

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

Richard Blumenthal, Attorney General)	
for The State of Connecticut)	
)	
v.)	Docket No. EL09-47-000
)	
ISO New England Inc., <i>et al.</i>)	

The Connecticut Department of Public)	
Utility Control and the Connecticut)	
Office of Consumer Counsel,)	
)	
v.)	Docket No. EL09-48-000
)	
ISO New England Inc., <i>et al.</i>)	

(Consolidated)

**CONNECTICUT REPRESENTATIVES’
FIRST SET OF DATA REQUESTS TO ISO NEW ENGLAND INC.**

Pursuant to Rule 406 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”), 18 C.F.R. § 385.406, the Connecticut Department of Public Utility Control (“CT DPUC”), the Connecticut Office of Consumer Counsel (“CT OCC”) and Richard Blumenthal, Attorney General for the State of Connecticut (“CT AG”) (collectively, the “Connecticut Representatives”) submit the following Data Requests to ISO New England Inc. (“ISO-NE”). Please provide all written and documentary responses as they become available, and in any case, not later than September 24, 2009. Pursuant to Rules 406(b)(5) and 410(a) of the Commission’s Rules of Practice and Procedure, 18 C.F.R. §§ 385.406(b)(5), 410(a), notice of any objections to full compliance with these Data Requests should be given in writing as soon

as reasonably possible, but not later than ten (10) business days after the receipt of these Data Requests.

The Connecticut Representatives request that ISO-NE provide three copies of the data and information specified below, one each to:

Randall L. Speck, Esq.
Kaye Scholer LLP
901 Fifteenth Street, N.W.
Washington, DC 20005
Tel.: (202) 682-3510
Fax: (202) 414-0320
Email: RSpeck@kayescholer.com

Joseph A. Rosenthal
Office of Consumer Counsel
Ten Franklin Square
New Britain, CT 06051
Tel.: (860) 827-2906
Fax: (860) 827-2929
Email: Joseph.Rosenthal@ct.gov

Michael C. Wertheimer
John S. Wright
Assistant Attorneys General
10 Franklin Square
New Britain, CT 06051
Tel.: (860) 827-2620
Fax: (860) 827-2893
Email: Michael.Wertheimer@po.state.ct.us

In responding to these requests, please apply the following definitions and instructions:

DEFINITIONS

- A. “Commission” or “FERC” means the Federal Energy Regulatory Commission.
- F. “CT AG” means Richard Blumenthal, Attorney General for the State of Connecticut.
- B. “Data Request” includes interrogatories, data, discovery, and document requests.

- C. “Documents” refer to all writings and records of every type in Your possession, control, or custody, including but not limited to: testimony and exhibits, memoranda, correspondence, letters, email messages, reports (including drafts, preliminary, intermediate, and final reports), surveys, analyses, studies (including economic and market studies), summaries, comparisons, tabulations, spreadsheets, charts, books, pamphlets, photographs, maps, bulletins, corporate or other minutes, notes, diaries, log sheets, ledgers, transcripts, microfilm, microfiche, computer data, computer files, computer tapes, computer inputs, computer outputs and printouts, vouchers, accounting statements, budgets, Workpapers, engineering diagrams (including “one-line” diagrams), mechanical and electrical recordings, telephone and telegraphic communications, speeches, and all other records, written, electrical, mechanical, or otherwise and drafts of any of the above. “Documents” includes copies of documents, where the originals are not in Your possession, custody, or control. “Documents” include every copy of a document that contains handwritten or other notations or that otherwise does not duplicate the original or any other copy. “Documents” also include any attachments or appendices to any document.
- G. “FTR” or “Financial Transmission Right” means a financial instrument that evidences the rights and obligations specified in Sections III.5 and III.7 of ISO-NE’s Market Rules.
- H. “High-offer bid strategy” means any plan to offer energy into the Day-Ahead or Real-Time Energy Markets at more than a resource’s marginal costs.

