of the current rules that require a minimum 5 MW peak load size requirement and do not provide DARDs the ability to aggregate.

Order 719-A 90-Day Compliance Filing. On October 27, in response to Order 719-A, the ISO and NEPOOL jointly filed new §§ III.13.1.4..9, III.13.1.4.9.1 and III.E.1.6 to Market Rule 1 to address the treatment of aggregators of retail customers that participate in the wholesale capacity and electricity markets (the "Order 719-A Compliance Amendments"). The Order 719-A Compliance Amendments were supported by the Participants Committee at its October 9, 2009 meeting. On November 10, 2009, EnerNOC filed a protest, asserting that the new sections were not in compliance with the directives of FERC's Order Nos. 719 and 719-A, contain language that creates or condones the ability of utilities who are host to the retail customers aggregated by an ARC, to restrict customers to participate only through the host utility or its designated agent, erecting unnecessary and undesirable barriers to competition, and are unduly discriminatory. On November 25, NEPOOL, the ISO and CMEEC, MMWEC, and NHEC (here, the "Public Systems") filed answers to the November 10 EnerNOC protest. The Order 719-A Compliance Amendments, the EnerNOC protest, and the answers thereto are pending before the FERC.

Order 719-A 180-Day Compliance Filing (ER10-588). On January 12, 2010, in response to Order 719-A, the ISO and NEPOOL jointly filed new Section III.13.1.4.10 to Market Rule 1 to enable load-serving entities to become aware that their end-use customers have enrolled with retail aggregators to become a demand resource (the "Order 719-A 180-Day Compliance Amendments"). The Order 719-A 180-Day Compliance Amendments were supported by the Participants Committee at its January 8, 2010 meeting. No comments on the Order 719-A 180-Day Compliance Amendments were filed by the February 2, 2010 comment date.

Technical Conference on RTO/ISO Responsiveness. The FERC will hold a technical conference on February 4, 2010, from 12:30 – 4:30 pm, to provide a forum for interested participants to discuss the issue of responsiveness of RTOs and ISOs to their customers and other stakeholders. The technical conference will have two panels – one on stakeholder process and the other on board process and other governance issues. Ray Hepper is scheduled to participate on both. All interested parties are invited to attend, and the technical conference will be webcast. Written comments may be filed for 30 days following the technical conference.

If you have any questions concerning Order 719-related matters, please contact Michelle Gardner (617-345-4697; mcgardner@daypitney.com), or Emile Buzaid (860-275-0272; ebuzaid@daypitney.com).

- **Ampersand Request for Limited Waiver of FCM Rules (ER10-600)**

On January 14, 2010, Ampersand Energy Partners requested a waiver of the FCM Rules to allow it to correct an error in the qualification package it submitted for FCA4. Ampersand indicated that the waiver would permit it to offer into FCA4 all of its capacity (10.37 MW), rather than the amount it listed in its qualification package (5 MW), should the auction price fall below 0.75 times CONE. Comments on this request are due February 4, 2010. If you have any questions concerning this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **VEC Request for Limited Waiver of FCM Rules (ER10-503)**

On December 23, 2009, VEC requested a one business-day waiver of the FCM Rules to allow the ISO to consider the Updated Measurement and Verification Plan submitted by VEC on November 16, 2009, which was otherwise due under the Market Rules the Friday before, or November 13. VEC indicated that the waiver would permit its DR Operable Capacity to be considered in FCA4 and asserted that such a waiver would not adversely affect the ISO or other Market Participants. No comments on this filing were submitted by the January 13, 2010 comment date, and this matter is pending before the FERC. If you have any questions concerning this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **Removal of Pending LFTR Revisions from Tariff Sheets (ER10-437)**

On January 21, 2010, the FERC accepted revised tariff sheets filed by the ISO to correct various sheet designations and conform tariff sheet revisions in a way that reflects the fact that previously filed and accepted LFTR-related changes have not yet become effective, and therefore should not yet have been included in currently effective tariff sheets and provisions. If you have any questions concerning this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **FCM Omnibus 5 Revisions Filing (ER10-419)**

On December 14, 2009, the ISO and NEPOOL jointly filed the “Omnibus 5” FCM revisions. The Omnibus 5 revisions were supported by way of the December 11, 2009 Consent Agenda. Doc-less interventions were filed by Mirant and NU. No comments or protests were filed and the revisions remain pending before the FERC. If you have any questions concerning this filing, please contact Michelle Gardner (617-345-4697; mcgardner@daypitney.com), or Emile Buzaid (860-275-0272; ebuzaid@daypitney.com).

- **NCPC Mitigation Reform (ER09-1546)**

As previously reported, the FERC conditionally accepted the NCPC Mitigation Reform Changes, subject to the outcome of the Order 719 Compliance Filings (ER10-588; ER09-1051) and to a 30-day compliance filing.³¹ The “NCPC Mitigation Reform Changes” revised Appendix A to Market Rule 1 to address the market power mitigation of offers for Resources that are committed to satisfy local and system-wide reliability needs, as well as other supporting revisions to the ISO’s mitigation rules. The NCPC Mitigation Reforms Order was not challenged and is final.

On October 30, as directed in the NCPC Mitigation Reforms Order, the ISO submitted a compliance filing (sub-docket -001) (1) to justify why the proposed “lower of” 10 percent or \$80/MW-day mitigation threshold is appropriate; and (2) to revise the section 205 filing mechanism (that permits a resource owner to request additional compensation in the event it believes it has been unable to recover its fuel and variable O&M costs as a result of mitigation) to be made within 60 days of the receipt of the first invoice (rather than 30 as proposed in the August 5, 2009 filing). The change to the timing of the Section 205 mechanism was unanimously supported by the Markets Committee at its October 15 meeting and the

³¹ ISO New England Inc. and New England Power Pool, 129 FERC ¶ 61,008 (2009) (“NCPC Mitigation Reforms Order”).

Participants Committee on November 19. On November 20, 2009, Indicated Suppliers³² filed a protest to the compliance filing, asserting that the ISO had still failed to justify the proposed \$80/MW-day threshold. On December 7, the ISO filed an answer to Indicated Suppliers' protest, and on December 18, Indicated Suppliers answered the ISO's answer. The compliance filing, and all of the related pleadings, are currently pending before the FERC. If you have any questions concerning this matter, please contact Dave Doot (860-275-0102; dtdoot@daypitney.com), or Emile Buzaid (860-275-0272; ebuzaid@daypitney.com).

- **FCA3 Qualification Informational Filing (ER09-1424)**

Rehearing of the FERC's September 18, 2009 order on the ISO's "FCA3 Informational Filing"³³ is pending. As reported previously, the FERC accepted the ISO's FCA3 Informational Filing. Addressing the contested issues concerning Dominion's Salem Harbor units, the FERC found that the ISO's revised stand-alone static de-list bids for the units were just and reasonable.³⁴ FERC, based on the information provided during the paper hearing proceeding and exercising its section 206 authority, found the ISO's proposed *ad hoc* solution, affecting no party in FCA3 other than Dominion, just and reasonable on a one-time basis.³⁵ The FERC also declined to require any further evidentiary submissions, data review, or changes to the bids submitted by Dominion. All other protests were denied. However, on October 19, Dominion and PSEG requested rehearing of the FCA3 Informational Filing Order. The FERC issued a tolling order on November 18, 2009 affording it additional time to consider the rehearing requests, which remain pending.

September 30 Errata Filing. On September 30, 2009, the ISO submitted an informational filing to update the qualified capacity amounts of 28 Demand Resources listed in the July 7 filing that initiated this proceeding. The ISO indicated that the amounts were being updated to reflect the Resources' multi-year Capacity Commitment Period obligation elections, which are subject to different treatment with respect to the reserve margin gross-up. Section 13.7.1.5.1.1 of Market Rule 1 provides for different treatment for Demand Resources that cleared in FCA1 or FCA2 and that elected to have their Capacity Supply Obligation and Capacity Clearing Price apply for multiple Capacity Commitment Periods. The ISO stated that it would utilize the updated qualified Capacity Values for FCA3, which would increase the total qualified capacity amount for FCA3 by approximately 15 MW or 0.035%. No comments on the September 30 errata filing were filed and the filing is pending before the FERC.

If you have any questions concerning this matter, please contact Dave Doot (860-275-0102; dtdoot@daypitney.com), or Emile Buzaid (860-275-0272; ebuzaid@daypitney.com).

- **FCM Phase II Market Rule Changes: Rights and Obligations, Payments and Charges, and Performance (ER09-1144)**

Requests for rehearing of the June 11 Order remain pending. As previously reported, NRG, Mirant, and GDF SUEZ (collectively, the "Competitive Suppliers") requested clarification or, in the alternative, rehearing of the FERC's July 14, 2009 Order accepting revisions to the FCM Rules.³⁶ (The revisions provide additional detail and refinement to a number of areas the FCM Rules, including the rights and obligations of Market Participants, payments and charges, and performance matters.) On August 28, NEPOOL and the ISO filed answers to the Competitive Suppliers' request. On September 14,

³² "Indicated Suppliers" are Mirant, Boston Gen, NRG, and PSEG.

³³ ISO New England Inc., 128 FERC ¶ 61,266 (2009) ("FCA3 Informational Filing Order"), *reh'g requested.*

³⁴ Id. at P 43.

³⁵ Id. at PP 49-60.

³⁶ ISO New England Inc. and New England Power Pool Participants Committee, 128 FERC ¶ 61,023 (2009) ("June 11 Order"), *reh'g requested.*

2009, the FERC issued a tolling order affording it additional time to consider the Competitive Suppliers' request, which remains pending before the FERC. If you have any questions concerning this matter, please contact Dave Doot (860-275-0102; dtdoot@daypitney.com), or Emile Buzaid (860-275-0272; ebuzaid@daypitney.com).