- I. “ICAP” means a megawatt capability from an ICAP Resource that meets the requirements set forth in ISO-NE’s Market Rules and the ISO New England Manuals.
- J. “ICAP Import Contract” means a contract for importing Installed Capacity from an external Control Area as described in Section III.8.3.7 of ISO-NE’s Market Rules.
- K. “ICAP Resource” means a generating unit, an Intermittent Power Resource, a Dispatchable Asset Related Demand, a Limited Energy Resource, a Settlement Only Resource, a Demand Resource, an Other Demand Resource, or an ICAP Import Contract that meets the requirements of Section III.8 of ISO-NE’s Market Rules and has been designated as an ICAP Resource by a Market Participant, as defined by ISO-NE’s Market Rules.
- D. “Identified OP-4 Events” means the OP-4 events identified in the Joint Testimony of Peter T. Brandien and Michael N. Taniwaha filed on May 6, 2009 in FERC Docket Nos. EL09-47-000 and EL09-48-000.
- E. “Identification” and “Identify”:
 - 1. when referring to a communication mean to (a) state the date, place, and circumstances of the communication; (b) identify each party to the communication and each person who was present when it was made; (c) state the substance of the communication in detail; and (d) identify each document that memorializes or summarizes the communication.
 - 2. when used with respect to a document mean to state (a) the nature of the document (*e.g.*, letter, email, memorandum, corporate minutes); (b) the

date, if any, appearing thereon; (c) the date, if known, on which the document was prepared; (d) the title of the document, the general subject matter of the document; (e) the number of pages comprising the document; (f) the identity of each person who wrote, dictated, or otherwise participated in the preparation of the document; (g) the identity of each person who signed or initiated the document; (h) the identity of each person to whom the document was addressed; (i) the identity of each person who received the document or reviewed it; (j) the location of the document; and (k) the identity of each person having possession, custody, or control of the document.

3. when used with respect to a person, mean to state (a) his or her full name; (b) his or her most recent known home address and telephone number; (c) his or her present title and position; and (d) his or her present and prior connections or associations with any participant or party to this proceeding.
- L. “IMMU” means the ISO-NE external independent market monitoring unit, Potomac Economics Ltd., its employees, agents, consultants, representatives, attorneys, officers, directors, and any other person acting on behalf of Potomac Economics Ltd.
- M. “INTMMU” means the ISO-NE internal market monitoring unit.
- N. “ISO-NE” refers to ISO New England Inc, its employees, agents, consultants, representatives, attorneys, officers, directors, and any other person acting on behalf of ISO New England Inc.

- O. “March 20, 2009 Filing” means the document, *ISO New England and New England Power Tool, Tariff Revisions Regarding Competitive Offer Requirement for Capacity Imports*, filed in FERC Docket ER09-873-000 and dated March 20, 2009.
- P. “March 19, 2009 LaPlante/O’Connor Testimony” means the testimony sponsored by Messrs. LaPlante and O’Connor in the March 20, 2009 Filing in FERC Docket No. ER09-873-000.
- Q. “Market Rule” means ISO-NE’s FERC Electric Tariff No. 3, Section III – Market Rule 1, as is existed at any time during the Transition Period.
- R. “May 6, 2009 Brandien/Taniwaha Testimony” means the Joint Testimony of Peter T. Brandien and Michael N. Taniwaha filed on May 6, 2009 in FERC Docket Nos. EL09-47-000 and EL09-48-000.
- S. “May 6, 2009 LaPlante/O’Connor Testimony” means the Joint Testimony of David LaPlante and John P. O’Connor filed on May 6, 2009 in FERC Docket Nos. EL09-47-000 and EL09-48-000.
- T. “Northern NY AC Interface” means the interface as identified by ISO New England in its Section 205 filing in the Commission’s Docket No. ER09-873-000.
- U. “NNY Capacity Resource” refers to any capacity resource that has committed during the Transition Period to import over the Northern New York AC Interface and has submitted offers in the energy market greater than \$329/MWh.
- V. “NYISO” or “New York ISO” means New York Independent Service Operator.