- **Resources Needed for Reliability in the FCM (ER08-1209)**

On February 3, 2010, the FERC issued an order³⁷ which (i) denied re-hearing of its October 28, 2008 in this proceeding,³⁸ (ii) granted a Mirant request for clarification, and (iii) accepted the compliance filings in this proceeding, including Amendment No. 1 to the Participants Agreement (Reliability Committee Review of Reliability Determinations). As previously reported, requests for rehearing and/or clarification of the October 28 Order were filed by Mirant, NRG (later withdrawn), and PSEG. The February 3 order denied the Mirant and PSEG requests for rehearing. However, the FERC granted a request by Mirant that it clarify, and the FERC clarified that, should new laws or regulations be enacted that would require resources to incur unforeseeable and unrecoverable capital expenditures in order to be able to provide capacity during the capacity commitment period, the entire class of resources will be able to seek extraordinary relief from the ISO, and, if that fails, make a filing with the FERC Section 206, which the FERC would then address on its merits. Any challenges to the clarification granted in the February 3 order will be due on or before March 5, 2010. Any further challenges would need to be taken on appeal to the federal courts and would be reported in Section XIV below. If you have any questions concerning this matter, please contact Dave Doot (860-275-0102; dtdoot@daypitney.com), or Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **Reports on Future of Load Response Programs (ER08-830)**

March 27, 2009 Report. The compliance report regarding the treatment of price-responsive demand in the New England electricity markets filed jointly by the ISO and NEPOOL,³⁹ with the support of NECPUC, on March 27, 2009 ("March 2009 Report"),⁴⁰ in response to FERC directives,⁴¹ remains pending before the FERC. The March 2009 Report described stakeholder discussions to date on the topic and recommended that a subsequent report be filed with the FERC no later than July 31, 2009, describing further progress made and requesting, as appropriate, further guidance and direction from the FERC. The March 2009 Report also stated that the ISO expected to extend the present price-responsive programs for an interim period of at least another year and to complete changes to extend such programs through the normal stakeholder process by the end of 2009. On April 13, NICC moved to intervene. On April 14, the

³⁷ ISO New England Inc. and New England Power Pool, 125 FERC ¶ 61,102 (2008) ("October 28, 2008 Order"), *clarification granted in part*, 125 FERC ¶ 61,324 (2008), *reh'g denied*, 130 FERC ¶ 61,089 (2010). (The October 28, 2008 Order accepted a package of changes that address compensation for resources whose de-list bids have been rejected, modifications to the pro forma cost of service agreement, and changes to Sections 1.3.9 and 1.3.10 of the Tariff to conform the reliability review processes established in those Sections to the FCM reliability review processes.)

³⁸ ISO New England Inc. and New England Power Pool, 125 FERC ¶ 61,102 (2008) ("October 28, 2008 Order"), *clarification granted in part*, 125 FERC ¶ 61,324 (2008), *reh'g denied*, 130 FERC ¶ 61,089 (2010). (The October 28, 2008 Order accepted a package of changes that address compensation for resources whose de-list bids have been rejected, modifications to the pro forma cost of service agreement, and changes to Sections 1.3.9 and 1.3.10 of the Tariff to conform the reliability review processes established in those Sections to the FCM reliability review processes.)

³⁹ NEPOOL joined in the filing based on the March 25, 2009 recommendation of support from the Markets Committee. On Apr. 8, 2009, NEPOOL supplemented the record in this proceeding by indicating that the Participants Committee unanimously supported the Mar. 27 Filing at its Apr. 3, 2009 meeting.

⁴⁰ As previously reported, the FERC granted an extension of time to March 27, 2009 to file a report detailing the ISO's decision to either terminate or continue the Load Response Program after June 1, 2010.

⁴¹ ISO New England Inc., 123 FERC ¶ 61,266 (2008) ("DALRP Order").

Consumer Demand Response Initiative (“CDRI”) filed comments urging the FERC to accept the report and to permit an extended period of discussion on these issues.

July 31, 2009 Report. On July 31, the ISO and NEPOOL, again with the support of NECPUC, filed a second report (the “July 2009 Report”), to update the FERC on regional efforts to evaluate the future treatment of price-responsive demand (“PRD”) in the New England electricity markets. The July 2009 Report states that “ISO, NEPOOL, and NECPUC have made progress through the stakeholder process since March 2009 toward developing an approach to achieving [PRD] for New England.” The filing parties reported an intention to continue the stakeholder process underway, with a goal of filing with the FERC Market Rules concerning the future treatment of PRD that would be effective June 1, 2012. In order to achieve this goal, the ISO has proposed a schedule that would result in the filing of market rules no later than June 1, 2010. The filing notes that NEPOOL is planning to discuss the ISO’s planned schedule at future stakeholder meetings and a status update will be provided to the FERC if an update is considered desirable or appropriate under the circumstances. The July 2009 Report also states that the ISO will file an additional report with the FERC no later than December 18, 2009 describing the regional progress made on the proposals outlined in the PRD Matrix. No comments on the July 2009 Report were filed by the August 21, 2009 comment date.

December 18, 2009 Report. On December 18, 2009, the ISO and NEPOOL filed a further update (“December 2009 Report”) summarizing stakeholder deliberations since the July 2009 Report, including the actions taken on the PRD DBD at the December 11, 2009 Participants Committee meeting. On January 28, 2010, the Consumer Demand Response Initiative (“CDRI”) submitted a request for FERC policy guidance in response to the December 2009 Report.

If you have any questions concerning this matter, please contact Michelle Gardner (617-345-4697; mcgardner@daypitney.com).

- **Tie Benefits Calculation and Allocation (ER08-41)**

On January 14, 2010, the ISO filed an update to the joint ISO/NEPOOL November 26, 2008 report⁴² regarding the plan to study and develop proposals to resolve issues related to the modeling of internal transmission constraints and tie benefits associated with individual lines. In the January 14, 2010 Update, the ISO proposed to comprehensively review and attempt to resolve during 2010 all outstanding and identified tie benefits issues (including the so-called “Reserved Issues”, issues raised during 2009 stakeholder meetings, and tie benefits-related issues raised in Docket No. ER10-438 above) through a NEPOOL stakeholder process and to make a filing with the FERC on or before a date that will allow any related Market Rule or Tariff changes to be effective in time for FCA5 (covering the 2014/2015 Capacity Commitment Period). The Participants Committee will be asked at the February 5 meeting to consider whether it supports the ISO’s January 14 proposal. As indicated in the materials for the February 5 meeting, and subject to further information or direction from the NPC, NEPOOL comments will be filed in response to the January 14 proposal, reporting on whether NEPOOL supports the process, describing the view of Cross Sound Cable and LIPA on the Reserved Issue, and stating that, if a comprehensive tie benefits process is conducted, the work must begin soon to allow any related changes to be effective in time for FCA5. If you have any questions concerning these matters, please contact Eric Runge (617-345-4735; ekrunge@daypitney.com).

⁴² The 2008 Tie Benefits Report indicated that the stakeholder process would begin early during the second quarter of 2009 and would be completed in time for any proposed Market Rule 1 or other Tariff changes to be filed with the FERC before February 1, 2010. See ISO New England Inc. and New England Power Pool, 126 FERC ¶ 61,180 (2009).

IV. OATT Amendments / TOAs / Coordination Agreements

- **NEITC Operating Agreement (ER10-637)**

On January 22, 2010, the New England Independent Transmission Company, LLC (“NEITC”) and the ISO jointly filed an operating agreement (“Agreement”) governing the operation of transmission infrastructure projects developed by NEITC within the New England Control Area. The parties assert that the Agreement is consistent with Attachment M of the ISO OATT and explain that the Agreement is modeled on, and follows the structure of, the existing TOA among the ISO and the PTOs. The NEITC Operating Agreement is designed to terminate automatically when a new NEITC transmission facility is placed into service or a New England transmission facility is acquired, at which time New England ITC would become a PTO under the TOA. The Agreement was unanimously supported by the Participants Committee by way of the December 11, 2009 Consent Agenda. As of the date of this report, NEPOOL and NU have submitted doc-less motions to intervene. Comments on this filing are due February 12, 2010. If you have any questions concerning this matter, please contact Eric Runge (617-345-4735; ekrunge@daypitney.com).

- **Schedule 2 (VAR Support) Amendments - Transition Period Double Recovery Issue (ER07-397)**

On January 5, 2010, the FERC denied the ISO’s request for clarification of the VAR Support Rehearing Order.⁴³ As previously reported, the FERC, on March 9, 2009, denied rehearing⁴⁴ of its February 28, 2007 order⁴⁵ in which it found that, *inter alia*, amendments filed to the ISO OATT’s Schedule 2 (VAR Support) do not produce double recovery of capital costs for generating equipment used to generate energy and provide reactive service because FCM transition payments, which are below the cost of new entry, do not compensate resources for their reactive power. In denying rehearing, the FERC stated that parties failed to persuade it that the capacity cost (CC) rate component of Schedule 2 produces any double recovery of capital costs for generating equipment used to generate energy and provide reactive service when combined with either transition payments or payments from the FCM auctions. On April 6, 2009, ISO filed a motion for clarification that references in the March 9 order to tariff changes were inadvertent and no tariff changes are required. In the January 5, 2010 order denying clarification, the FERC reiterated past statements that the ISO must file tariff provisions prior to the commencement of the first Capacity Commitment Period to prevent double recovery, finding the changes necessary to provide certainty that double recovery of capital costs for generating equipment does not occur. Proposed Tariff changes will be considered by the Markets Committee in February. If you have any questions concerning this matter, please contact Dave Doot (860-275-0102; dtdoot@daypitney.com) or Eric Runge (617-345-4735; ekrunge@daypitney.com).

V. Financial Assurance/Billing Policy Amendments

- **FA Exemption for Certain Non-Commercial Capacity Resources (ER10-423)**

On January 27, 2010, the FERC accepted a change to the Financial Assurance (“FA”) Policy jointly filed by the ISO and NEPOOL that provides that a Resource that was not yet commercial, but had elected to be treated as an existing Resource in the FCM for the first Capacity Commitment Period, would not be required to provide additional financial assurance (except financial assurance associated with transfers of Capacity Supply Obligations (“CSO”)) for all Capacity Commitment Periods. The exemption from FA requirements would apply only to the number of megawatts that were qualified for the Resource

⁴³ ISO New England Inc., 130 FERC ¶ 61,005 (2010).

⁴⁴ ISO New England Inc., 126 FERC ¶ 61,212 (2009) (“VAR Support Rehearing Order”), *clarification denied*, 130 FERC ¶ 61,005 (2010).

⁴⁵ ISO New England Inc., 118 FERC ¶ 61,163 (2007), *reh’g denied*, 126 FERC ¶ 61,212 (2009).

for the first Capacity Commitment Period and would not apply to financial assurance requirements associated with transfers of CSOs. The change will become effective February 16, 2010, as requested. If you have any questions concerning this proceeding, please contact Paul Belval (860-275-0381; pnbelval@daypitney.com).

- **Changes to FCM-Related Provisions of the Financial Assurance Policy (ER10-62)**

As previously reported, the FERC conditionally accepted on November 10, 2009, changes to conform the FCM-related provisions of the Financial Assurance Policy to the FCM Market Rules. In accepting the uncontested changes, however, the FERC found that the Methodology significantly affects the FA of a Participant shedding a CSO, and, citing its regulations and precedent,⁴⁶ must be included in the ISO Tariff. Accordingly, the FERC directed the ISO to file by December 10, 2009 a revised Tariff provision incorporating the Methodology. At the November 19 meeting, the Participants Committee unanimously supported the changes needed to comply with the FERC's letter order, and delegated to the Chairman of the Budget & Finance Subcommittee the authority to identify and direct NEPOOL Counsel to work with ISO Counsel to file with the FERC such changes as he, the Chief Financial Officer of ISO, and NEPOOL Counsel unanimously consider to be required by the Order as described to the Committee. Those changes were filed December 10, 2009. On January 4, 2010, Mirant moved to intervene out-of-time. No comments on the compliance filing were filed, and this matter is now pending before the FERC. If you have any questions, please contact Paul Belval (860-275-0381; pnbelval@daypitney.com).

VI. Schedule 20/21 Changes

- **Schedule 21-NU Localized Cost Sharing Agreements (NextEra/Dynegy) (ER10-641)**

On January 26, NU submitted a Localized Cost Sharing Agreement ("LCSA") under Schedule 21-NU with NextEra (LCRA NU-09-04) and a notice of termination of the LCSA with Dynegy (LCRA NU-09-02). The termination of the Dynegy LCSA and new NextEra LCSA recognize that NextEra is now the RNS customer with respect to the 527 MW Bridgeport Energy facility. NU requested that the Notice of Termination and NextEra LCSA each become effective as of December 1, 2009. Comments on this filing are due on or before February 16. If there are questions on this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **Schedule 21-UI Localized Cost Sharing Agreements (NextEra/Dynegy) (ER10-473)**

On December 22, UI submitted a Localized Cost Sharing Agreement ("LCSA") under Schedule 21-UI with NextEra and a notice of termination of the LCSA with Dynegy (LCSA-08). The termination of the Dynegy LCSA and new NextEra LCSA recognize that NextEra is now the RNS customer with respect to the 527 MW Bridgeport Energy facility. UI requested that the Notice of Termination and NextEra LCSA each become effective as of December 1, 2009. No comments on this filing were submitted by the January 12 comment date, and the filing is pending before the FERC. If there are questions on this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **Schedule 21-NU Localized Cost Sharing Agreements (ER10-315)**

On January 11, the FERC accepted the three Localized Cost Sharing Agreements ("LCSAs") under Schedule 21-NU filed by NU on November 24. The LCSAs recover certain Localized Costs from Dynegy, Waterbury Generation, and Kleen Energy. Although NU requested waiver of the FERC's 60-day notice requirement so that the Agreements could become effective as follows: Waterbury – May 13, 2009; Dynegy – October 1, 2009, and Kleen Energy - November 1, 2009, the FERC only granted the necessary waiver with respect to the Kleen Energy LCSA. Waiver was denied for the Waterbury Generation and Dynegy Power LCRAs, which the FERC ordered become effective on January 23, 2010,

⁴⁶ 18 C.F.R. § 35.1 and New York Independent System Operator, Inc. and New York Transmission Owners, 129 FERC ¶ 61,044 at P 54 (2009).

sixty days after the initial filing. Accordingly, NU was directed to refund the time value of the revenues collected from the Waterbury Generation and Dynegy Power LCRAs for the period that the rate was collected without FERC authorization, i.e., from the commencement of service until January 23, 2010. In addition, NU was directed to file a refund report on or before February 10, 2010. Any challenges to the January 11 order will also be due on or before February 10. If there are questions on this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **Schedule 21-CMP KLPD Local Service Agreement (ER10-199)**

On December 30, the FERC accepted, effective January 1, 2010, but suspended and set for hearing, the unexecuted service agreement for Local Network Transmission Service between CMP and Kennebunk Light & Power District (“KLPD”) (designated as Service Agreement No. LNSA-CMP-4 under Schedule 21-CMP).⁴⁷ As previously reported, there exists a dispute between CMP and KLPD regarding the imposition of charges for Local Network transmission service on KLPD loads served from CMP’s West Kennebunk substation, which KLPD asserts is directly connected to PTF for purposes of Section II.12.2(c) of the ISO Tariff and is therefore exempt from charges for Local Network transmission service. In the December 30 order, the FERC found that, based on the information available in the record before it, it could not determine the appropriate charges for the load served from KLPD’s West Kennebunk substation or whether, under the proposed Agreement, KLPD should be charged the PTF rate alone, or the local network rate or direct assignment cost.

The FERC directed that a presiding Administrative Law Judge be designated by the Chief ALJ for the hearing. On January 15, Chief Administrative Law Judge Curtis L. Wagner, Jr. designated Administrative Law Judge Joseph R. Nancy as the replacement trial judge. Trial Judge Nancy held a pre-trial conference on January 27, 2010. In accordance with the procedural schedule issued on January 28, an Initial Decision following FERC’s “Track II Procedural Time Standards” will be issued on or before November 29, 2010. Hearings are expected to commence not later than August 16, 2010. If there are questions on this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **Schedule 21-BHE Local Service Agreements (ER10-111)**

On October 26, Bangor Hydro (“BHE”) submitted seven local service agreements under Schedule 21-BHE to reflect the terms of a settlement agreement that extends the discounted local transmission rates through 2020 for PPL Maine and PPL Energy Plus and their successors in interest. The service agreements were designated as Original Service Agreement Nos. 71-77 under Schedule 21-BHE. Interventions were filed by PPL Maine, MPUC, and Black Bear Hydro. On December 22, BHE asked the FERC to defer action on the October 26 filing, noting that certain errata had been identified in that filing. BHE indicated that it expected to make a further filing by January 15, 2010. If there are questions on this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **Schedule 21-BHE Change to Forward Looking Formula Rate (ER09-934)**

As previously reported, the FERC accepted, on May 28, changes to Schedule 21-BHE that added components that effectively change the BHE formula rate to a “forward-looking” formula.⁴⁸ The changes were accepted effective June 1, 2009, as proposed, but were suspended, subject to refund, further FERC order, and discussions between the MPUC and BHE concerning the issue the allocation of common costs between transmission and distribution.⁴⁹ BHE and the MPUC continue to report on the status of negotiations to resolve the open cost allocation issues, noting that they continue to make a good-faith effort to bring these discussions to a conclusion. Most recently (January 15, 2010), BHE committed to provide FERC with a further update no later than February 16, 2010. If there are questions on these matters, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

⁴⁷ Central Maine Power Co., 129 FERC ¶ 61,302 (2009).

⁴⁸ Bangor Hydro-Electric Co., 127 FERC ¶ 61,186 (2009).

⁴⁹ Id.

VII. RMR Agreements

- **Berkshire RMR Agreement - MA Municipals Complaint To Terminate (EL09-3)**

On December 22, 2009, Berkshire Power Company, LLC (“Berkshire”) and the Massachusetts Publicly Owned Entity Complainants⁵⁰ in this proceeding filed an Offer of Settlement to fully resolve all issues raised, or which could have been raised, in this proceeding. The Offer of Settlement provides for a reduction to zero of the last expected fixed monthly payment (in May 2010). In return, the Complainants agreed not to file, or intervene in, another complaint concerning Berkshire’s RMR Agreement, and to waive their rights to receive confidential documents, information and notices from Berkshire under Sections 26 and 28 of the prior settlement approved in Docket No. ER05-1179. The Offer of Settlement is currently pending before the FERC.

Questions concerning this or any RMR Agreement proceeding can be directed to Pat Gerity (860-275-0533; pmgerity@daypitney.com). Additional information regarding RMR Agreements in the region can be found on the ISO’s website at http://www.iso-ne.com/genrtion_resrcs/reports/rmr/index.html#top.

VIII. Regional Reports

- **Quarterly Markets Reports - 2009 Q3 (ZZ10-4)**

Pursuant to Section 11.2.2 of Appendix A to Market Rule 1, the ISO is required to file quarterly a “Report for Regulators.” The Report describes transmission constraints and contains an analysis of market conduct and mitigation activities. On February 2, 2010, the ISO filed with the FERC the report for the third quarter of 2009 (“2009 Q3”). These filings are not noticed for public comment by the FERC.

- **Quarterly Reports Regarding Non-Generating Resource Regulation Market Participation (ER08-54)**

As previously reported, the ISO committed in the August 5, 2008 Regulation Filing to provide the FERC with quarterly reports on its progress in implementing and carrying out market rule revisions to allow non-generating resources to provide Regulation, including the Alternative Technologies Pilot Program.⁵¹ On December 14, 2009, FERC issued a letter order accepting the third and fourth quarterly reports filed by the ISO on June 19 and September 18, respectively. The ISO filed its fifth report on December 9, 2009. No comments on the fifth report were filed.

- **Quarterly Status Reports on LFTR Implementation (ER07-476; RM06-08)**

The ISO filed the fifth of its Quarterly Status Reports regarding LFTR implementation on January 15, 2010. The ISO now reports that, based on current best estimates, completion of the 18-month implementation process described in the LFTR compliance filings will occur no earlier than mid-2012, resulting in the first possible LFTR auction in the third quarter of 2012 for LFTRs that would be effective starting with the 2013 calendar year. The report explains the implementation timeline in greater detail. These status reports are not noticed for public comment.

⁵⁰ The “Complainants” are Ashburnham, Boylston, Chester Municipal Electric Light Department, Chicopee, Groton, Holden, Holyoke Gas & Electric Dept., Hudson, Paxton, Princeton, Shrewsbury, South Hadley, Sterling, Templeton, West Boylston, Westfield, and MMWEC.

⁵¹ See Market Rule 1 revisions regarding the provision of Regulation by non-generating resources, ISO New England Inc. and New England Power Pool, Docket Nos. ER08-54-000 and -001 (filed Aug. 5, 2008) (the “Regulation Filing”).

- **Load Response Status Reports (ER03-345)**

The ISO is required to file status reports every six months on the status of the Load Response programs.⁵² The ISO filed the 14th such compliance report on December 30, 2009 (sub-docket -012), covering the April 2009 through October 2009 period. No comments on this report were filed.

IX. Membership Filings

- **February 2010 Membership Filing (ER10-684)**

On January 29, NEPOOL requested the FERC's acceptance of (i) the membership of the following Entities each effective February 1, 2010: Ameresco CT LLC (AR Sector, Load Response Sub-Sector, Small Group Seat), Macquarie Energy, LLC (Supplier Sector), Starion Energy, Inc. (Supplier Sector), and VCharge Inc. (AR Sector, LR Sub-Sector, Small Group Seat); and (ii) the January 1, 2010 terminations of Bridgeport Energy II, LLC (Related Person of Dynegy, Supplier Sector), Consolidated Hydro New Hampshire (AR Sector, Renewable Generation Sub-Sector, Small Group Seat), Galt Power (AR Sector, LR Sub-Sector, Small Group Seat), GenPower Trading, LLC (Generation Sector, Provisional Member Group Seat), IPA New Haven, LLC (Related Person of ANP Funding, Generation Sector), Lowell Cogeneration Co. (Generation Sector Group Seat), Montgomery Energy Billerica Power Partners (Generation Sector Group Seat), Ridgewood Maine Hydro Partners (Related Person of Ridgewood Rhode Island, AR Sector). Comments on this filing are due February 19, 2010.