- W. “Relating to” or “related to” means in whole or in part constituting, containing, concerning, embodying, reflecting, describing, analyzing, identifying, stating, referring to, dealing with, or in any way pertaining to.
- X. “Tariff” means ISO-NE’s Electric Tariff No. 3 filed with FERC.
- Y. “Transition Period” means the period from December 1, 2006, through May 31, 2009, inclusive.
- Z. “Workpapers” means all Documents created, used, relied upon, cited, referenced, considered, rejected, and/or read by You and any of Your witnesses, consultants, or experts, including persons working at such witnesses’, consultants’, and/or experts’ direction.
- AA. “You” or “Your” refers to ISO-NE.

INSTRUCTIONS

- A. These Data Requests are directed to ISO-NE, including all of its past or present officers, directors, agents, or employees.
- B. These Data Requests call for all information, including information contained in documents, that relates to the subject matter of the Data Requests and that is known or available to You.
- C. Where a Data Request has separate subdivisions or related parts or portions, a complete response is required to each such subdivision, part, or portion. Any objection to a Data Request should clearly indicate the subdivision, part, or portion of the Data Request to which it is directed.

- D. If a Data Request specifically requests an answer in response rather than the production of documents, an answer is required. The production of documents will not suffice.
- E. These Data Requests are continuing in nature and require supplemental responses when further or different information with respect to the same is obtained.
- F. Each response should be furnished on a separate page headed by the individual data request being answered.
- G. Each Data Request to “provide all documents . . .” or similar phrases includes a request to identify all such documents.
- H. If a Data Request can be answered in whole or in part by reference to the response to another Data Request served in these proceedings, it is sufficient to do so by specifying the parts of the other response that are responsive, and by specifying whether the response to the other Data Request is a full or partial response to the instant Data Request. If it constitutes a partial response, the balance of the instant Data Request must be answered.
- I. If a Data Request can be answered in whole or in part by reference to the response to a subpoena issued by the CT AG to ISO-NE, You may answer by providing the entire subpoena response, including all documents or other materials or communications provided in response to the subpoena.
- J. If You cannot answer a Data Request in full, after exercising due diligence to secure the information necessary to do so, state the answer to the extent possible, state why You cannot answer the Data Request in full, and state what information or knowledge You have concerning the unanswered portions.

- K. If in answering any of these Data Requests You believe that any Data Request is ambiguous, set forth the language You believe is ambiguous and the interpretation You are using in responding to the Data Request.
- L. If a document requested is unavailable, identify the document, describe in detail the reasons why the document is unavailable, and state where the document can be obtained.
- M. If You refuse to respond to a Data Request by reason of a claim of privilege, or for any other reason, state the type of privilege claimed and the facts and circumstances You rely upon to support the claim of privilege or the reason for refusing to respond. With respect to requests for documents to which You refuse to respond, identify each such document.
- N. Identify the person who prepared each response and the person who will bear ultimate responsibility for the truth of each response.
- O. If no document is responsive to a Data Request that calls for a document, so state. In each such instance, the Data Request should be treated as an interrogatory.
- P. Responses to the Data Requests should be submitted as they become available.
- Q. If information responsive to a Data Request is available in electronic format, please provide a diskette or CD containing the information in a program that is compatible with Microsoft Excel, Microsoft Word, or Adobe Acrobat. For any files containing formulas or links, please provide the responsive information with all formulas or links intact and enabled.
- R. Unless another time period is specified, all data requests relate to the Transition Period, December 1, 2006, through May 31, 2009.

- S. All dates are to be understood as though they were preceded by the phrase “on or about.”
- T. The use of a verb in any tense shall be construed as the use of that verb in all other tenses, wherever necessary to bring within the scope of the requests information that might otherwise be construed to be outside their scope.
- U. The use of a word in its singular form shall be deemed to include within its use the plural form as well, and vice versa, wherever necessary to bring within the scope of the requests information that might otherwise be construed to be outside their scope.
- V. Any word or phrase that is defined in ISO-NE’s Tariff or Market Rules shall have the same meaning in this Data Request.
- W. Each page of any documents produced should be stamped or otherwise marked with a unique sequential number that includes the alphabetic prefix “ISO” (e.g., ISO000001, etc.).
- X. To the extent that responses to all requests cannot be completed by September 24, 2009, please provide a schedule for the expected completion date for each request.
- Y. Please provide all responses to Data Requests by email and in an electronic form.