- **January 2010 Membership Filing (ER10-517)**

On December 30, NEPOOL requested the FERC's acceptance of (i) the membership of the following Entities each effective January 1, 2010: Centaurus Energy Master Fund, L.P. (Supplier Sector), First Point Power, LLC (Supplier Sector), Just Energy (U.S.) Corp. (Supplier Sector), North American Power and Gas, LLC (Supplier Sector), Royal Bank of Canada (Related Person of RBC Energy Services; Supplier Sector); and (ii) the December 1, 2009 terminations of Fulcrum Power Marketing LLC (Supplier Sector), Sutton Energy, LLC and Invenergy Thermal Connecticut LLC (Generation Sector).

- **December 2009 Membership Filing (ER10-326)**

On January 28, 2010, the FERC accepted (i) the membership of the following Entities each effective December 1, 2009: American PowerNet Management, LP (Supplier Sector); CHI Power Marketing, Inc. (Supplier Sector); Discount Power, Inc. (Supplier Sector); RMH Energy, LP (Supplier Sector); and Saracen Energy Power Trading LP (Related Person of Saracen Energy; Supplier Sector); and (ii) the terminations from the End User Sector of Correct Building Products LLC and Correct Energy LLC (November 1, 2009) and Northeastern Power, LLC and Old Town Lumber Co., Inc. (December 1, 2009).

X. Misc. - ERO Rules, Filings; Reliability Standards

Questions concerning any of the ERO Reliability Standards or related rule-making proceedings or filings can be directed to Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **Formal Interpretation – Reliability Standard CIP-006-2b (RD10-8)**

On December 22, 2009, NERC requested FERC approval of two interpretations⁵³ of Critical Infrastructure Protection (“CIP”) Reliability Standard CIP-006-2.1 The interpretations address

⁵² See ISO New England Inc. and New England Power Pool, 102 FERC ¶ 61,202 (2003).

⁵³ All those directly or materially affected by the reliability of the North American bulk power system are permitted to request an interpretation of NERC Reliability Standards. Within 45 days of a request, NERC will present a formal interpretation for balloting. If approved by the ballot pool and the NERC Board of Trustees, the

Requirements R1.1 (physical security perimeter), and R4 (physical access controls). No comments on this filing were submitted by the January 21 comment date and the filing is pending before the FERC.

- **Violation Security Levels –NUC-001-1 (RD10-7)**

On December 18, 2009, and in response to Order No. 716,⁵⁴ NERC requested FERC approval of the Violation Risk Factors (“VRFs”) for the NUC-001-1 Reliability Standard (Nuclear Plant Interface Coordination). Requirement R2 was changed from Lower to Medium; R4, R5, R7, and R8 were changed from Medium to High, and R9 was changed from Lower to Medium. No comments were submitted by the January 8 comment date and the filing is pending before the FERC.

- **Violation Security Levels –CIP-002-2 through CIP-009-2 (RD10-6)**

Also on December 18, 2009, NERC requested FERC approval of (i) the Violation Severity Levels (“VSLs”)⁵⁵ for eight of the nine version 2 Critical Infrastructure Protection (“CIP”) Reliability Standards (all but CIP-001) and (ii) VRF assignments for CIP-003-2 (Cyber Security - Security Management Controls) and CIP-006-2 (Cyber Security - Physical Security of Critical Cyber Assets). The filing also a complete listing of all VSLs and VRFs for each FERC-approved Reliability Standard. NERC requested that the VSLs and VRFs be made effective upon approval. One party submitted comments proposing two specific changes on the January 8, 2010 comment date. This matter is currently pending before the FERC.

- **Formal Interpretation – Reliability Standard TOP-002-2a (RD10-3)**

On November 17, 2009, NERC requested FERC approval of its formal interpretation of Reliability Standard TOP-002-2a (Normal Operations Planning), in response to a request from the Orlando Utilities Commission. The formal interpretation provides that (i) requirement R11 mandates that each Transmission Operator (“TOP”) review the state of its TOP area both in advance of each day and during each day (with each day required to have “a study”, though not necessarily a “unique” study, that can be applied to it); (ii) that such study or review may be based on complex computer studies or a manual reasonability review of previously existing study results; and (iii) the requirement is meant to include both determining new limits and identifying potential “exceedances” of pre-defined SOLs -- if system conditions indicate that prior studies and SOLs may be outdated, then the TOP must conduct a study to identify SOLs for the new conditions. Motions to intervene were filed by ISO-NE, Exelon, and Modesto Irrigation District. A protest of NERC’s interpretation of requirement R11 was filed by Cogeneration Association of California. This matter is pending before the FERC.

- **Revised Reliability Standard - NUC-001-2 (RD09-10)**

On January 21, 2010, the FERC issued an order approving the revisions NERC filed on August 14 to reliability standard NUC-001-2 (Nuclear Plant Interface Coordination).⁵⁶ The approved revisions clarify references to coping times and offsite power restoration. Unless the January 21 order is challenged, this proceeding will be concluded.

interpretation will be appended to the Reliability Standard and filed for approval with the FERC and the appropriate governmental authorities in Canada to be made effective if and when approved. If approved, the interpretation is incorporated into the Reliability Standard the next time the affected Reliability Standard is revised.

⁵⁴ Mandatory Reliability Standard for Nuclear Plant Interface Coordination, Order No. 716, 125 FERC ¶ 61,065 (2008).

⁵⁵ VRFs assess the impact to reliability of violating a single compliance requirement. VSLs define the degree to which compliance with a Reliability Standard requirement was not achieved. VSLs are considered in conjunction with VRFs in the determination of the possible base penalty range for a violation of a Reliability Standard requirement.

⁵⁶ North American Electric Reliability Corp., 130 FERC ¶ 61,051 (2010).

- **Revised (Version 2) CIP Reliability Standards – CIP-002 – CIP-009 (RD09-7)**

On September 30, 2009, the FERC conditionally approved NERC's revised Version 2 CIP Reliability Standards (CIP-002 through CIP-009) and NERC's proposed Version 2 Implementation Plan, effective April 1, 2010, subject to the development of certain modifications to the Standards and a 90-day compliance filing with respect to the Implementation Plan.⁵⁷ The directed modifications include: (i) the addition to CIP-006-2 of a requirement on visitor control programs, including the use of visitor logs to document entry and exit; and (ii) the removal of the last sentence of CIP-008-2 Requirement R1.6.⁵⁸ With respect to the approved Implementation Plan, FERC noted that the Plan "lacks clarity and could be open to multiple interpretations on some topics," and attached to the order a document reflecting its concerns. FERC directed NERC to submit a 90-day compliance filing addressing or clarifying the matters specified in that attachment.⁵⁹ NERC was also directed to submit as part of that compliance filing an update of the timetable that reflects the plan to address remaining FERC directives from Order 706. On December 17, 2009, FERC denied Edison Electric Institute's ("EEI's") October 30 request for rehearing of certain aspects of the FERC's September 30 order, but granted EEI's motion for clarification and request for an extension of time to develop the directed modifications to the visitor control program requirements in CIP-006-2.⁶⁰

Compliance Filing – CIP Version 3 Standards. In response to the September 30 CIP Version 2 Order, NERC filed for approval on December 29, 2009 (i) CIP Version 3 Standards; (ii) a revised Implementation Plan for Newly Identified Critical Cyber Assets and Newly Registered Entities and the Implementation Plan for Version 3 of the CIP Standards CIP-002-3 through CIP-009-3; and (iii) an updated timetable for plans to address the remaining directives from Order 706. No comments on the compliance filing were submitted by the January 19 comment date, and the filing is pending before the FERC.

- **Formal Interpretation – Reliability Standard VAR-002-1a (RD09-5)**

On March 5, NERC requested FERC approval of its formal interpretation of Reliability Standard VAR-002-1a (Generator Operation for Maintaining Network Voltage Schedules), in response to a request to "identify which requirements apply to generators that do not operate generators equipped with automatic voltage regulators." The formal interpretation provides that "the requirements and associated sub requirements in VAR-002-1a apply to Generator Owners and Generator Operators that own or operate generators whether equipped with an automatic voltage regulator or not." Motions to intervene were filed by Exelon (which also urged the FERC in comments to accept the interpretation as filed), ISO-NE, ITC Holdings, and Modesto Irrigation District. This matter is pending before the FERC.

- **Revised Reliability Standards – EOP-001-1, EOP-005-2 and EOP006-2 (RM10-16)**

On December 31, 2009, NERC requested approval of reliability standards EOP-001-1 (Emergency Operations Planning), EOP-005-2 (System Restoration from Blackstart Resources), and EOP-006-2 (System Restoration Coordination). NERC also seeks FERC approval of the proposed definition of "Blackstart Resource." According to NERC, the proposed revisions significantly improve the currently enforceable standards, and will upgrade the overall quality of the standards by eliminating gaps and ambiguity in the requirements, eliminating "fill-in-the-blank" standards, and addressing certain FERC Order No. 693 directives. The proposed revisions move requirements from five existing reliability standards into the three new standards, so NERC additionally proposes that the following five reliability

⁵⁷ North American Electric Reliability Corp., 128 FERC ¶ 61,291 (2009), *reh'g denied and clarification granted*, FERC ¶ 61,236 (2009).

⁵⁸ That sentence read "Testing the Cyber Security Incident response plan does not require removing a component or system from service during the test." FERC found that such a plan *could* include removing a system or component from service during testing and had not directed NERC to make that modification in Order 706.

⁵⁹ Id. at P 41.

⁶⁰ North American Electric Reliability Corporation, 129 FERC ¶ 61,236 (2009).

standards be retired in their entirety: EOP-001-0 (Emergency Operations Planning), EOP-005-1 (System Restoration Plans), EOP-006-1 (Reliability Coordination – System Restoration), EOP-007-0 (Establish, Maintain, and Document a Regional Blackstart Capability Plan, and EOP-009-0 (Documentation of Blackstart Generating Unit Test Results). This matter is currently pending before the FERC.

- **Revised Reliability Standards - PER-004-2 and PER-005-1 (RM09-25)**

As previously reported, NERC requested, on September 30, 2009, approval of reliability standards PER-004-2 (Reliability Coordination - Staffing) and PER-005-1 (System Personnel Training), and the simultaneous retirements of standards PER-002-0 (Operating Personnel - Training) and PER-004-1. According to NERC, the proposed revisions significantly improve the currently existing Reliability Standards by strengthening the quality of operator training programs. This matter is currently pending before the FERC.

- **Revised Reliability Standard - BAL-004-1 (RM09-13)**

On March 11, 2009, NERC filed revisions to reliability standard BAL-004-1 (Time Error Correction). The principal purpose of the proposed revisions is to preserve the status quo with respect to Interconnection Time Monitors (MISO, in the case of the Eastern Interconnection) while NERC, through its standards development process, considers changes to Time Error Correction management.⁶¹ This matter is currently pending before the FERC.

- **Order 729 - Revised MOD Reliability Standards (RM09-5; RM08-19; RM06-16)**

On November 24, 2009, the FERC issued Order 719⁶² approving and directly modifying six Modeling, Data and Analysis (“MOD”) Reliability Standards, which the FERC indicated would address the potential for undue discrimination by requiring industry-wide transparency and increased consistency regarding all components of the available transfer capability (“ATC”) calculation methodology and certain definitions, data, and modeling assumptions. Specifically, in Order 729 and the NOPR⁶³ which preceded the Order, the FERC noted that the approved reliability standards will: (i) help to eliminate the broad discretion previously afforded transmission service providers in the calculation of ATC; (ii) enhance transparency in the calculation of ATC, requiring transmission operators and transmission service providers to calculate ATC using a specific methodology that is both explicitly documented and available to reliability entities who request it; (iii) require documentation of the detailed representations of the various components that comprise the ATC equation, including the specification of modeling and risk assumptions and the disclosure of outage processing rules to other reliability entities; and (iv) make ATC calculation more transparent, in turn allowing the FERC and others to ensure consistency in its application. In Order 729, the FERC also responded to the comments by nearly thirty parties submitted in response to the NOPR.⁶⁴ Rehearing and/or clarification of aspects of Order 729 was requested by NERC, EEI, Duke, APPA/TAPS, and ISO-NE (whose request focused on clarification of the implementation date of the Standards approved by Order 729). The FERC issued a tolling order on January 20, 2010, affording it additional time to consider the requests for rehearing/clarification, which remain pending.

⁶¹ Time error is created when an Interconnection operates on the aggregate at a frequency different than the intended 60 Hertz or cycles. While time error itself is not a reliability issue, correcting for time error can affect reliability, and therefore the methods used for Time Error Correction must be carried out by the Balancing Authorities and the Reliability Coordinators in accordance with NERC Reliability Standards.

⁶² Mandatory Reliability Standards for the Calculation of ATC, Capacity Benefit Margins, Transmission Reliability Margins, Total Transfer Capability, and Existing Transmission Commitments and Mandatory Reliability Standards for the Bulk-Power System, 129 FERC ¶ 61,155 (2009) (“Order 729”).

⁶³ Mandatory Reliability Standards for the Calculation of ATC, Capacity Benefit Margins, Transmission Reliability Margins, Total Transfer Capability, and Existing Transmission Commitments and Mandatory Reliability Standards for the Bulk-Power System, 126 FERC ¶ 61,249 (2009).

⁶⁴ The MOD NOPR was published in the Federal Register on Mar. 25, 2009 (Vol. 74, No. 56) pp. 12,747-12,769.

- **Reliability Standard on Transmission Relay Loadability (RM08-13)**

On May 21, 2009 the FERC issued a NOPR proposing to approve, and direct modifications to, a new reliability standard on Transmission Relay Loadability (PRC-023-1) developed by NERC.⁶⁵ NERC indicated that the purpose of the standard is to set protective relays so as not to limit transmission loadability or interfere with system operators' ability to protect system reliability, while at the same time reliably detecting and protecting the electrical network from all fault conditions. The reliability standard requires Transmission Owners, Generator Owners and Distribution Providers with load-responsive phase protection systems to set protective relays to prescribed limits for the purpose of protecting systems and ensuring settings do not contribute to cascading outages, and to establish agreements with Planning Coordinators with respect to which transmission lines operated from 100 kV to 200 kV are subject to this new standard. Specifically, the protective relays should detect all fault conditions, not limit transmission loadability, thus allowing system operators the flexibility and time to help maintain system reliability. NERC indicates that development of the Standard addresses key August 14, 2003 blackout recommendations regarding relay loadability issues.

In proposing to approve this Reliability Standard, the FERC emphasized that (1) protective relay setting determined and applied in accordance with its requirements must be included in determining system performance, System Operating Limits and Interconnection Reliability Operating Limits, and must be coordinated with other protective relay settings as required by the applicable IRO, TOP, and TPL Reliability Standards and (2) the proposed Reliability Standard's requirements govern all relays subject to the proposed Reliability Standard applied to protect, in any capacity, the applicable facilities defined in the proposed Reliability Standard. The FERC also directed the ERO to revise the violation risk factors and violation severity levels assignments of the Reliability Standard before the Reliability Standard's effective date. On July 9, 2009, the American Public Power Association ("APPA"), EEI, the Electric Power Supply Association ("EPSA"), and the National Rural Electric Cooperative Association ("NRECA") filed a motion for extension of time to file comments due to the many new technical and policy issues raised by the NOPR. On July 13, 2009, that request was granted, with the comment date extended to August 17, 2009. Comments were filed by over 50 parties. This matter is currently pending before the FERC.

- **Order 722 – Revised Reliability Standards for Facilities Design, Connections and Maintenance (FAC-010-002, FAC-011-002, and FAC-014-002) (RM08-11)**

On March 20, 2009, FERC issued a final rule⁶⁶ approving three revised Reliability Standards and accompanying VRFs: FAC-010-002 (System Operating Limits Methodology for the Planning Horizon), FAC-011-002 (System Operating Limits Methodology for the Operations Horizon), and FAC-014-002 (Establish and Communicate System Operating Limits). These new reliability standards became effective on April 29, 2009.⁶⁷ However, on April 20, 2009, NERC filed a request for clarification or, in the alternative, rehearing of Order 722, to address which VSLs should be used for FAC-010-2, FAC-011-2, and FAC-014-2. On May 20, 2009, FERC issued a tolling order affording it additional time to consider NERC's request for clarification or rehearing. NERC's rehearing request remains pending before the FERC. In response to the requirements of Order 722, NERC filed new VSLs for the three FAC Standards on May 29. Comments on the May 29 compliance filing were due July 6, and were filed only by the Transmission Agency of Northern California.

⁶⁵ Transmission Relay Loadability Reliability Standard, 127 FERC ¶ 61,175 (2009).

⁶⁶ Version Two Facilities Design, Connections and Maintenance Reliability Standards, 126 FERC ¶ 61,255 (2009) ("Order 722").

⁶⁷ Order 722 was published in the Federal Register on Mar. 30, 2009 (Vol. 74, No. 59) pp. 14,008-14,040.

- **Proposed Clarification to CIP Standards (RM06-22)**

As previously reported, the FERC has accepted the VRFs filed to accompany the revised Reliability Standards (CIP-002-1 through CIP-009-1) submitted (in sub-docket -008) in response to the requirements of Order 706-B,⁶⁸ and the VSL assignments for those CIPs (sub-docket -009).

Implementation Plan. In response to the requirements of Order 706-B, NERC submitted on September 15 a plan for the implementation of CIP-002-1 through CIP-009-1 for owners and operators of U.S. nuclear power plants. On December 17, 2009, the FERC issued an order⁶⁹ determining that additional information is needed to evaluate NERC's implementation plan, and directing NERC to make a further compliance filing providing additional information regarding the scope of systems determination. On January 19, 2010, NERC submitted a compliance filing to provide FERC with the additional information requested in the December 17 order. Comments on the January 19 compliance filing are due on or before February 9, 2010.

- **Reliability Standards – TIER Report (RM06-16)**

On September 22, 2009, FERC Staff held a public meeting for the presentation of the results of some initial research intended to help in the identification and ranking of the elements of the Bulk-Power System, and ultimately, in the refining the scope of what constitutes the Bulk-Power System subject to section 215 of the FPA. The University of Wisconsin-Madison, in conjunction with Office of Electric Reliability staff, developed and tested a mathematically-based model intended to reflect the physics of the Bulk-Power System – a “Topological and Impedance Element Ranking (“TIER”) of the Bulk-Power System. The TIER report⁷⁰ introduces a method for ranking branch elements in the electric grid (typically lines and transformers), with the purpose of (i) developing a process to distinguish those facilities that should not be considered part of the Bulk-Power System from those facilities that should be considered part of the Bulk-Power System, (ii) identifying the elements needed to operate each of the electric interconnections, and (iii) ranking the importance of those elements. FERC extended the comment date on the Report through October 28, 2009 in response to a request from NERC, and over 25 parties submitted comments by that date.

- **Amendments to NERC Rules of Procedure to Eliminate Reliability Readiness Program (RR10-3)**

On January 14, 2010, the FERC accepted NERC's November 12 amendments to its Rules of Procedure to reflect the elimination of the NERC Reliability Readiness Evaluation and Improvement Program (“Reliability Readiness Program”). Unless the January 14 letter order is challenged, this proceeding will be concluded.

- **Extension of RE Delegation Agreements to May 2011 (RR10-2)**

On January 14, 2010, the FERC accepted amendments to the Delegation Agreements with each of the Regional Entities (“REs”) that extend the initial term of the Delegation Agreements by one year, to May 2, 2011. Unless the January 14 letter order is challenged, this proceeding will be concluded.

- **2010 NERC/NPCC Business Plans and Budgets (RR09-9)**

As previously reported, the FERC conditionally accepted the 2010 Business Plans and Budgets for NERC and the Regional Entities on October 15, 2009.⁷¹ The 2010 plan calls for NERC to allocate to NPCC \$4,788,703. NPCC requested \$11,354,085 in statutory funding and \$1,099,307 for non-statutory

⁶⁸ Mandatory Reliability Standards for Critical Infrastructure Protection, Order No. 706-B, 126 FERC ¶ 61,229 (2009), *clarification denied*, 127 FERC ¶ 61,273 (2009).

⁶⁹ Mandatory Reliability Standards for Critical Infrastructure Protection, 129 FERC ¶ 61,224 (2009).

⁷⁰ The TIER Report is available on-line at http://elibrary.ferc.gov/idmws/File_list.asp?document_id=13753678.

⁷¹ North American Electric Reliability Corp., 129 FERC ¶ 61,040 (2009) (“October 15 Order”).

functions. In accepting the 2010 budgets, the FERC directed NERC and NPCC to submit in a compliance filing including additional information on the 2010 net energy for load calculations and allocation to load serving entities for the Compliance Program Assessments. In response to the requirements of the October 15 order, NERC has submitted three filings: (1) a November 20 Informational Filing providing information on NERC's "Situational Awareness for NERC, FERC and Regions" ("SAFNR"); and (2) a December 17 filing (i) explaining NERC's rationale for removing working capital reserves from its 2010 budget, (ii) clarifying information related to NERC's compliance monitoring and enforcement program, (iii) providing additional information related to NERC's Compliance Reporting, Analysis, and Tracking System, (iv) discussing the adequacy of the CIP audit levels planned by Texas RE and SERC, (v) providing additional information regarding RE activities and funding, including the application of net energy for load in allocating Compliance Program costs within the U.S. portion of the NPCC region, (vi) addressing the determination of critical assets, and (vii) providing a status report regarding the development of uniform procedures for processing technical feasibility exceptions ("TFE"); and (3) a January 11 filing evaluation of the adequacy of ERO and Regional Entity resources for implementing the processing of TFE within 90 days after the implementation of the activity by the Regional Entities. No comments were filed on the November 20 filing or on the December 17 compliance filing. Comments on the January 11 compliance filing are due on or before February 10, 2010.

- **3-Year ERO Performance Assessment Report (RR09-7)**

On July 20, 2009, NERC submitted an assessment of its performance over the three years since it was certified as the ERO (the "Report"), as required under Part 39 of the FERC's regulations.⁷² In the 681-page Report, NERC asserts that it is meeting its statutory requirements, and that it is successfully carrying out its statutory and regulatory responsibilities as the ERO to develop and enforce mandatory reliability standards and to promote and maintain the reliable operation of the North American bulk power system. The Report provides NERC's evaluation of the effectiveness of the Regional Entities, and discusses comments and recommendations received from interested entities concerning the performance of NERC and the Regional Entities. The report also identifies actions that NERC and the Regional Entities plan to take to improve NERC's and the Regional Entities' operations and to continue to enhance the reliable operation of the bulk power system. Comments on the Report were filed by APPA, EEI, EPSA, Exelon, and NRECA. On September 18, NERC filed an answer to the comments filed. In its answer, NERC urged the FERC to find that NERC continues to meet the statutory and regulatory criteria for certification as the ERO. NERC also committed to submit to the FERC 3 comprehensive status reports (to be filed 6, 12, and 24 months following the date of an order concluding this proceeding) on progress that it is making in implementing the specific actions identified in the Report. The Report remains pending before the FERC.

On October 26, 2009, the FERC issued guidance in response to extensive stakeholder concern, noted by NERC in the Report, that NERC has not filed Notices of Penalty concerning numerous self-reported, confirmed or alleged violations of mandatory Reliability Standards that date from 2007 and 2008. In its guidance responding to this Notice of Penalty backlog, the FERC announced that it will accept, in certain circumstances, an abbreviated format that NERC may use to file Notices of Penalty relating to particular classes of alleged and confirmed violations NERC and Regional Entities have determined did not pose a significant risk to the reliability of the Bulk-Power System. The FERC directed NERC to work with the Regional Entities, stakeholders and FERC staff to develop such a proposal.

⁷² 18 CFR § 39.3(c) (2009).

XI. Misc. - of Regional Interest

- **PSNH Application to Terminate Mandatory Purchase Obligation from QFs > 5MW (QM10-4)**

On January 7, 2010, Northeast Utilities Service Co. submitted an application on behalf of its affiliate, Public Service Company of New Hampshire (“PSNH”), requesting FERC terminate, on a service territory-wide basis, the mandatory power purchase obligations required by the FERC for QFs with a net generating capacity of 5 MW or greater. For QFs with a net generating capacity greater than 20 MW (“Large QFs”), PSNH relies on the rebuttable presumption that Large QFs in Day 2 markets have nondiscriminatory access to those markets. For QFs with a net generating capacity between 5 MW and 20 MW (“Small QFs”), PSNH intends to overcome the rebuttable presumption that Small QFs do not have nondiscriminatory access to markets. Comments on this filing are due on or before February 12, 2010.

- **CMP/Patriot Renewables Engineering and Procurement Agreement (ER10-499)**

On January 21, 2010, the FERC accepted, effective November 24, 2009, CMP’s Engineering and Procurement Agreement with Patriot Renewables, LLC (designated as service agreement CMP-EP-1-S under Schedule 23 of the ISO Tariff), which CMP filed on December 24 in connection with the 18 MW wind farm in Oxford County, Maine that Patriot is planning to construct.

- **CMP/Highland Wind Engineering and Procurement Agreement (ER10-498)**

Also on January 21, the FERC accepted, effective December 2, 2009, CMP’s Engineering and Procurement Agreement with Highland Wind LLC (designated as service agreement CMP-EP-4 under Schedule 22 of the ISO Tariff), which CMP filed on December 24 in connection with the wind farm in Somerset County, Maine that Highland is planning to construct.

- **Integrys Complaint - NBP Generation Market Power in NMISA (EL09-32)**

On June 10, the FERC dismissed the Integrys Complaint in part (to the extent the Complaint challenged New Brunswick Power’s authority to make retail sales in northern Maine, which the FERC found was beyond its jurisdiction) and granted the Complaint in part (requiring New Brunswick Power to submit a horizontal market power study of an additional geographic market).⁷³ As previously reported, the Integrys Complaint asserted that New Brunswick Power Generation Corporation (“NBP Generation”) should be deemed to have generation market power in the Northern Maine Independent System Administrator, Inc. balancing authority area (“NMISA”) and not authorized to engage in market-based sales in the NMISA unless and until it submits information to the FERC establishing that it does not have market power in the NMISA and is explicitly authorized by the FERC to do so. In the order, the FERC directed New Brunswick Power to file a horizontal market power analysis, including the pivotal supplier and wholesale market share screens, for the New Brunswick System Operator balancing authority area, on or before August 10, 2009. On July 10, 2009, the NBP Generation requested rehearing and clarification of the FERC’s June 10 Order, urging the FERC to find on rehearing (i) that any wholesale sales into the NMISA region should be treated as non-jurisdictional sales, and (ii) that NBP Generation disclosed sufficient facts in its initial market-based rate application to indicate that it is located in the NBSO balancing authority area. On August 10, 2009, the FERC issued a tolling order affording it additional time to consider NBP Generation’s request, which remains pending before the FERC.

Also on August 10, 2009, NBP submitted a filing containing a horizontal market power study in compliance with the FERC’s June 10 order. NBP requested that the FERC accept its compliance filing and immediately terminate proceedings under this Docket. On September 9, Integrys filed a protest to the compliance filing and on September 24 NBP filed an answer to the Integrys protest. On October 16,

⁷³ Integrys Energy Services, Inc. v. New Brunswick Power Generation Corporation et al., 127 FERC ¶ 61,232 (2009), *reh’g requested*.

2009, the FERC requested NBP submit additional information within 30 days regarding the horizontal market power study, which NBP submitted on November 9, 2009. On November 30, Integrys filed a protest regarding the additional information submitted on November 9, 2009. On January 15, 2010, the FERC requested NBP submit additional information and analyses regarding the horizontal market power study which NBP did not include in its November 9 response. NBP must submit the requested information to the FERC on or before February 16, 2010. The compliance filing, including the protest and answer thereto, remains pending before the FERC. If there are questions on this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **NYISO Report on Regional Markets; Long-Term Solutions to Lake Erie Loop Flow (ER08-1281)**

On January 12, 2010, NYISO submitted its *Report on Broader Regional Markets; Long-Term Solutions to Lake Erie Loop Flow* ("Report") in accordance with various FERC directives in this proceeding.⁷⁴ Relevant to New England, and as mentioned in the January 8 CEO Report, the Report notes NYISO plans to coordinate with ISO-NE on the following two initiatives to implement aspects of the proposed Broader Regional Market solutions: (1) Interregional Transaction (Scheduling) Coordination and (2) Market-to-Market (Congestion Management) Coordination. The first initiative would create a joint transaction scheduling system in the two markets that accepts transactions and clears them simultaneously based upon the expected prices in the regions, thereby creating a set of transactions and net tie schedule for each hour in a single pass. The second initiative would develop a protocol to: (a) pre-identify constraints that multiple control areas can address through re-dispatch actions; (b) develop an agreed to baseline of allowable usage of each control area's transmission network; and (c) establish data sharing protocols to communicate real-time constraint management costs. The Report notes that, based on current priorities, the project is planned for a sequential, two-phased implementation starting in the fourth quarter of 2010. Phase I will be focused on Interregional Transaction Coordination; Phase II, on Market-to-Market (Congestion Management) Coordination. If you have any questions concerning these matters, please contact Dave Doot (860-275-0102; dt_doot@daypitney.com).

XII. Misc. - Administrative & Rulemaking Proceedings

- **National Action Plan on Demand Response (AD09-10)**

As previously reported, the FERC held a technical conference on November 19-20, 2009 to support the development of the National Action Plan on Demand Response. The purpose of the technical conference was to elicit further input from interested stakeholders on the possible elements of the National Action Plan. Panel sessions in the afternoon of November 19 discussed the overall approach to and scope of the National Action Plan, followed by three breakout sessions in the morning of November 20 focused on the three statutory objectives set forth in the National Energy Conservation Policy Act.⁷⁵ A closing plenary session summarized the break-out discussions and attempted to identify possible areas of consensus. A Discussion Draft on Possible Elements of a National Action Plan on Demand Response was released on October 28 for comment prior to the technical conferences. Over 40 parties filed comments in response to the technical conference.

⁷⁴ See New York Independent System Operator, Inc., 128 FERC ¶ 61,049 (2009); New York Independent System Operator, Inc., 128 FERC ¶ 61,239 (2009).

⁷⁵ The statutory objectives identified for the National Action Plan are: (1) identification of requirements for technical assistance to States to allow them to maximize the amount of demand response resources that can be developed and deployed; (2) design and identification of requirements for implementation of a national communications program that includes broad-based customer education and support; (3) development or identification of analytical tools, information, model regulatory provisions, model contracts, and other support materials for use by customers, States, utilities and demand response providers. Pub. L. No. 110-140, § 529, 121 Stat. 1492, 1664 (to be codified at National Energy Conservation Policy Act, 42 USC §§ 8241-8287d, 8279).

- **RTO/ISO Performance Metrics (AD10-5)**

On February 3, FERC Staff issued a notice requesting comments on whether proposed RTO/ISO performance metrics will effectively track the performance of RTO/ISO operations and markets. The request is part of a FERC initiative that began with a September 2008 Government Accountability Office (GAO) recommendation that the FERC work with RTOs/ISOs, stakeholders, and other experts to develop standardized measures that track the performance of RTO/ISO operations and markets and report the performance results to Congress and the public annually, while also providing interpretation of (1) what the measures and reported performance communicate about the benefits of RTOs and, where appropriate, (2) changes that need to be made to address any performance concerns.⁷⁶ This proposed metrics were included in materials circulated with the supplemental notice of the February 5 meeting and will be discussed by Bob Ludlow at that meeting. Comments on the metrics must be filed on or before March 5, 2010. Reply comments must be filed on or before March 19, 2010.

- **Technical Conference on MBR Filings and EQR Reports (AD10-4)**

On January 28, the FERC issued a notice that it will hold a technical conference on March 3, 2010 that will focus on the mechanics of market-based rate application and subsequent filings, including triennial market power reviews, change in status filings, and the submission of Electric Quarterly Reports. FERC staff will address the most frequently-asked questions that arise on, the most common errors that are made with, and highlight what tools are currently available to sellers in order to simplify, such filings. All interested persons are invited to attend. The agenda for the technical conference will be provided in a subsequent notice in advance of the March 3 conference.

- **Small Hydropower Development Technical Conference (AD09-9)**

On December 2, 2009, the FERC held a technical conference to explore issues related to licensing small non-federal hydropower projects in the United States. Specifically, the technical conference addressed the FERC's program for granting licenses and exemptions from licensing, including 5 MW and conduit exemptions, as well as the processing of applications for small hydropower projects. Parties were invited to submit written comments about small hydropower issues to the FERC. Those comments are now due to be filed on or before Feb 4, 2010. To date, 18 parties have filed comments.

- **Conference on Transmission Planning Processes Under Order 890 (AD09-8)**

As previously reported, the FERC held a regional technical conference in Philadelphia on September 21, 2009 as part of FERC staff's assessment of the nation's Order 890 transmission planning processes. Written comments were submitted by over 100 parties, including comments by NEPOOL. NEPOOL's comments were summarized and considered at the November 19 Participants Committee meeting. Additional comments and reply comments were filed by nearly 50 parties.

- **NOI Regarding Annual Charges Assessments for Public Utilities (AD08-7)**

On April 21, 2008, the FERC issued a notice of inquiry ("NOI") seeking comments on its current methodology for the assessment of electric annual charges to public utilities, in particular, whether that methodology remains fair and equitable, and on alternative methodologies. Comments on the NOI were due May 28.⁷⁷ 23 parties, including Dynegy, FPL, NEPGA, Exelon, EPIC, the ISO/RTO Council, and NGrid, submitted comments, with a wide range of opinion as to the FERC's current assessment methodology and the need to revisit or change that methodology. The NOI and related comments remain pending before the FERC.

⁷⁶ See "Electricity Restructuring: FERC Could Take Additional Steps to Analyze Regional Transmission Organizations' Benefits and Performance," GAO-08-987 (Sep. 2008).

⁷⁷ The NOI was published in the Federal Register on Apr. 28, 2008 (Vol. 73, No. 82) pp. 22867-22871.

- **Credit Reform NOPR (RM10-13)**

On January 21, 2010, the FERC issued a notice of proposed rulemaking (“NOPR”) seeking comments on a series of proposed credit reforms designed to balance the need for market liquidity with appropriate risk management while ensuring just and reasonable rates for electric customers. FERC’s proposals include the following: (1) shorten the settlement cycle to no more than seven calendar days with no more than an additional seven calendar days for final payment; (2) limit unsecured credit to no more than \$50 million per market participant in energy markets and eliminate unsecured credit in Financial Transmission Rights (“FTR”) markets; (3) clarify the ability of market administrators to offset amounts owed to market participants against amounts owed by market participants and to manage defaults; (4) establish minimum participation criteria for market participants; (5) specify circumstances in which a market administrator may invoke “material adverse change” to require a market participant to post additional collateral; and (6) limit time period allowed for posting additional collateral when additional collateral is requested. These proposals are designed to reduce both the risk of default and the cost of default shared among market participants. A detailed summary of the Credit Reform NOPR was circulated to the Committee on January 29 with the materials for the February 5 meeting. As indicated in that memo, the Budget and Finance Subcommittee will consider the Credit Reform NOPR and make any appropriate recommendations to the Participants Committee regarding a response thereto. Comments on the Credit Reform NOPR are due March 29, 2010.⁷⁸

- **Market Transparency / EQR NOI (RM10-12)**

Also on January 21, 2010, the FERC issued a NOI seeking comments on whether the FERC’s Electric Quarterly Report (“EQR”) filing requirements should be extended to apply to market participants that are excluded from FERC jurisdiction under Section 205 of the FPA. Those participants include publicly owned utilities, municipal utilities, public utility districts, rural cooperatives, and federal entities. FERC noted that the contemplated extension of filing requirements would increase consumer protection in transparent wholesale electric markets by broadening FERC’s oversight of transactions in those markets. FERC has already evaluated transparency issues in other proceedings, but because those proceedings did not specifically address price transparency in electric markets, FERC is now evaluating whether the quarterly report requirements should be expanded. The FERC also seeks comments on whether it should consider other refinements to existing EQR filing requirements. A detailed summary of the EQR NOI was circulated to the Committee on January 29 with the materials for the February 5 meeting. As indicated in that memo, we will discuss the EQR NOI with the Markets Committee to determine whether members would like NEPOOL to provide comments and, based on that discussion and further discussion with the NEPOOL officers, we will advise members of any plans to comment. Comments on the NOI are due March 30, 2010.⁷⁹

- **Variable Energy Resources NOI (RM10-11)**

Also on January 21, 2010, the FERC issued a NOI seeking comments on whether to reform any of its rules or procedures to integrate the rapidly increasing number of variable energy resources into the nation’s power grid in the most efficient and non-discriminatory manner while maintaining power system reliability. The FERC directed that comments focus on the broad issues concerning the integration of variable generation resources and address any effects of variable energy resources on the following seven subject areas: (1) data and reporting requirements, including accurate forecasting tools; (2) scheduling flexibility and incentives for accurate scheduling of variable energy resources; (3) forward market structure and reliability commitments; (4) balancing authority area size and coordination; (5) suitability of reserve products; (6) capacity market reforms; and (7) redispatch and curtailment practices. A detailed summary of the EQR NOI was circulated to the Committee on January 29 with the materials for the February 5 meeting. As indicated in that memo, a single purpose ad hoc committee will be convened for

⁷⁸ The NOI was published in the Federal Register on Jan. 27, 2010 (Vol. 75, No. 17) pp. 4310-4316.

⁷⁹ The NOI was published in the Federal Register on Jan. 29, 2010 (Vol. 75, No. 19) pp. 4805-4809.

the purpose of determining whether members would like NEPOOL to comment and, if so, what those comments should be. Comments on the NOI are due March 29, 2010.⁸⁰

- **NOPR – Exempting Non-Controlling Investments in Utilities from MBR Requirements (RM09-16)**

On January 21, 2010, the FERC issued a NOPR proposing to amend its regulations pursuant to section 203 and 205 of the FPA to ensure that certain acquisitions of public utilities by holding companies that do not influence the control of the utility do not trigger certain market-based rate requirements or cross-subsidization restrictions.⁸¹ The NOPR would grant blanket authorization for a holding company to acquire 10 percent or more, but less than 20 percent, of a public utility, provided that the holding company files an Affirmation in Support of Exemption from Affiliation Requirements (the “Affirmation”), a new FERC form. The Affirmation would be designed to ensure a holding company purchaser will not change or influence the control of the public utility. This proposed process is designed to allow FERC to monitor and sanction entities that violate any statement made in the Affirmation. Comments on the NOPR are due March 29, 2010.⁸²

- **NOPR - Measurement Standards for Demand Response Services (RM05-5)**

On September 17, 2009, the FERC issued a NOPR to incorporate by reference in its regulations NAESB WEQ standards to categorize various demand response products and services and to support the measurement and verification of these products and services in wholesale electric energy markets (NAESB Phase I M&V Standards).⁸³ The NOPR explains that the NAESB Phase I M&V Standards are intended to enhance the transparency and consistency of the methods used to measure and verify demand response products in wholesale electricity markets administered by RTOs/ISOs. They include 40 definitions and 31 business practice standards to identify: (i) basic product categories, (i.e., energy service, capacity service, reserve service and regulation service); and (ii) measurement and verification characteristics of demand response products and services offered in ISO/RTO markets (e.g. reduction deadlines, advance notification instructions, telemetry accuracy, and communication protocols). Comments on the NOPR were filed by 21 parties, including ISO-NE, prior to the October 22, 2009 comment date.⁸⁴

- **Order 676-E – WEQ Version 002.1 Business Practices (RM05-5)**

On November 24, 2009, the FERC issued Order 676-E⁸⁵ to revise its regulations to incorporate by reference in its regulations at 18 CFR 38.2 the latest version (Version 002.1) of certain business practice standards adopted by the Wholesale Electric Quadrant of the North American Energy Standards Board (NAESB). NAESB’s Version 002.1 Standards include standards adopted by NAESB in response to Order Nos. 890, 890-A, and 890-B. The Version 002.1 Standards incorporated by reference in Order 676-E modify NAESB’s Commercial Timing Table (WEQ-004 Appendix D) and Transmission Loading Relief

⁸⁰ The NOI was published in the Federal Register on Jan. 27, 2010 (Vol. 75, No. 17) pp. 4316-4323.

⁸¹ Control and Affiliation for Purposes of Market-Based Rate Requirements under Section 205 of the Federal Power Act and the Requirements of Section 203 of the Federal Power Act, 130 FERC ¶ 61,046 (2010).

⁸² The NOPR was published in the Federal Register on Jan. 28, 2010 (Vol. 75, No. 18) pp. 4498-4509.

⁸³ Standards for Business Practices and Communication Protocols for Public Utilities, 128 FERC ¶ 61,263 (2009). When NAESB adopts a business practice standard as a “Final Action”, the standard is considered complete from NAESB’s perspective, but, compliance with such a standard is not mandatory until such time as the FERC takes formal action to incorporate such a standard by reference into its regulations. NAESB’s Phase I M&V Standards were adopted in the WEQ’s 2009 Annual Plan 5(a) Final Action.

⁸⁴ The NOPR was published in the Federal Register on Sep. 22, 2009 (Vol. 74, No. 182) pp. 48,173-48,177.

⁸⁵ Standards for Business Practices and Communication Protocols for Public Utilities, Order No. 676-E, 129 FERC ¶ 61,162 (2009).

Standards (WEQ-008) to provide clarity and align NAESB's business practice standards with the reliability standards adopted by the NERC, and amend certain ancillary services definitions appearing in the OASIS Standards (WEQ-001) relating to the inclusion of demand response resources as potential providers of ancillary services. On December 22, 2009, Southern Company requested clarification and/or rehearing of Order 676-E, noting a perceived ambiguity between the study process for Conditional Firm Service contained in its OATT and in the business practice standards incorporated by reference into the FERC's regulations by way of Order 676-E. On January 20, 2010, FERC issued a tolling order affording it additional time to consider the December 22 Southern Company request, which remains pending before FERC.

- **E-Tariff Filing Procedures (RM01-5)**

On January 21, 2009, the FERC issued an order establishing certain procedures related to the electronic filing of Tariffs that becomes mandatory on April 1, 2010 pursuant to Order No. 714.⁸⁶ The order identifies the ways in which electronic tariff filings will affect aspects of FERC procedures, particularly the determination of statutory filings, statutory action dates, and changes in docketing procedures.

XIII. State Proceedings & Federal Legislative Proceedings

- **Congressional Developments - CFTC/FERC Jurisdiction Issues**

As previously reported, the Participants Committee unanimously adopted and supported a *Statement of New England Power Pool in Support of FERC Jurisdiction* at its December 22 special teleconference meeting. In response to the US House of Representatives Committee on Agriculture request for information concerning FTRs, the ISO submitted its response on December 14, 2009. A copy of the ISO's response is posted at <http://www.iso-ne.com/pubs/pubcomm/corr/2009/index.html>.

On January 21, a broad coalition of electric and gas industry associations,⁸⁷ asserting they represent all the major segments of the electric power and natural gas industries serving every consumer in the United States, issued a letter addressed to US Senators outlining their recommendations to address oversight and transparency of over-the-counter ("OTC") derivatives markets. The associations recommended that OTC derivatives reform should:

- provide a clear exemption for commodity market end-users of OTC derivatives products;
- promote, but not mandate, clearing of standardized derivatives between large financial dealers;
- promote greater regulatory oversight and transparency of OTC derivatives through increased financial reporting and authority to the CFTC;
- promote the harmonization and clear delineation of regulatory authorities and functions among the SEC, CFTC, FERC and other Federal agencies, emphasizing that all electricity products and services provided under a FERC-approved tariff and subject to regulatory oversight by the FERC should be exempt from duplicative regulation by the CFTC; and
- amend the proposed definition of a swap to ensure that physical transactions with enforceable delivery obligations are excluded from the definition of swap.

⁸⁶ Standards for Business Practices and Communication Protocols for Public Utilities, Order No. 676-E, 129 FERC ¶ 61,162 (2009).

⁸⁷ The Associations were: America's Natural Gas Alliance, American Exploration and Production Council, American Gas Association ("AGA"), American Public Power Association ("APPA"), American Public Gas Association, American Wind Energy Association ("AWEA"), Edison Electric Institute ("EEI"), Electric Power Supply Association ("EPSA"), Independent Petroleum Association of America, Interstate Natural Gas Association of America, Large Public Power Council, Natural Gas Supply Association, National Rural Electric Cooperative Association, and US Oil & Gas Association..

If you would like a copy of the letter, please let us know. [America's Natural Gas Alliance, American Exploration and Production Council, American Gas Association, American Public Power Association, American Public Gas Association, American Wind Energy Association, Edison Electric Institute, Electric Power Supply Association, Independent Petroleum Association of America, Interstate Natural Gas Association of America, Large Public Power Council, Natural Gas Supply Association, National Rural Electric Cooperative Association, and US Oil & Gas Association.]

If there are questions on this matter, please contact Flossie Davis (860-275-0360; fkdavis@daypitney.com) or Dave Doot (860-275-0102; dtdoot@daypitney.com).

- **MPUC Inquiry Into Continued Reform of ISO-NE (MPUC 2009-269)**

As previously reported, the MPUC has initiated an inquiry to pursue, with the input and assistance of the Maine stakeholders, the ISO-NE reforms identified in its January 16, 2009 (Phase I) and June 30, 2009 (Phase II) Orders in its Investigation of Maine Utilities Continued Participation in ISO-NE proceeding, MPUC Docket No. 2008-156. In that proceeding, the MPUC's Phase II Order concluded that the Maine TOs should not then withdraw from ISO-NE. Rather, the Maine TOs were directed (i) to allow the August 1, 2009 withdrawal deadline to pass, which would automatically renew the TOA for at least two years effective February 1, 2010, and (ii) to negotiate further ISO-NE reforms. An initial collaborative session was held September 15, 2009 and discussions concerning how future reform efforts should be pursued are on-going. If there are questions on this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

- **MPUC Review of CMP Petition for MPRP CPCN (MPUC 2008-255)**

CMP's petition for a CPCN to build the Maine Power Reliability Project ("MPRP"), consisting of transmission lines and related infrastructure, at an estimated costs of \$1.35 billion, most of which will be designated as PTF, is under review by the MPUC in this proceeding. Interventions were due on or by July 25, 2008 and were filed by over 70 parties, including a number of Participants and the ISO which was permitted to intervene on a discretionary basis (the ISO has indicated that its role in the proceeding will be to support the need for the project from a reliability perspective). A series of technical and settlement conferences have been held at the MPUC. Discovery and the submission of testimony and cross-examination is on-going. If there are questions on this matter, please contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

XIV. Federal Court Appeals (from various FERC Dockets)

The following are petitions for review of FERC decisions in NEPOOL-related proceedings that are currently pending before the United States Court of Appeals for the District of Columbia Circuit (unless otherwise noted). An “*” in the Case No. column indicates that NEPOOL has intervened or is a litigant in the appeal. The remaining matters are appeals as to which NEPOOL has no organizational interest but that may be of interest to Participants. For further information on any of these appeals, contact Pat Gerity (860-275-0533; pmgerity@daypitney.com).

US Court of Appeals for the DC Circuit

Case No.	Filed	Appellant(s)	FERC Proceeding	FERC Decision(s) Appealed	Status/Comments
08-1199	5/23/08	Public Parties	ER04-157-004 ER04-157-006 (RTO ROE Proceeding)	117 FERC ¶ 61,129 (Oct 31, 2006) 122 FERC ¶ 61,265 (Mar 24, 2008)	The Public Parties have challenged certain of the FERC’s rulings in the ROE proceedings. Briefing has been completed and oral argument was held on Dec 8, 2009.
09-1039	1/28/09	CT DPUC, CT AG	ER07-653-000; -001 (ROE Incentives for UI Bethel-Norwalk Upgrade Costs)	119 FERC ¶ 61,182 (May 22, 2007) 126 FERC ¶ 61,043 (Jan 16, 2009)	Consolidated with Case No. 09-1040 (ROE Incentives for NU M-N Project). In 09-1039, the CT DPUC and CT AG have challenged the FERC rulings granting UI’s proposed 100 percent CWIP incentive for costs associated with construction of the Bethel-Norwalk 345-kV transmission line and upgrades to the existing 115-kV line from Middletown to Norwalk, Connecticut and UI’s proposed 50 basis point ROE adder for advanced technologies. In 09-1040, the Connecticut Parties have challenged the FERC rulings granting NU’s request for a limited waiver of the Dec 31, 2008 termination date for the 100 basis point ROE incentive, and conditionally granting the 50 basis point advanced transmission technology incentive. The Consolidated cases are being held in abeyance pending a decision in 08-1199.
09-1040	1/28/09	CT DPUC, CT AG, CT OCC	ER08-966-000; -001 (ROE Incentives for NU M-N Project)	124 FERC ¶ 61,044 (Jul 17, 2008) 126 FERC ¶ 61,052 (Jan 16, 2009)	
09-1220	8/12/09	CT AG, CT OCC	ER09-197-000; -001 (ISO 2009 Revenue Requirement)	125 FERC ¶ 61,392 (Dec 31, 2008) 127 FERC ¶ 61,254 (Jun 18, 2009)	A briefing schedule has been set. Petitioners’ Brief was filed on Dec 11, 2009. Respondent’s Brief is due Feb 10, 2010; Intervenor for Respondent’s Brief, Feb 25; Petitioners’ reply brief, Mar 11; final briefs, Apr 1, 2010.

Case No.	Filed	Appellant(s)	FERC Proceeding	FERC Decision(s) Appealed	Status/Comments
09-1231	8/31/09	MPS	EL08-48-000; -001; -002 (SEMA – Cost Allocation)	128 FERC ¶ 61,008 (Jul 2, 2009)	As previously reported, this case is being held in abeyance pending completion of related FERC proceedings (see EL08-48 above).
09-1320	12/22/09	Brookfield Energy Marketing Inc	EL09-48-001 (ICAP Import Contract Complaints)	128 FERC ¶ 61,182 (Aug 24, 2009) 129 FERC ¶ 61,057 (Oct 23, 2009)	Brookfield has filed a petition for review of FERC’s rulings in the Capacity Import Complaint proceedings.

US Supreme Court

Case No.	Ct Appeals Docket	Appellant(s)	FERC Proceeding	FERC Decision(s) Appealed	Status/Comments
08-674	06-1403* 06-1427 07-1193	MPUC CT AG, MA AG MPUC	ER03-563- 030 -055 (FCM Settlement) ER06-1465 (FCM Transition Rules)	119 FERC ¶ 61,044 (Apr. 13 2007) 117 FERC ¶ 61,133 (Oct 31, 2006) 115 FERC ¶ 61,340 (Jun 16, 2006) 111 FERC ¶ 63,063 (Jun 15, 2005)	In a Jan 13, 2010 8-1 decision, the Court found that the public interest standard of review (<i>Mobile-Sierra</i>) applies to challenges brought both by contracting and non-contracting parties, reversing the DC Circuit Court of Appeals’ prior decision on this issue. In addition, the Supreme Court remanded back to the DC Circuit for its further consideration the open questions of whether the rates at issue in the FCM proceedings qualify as “contract rates” for purposes of a Mobile Sierra review, and if not, whether the FERC had the discretion to treat them analogously.
09-277	07-1375* 07-1460 08-1175	CT DPUC	ER07-365 (ICR Market Rules) ER07-655 (2007/2008 ICR) ER05-715-003 (2005/2006 ICR)	120 FERC ¶ 61,234 (Sept 14, 2007) 118 FERC ¶ 61,157 (Feb 28, 2007) 121 FERC ¶ 61,125 (Nov 1, 2007) 119 FERC ¶ 61,161 (May 18, 2007) 123 FERC ¶ 61,036 (Apr 17, 2008) 122 FERC ¶ 61,144 (Feb 22, 2008)	Consolidated with 07-1460 and 08-1175. On January 11, 2010, the US Supreme Court denied the petition of the CT DPUC for <i>writ of certiorari</i> .

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