DATA REQUESTS

CT/ISO 1-1. Please provide copies of all responses that ISO-NE prepares in response to Data Requests by other participants in this proceeding, including the litigation Staff of the Commission's Office of Enforcement, and copies of Your Data Requests to other participants.

CT/ISO 1-2. Please provide a spreadsheet containing the following data for each "specific resource designated as the resource that will provide energy when requested from the neighboring control area" (May 6, 2009 LaPlante/O'Connor Testimony at 14:10-12) that has committed to import over the Northern New York AC Interface at any time from December 1, 2005, through August 31, 2009 and for each such resource please provide

- a. The contract identification number(s) of the ICAP Import Contract, or if not available, other identifying information required by ISO-NE to identify the source of the energy offer bids;
- b. The name and location of the resource or resources providing the Installed Capacity.
- c. The name of the entity that owns, operates, or otherwise controls the energy bids of the resource;
- d. The characteristics (*e.g.*, size, technology, heat rate, age) of the resource;
- e. The demonstrated net capability of the resource; and
- f. Whether the resource has submitted an offer in the ISO-NE energy markets that is greater than \$329/MWh.

CT/ISO 1-3. Please a spreadsheet containing the following data for each NNY Capacity Resources' ICAP Import Contract or capacity obligation, separately for each month from December 1, 2005, through August 31, 2009,

- a. the contract identification number of the ICAP Import Contract, or if not available, other identifying information required by ISO-NE to identify the source of the energy offer bids;
- b. The amount of capacity payments (net of delivery penalties) and the total delivery penalties,

- c. For each penalty identified in (b), please specify the calculation method and provide documents sufficient to replicate the calculations of the delivery penalties;
- d. the amount in megawatts of the ICAP value of ICAP Import Contract;
- e. the amount in megawatts of ICAP for which each NNY Capacity Resource was paid; and
- f. whether the ICAP Import Contract was (1) Priced External energy backed by an External Resource, (2) Self-Scheduled external energy backed by an External Resource, (3) Self-Scheduled external energy backed by a Control Area, or (4) Priced External energy backed by a Control Area. If ISO-NE used other categories to classify import capacity obligations during the above-referenced period, please provide those, as applicable.

CT/ISO 1-4. Please provide a spreadsheet containing the following data for each offer that the NNY Capacity Resources made pursuant to Market Rule III.8.3.7.2.2(b) into the Day-Ahead Energy Market pursuant to an ICAP Import Contract from December 1, 2005, through August 31, 2009:

- a. the contract identification number of the ICAP Import Contract, or if not available, other identifying information required by ISO-NE to identify the source of the energy offer bids;
- b. the number of megawatts offered;
- c. the price of the offer submitted to ISO-NE;
- d. other applicable bid characteristics for each ICAP Import Resource's offer (*e.g.*, start-up and shut-down costs, minimum ramping and off-line times, and minimum economic limit and other bid characteristics);
- e. the price of the corresponding export offer submitted to NYISO;
- f. any modifications to the amount or price or other characteristics of the offer in the Real-Time Energy Market;
- g. any modifications to the amount of the export offer submitted to NYISO;
- h. the number of megawatts of the offer, if any, that were accepted by ISO-NE;
- i. each "reason code" recorded by the EES-MOI software, *e.g.*, "MW adjusted to match neighboring control area," "Scheduling Algorithm: Economics," or other reason code, as described in the May 6, 2009 Brandien/Taniwha Testimony at 12:4-13:5, applicable to the offer;

- j. the number of megawatts specified in response to (e) and (g) that were cleared by NYISO for export; and
- k. the number of megawatts, if any, delivered to ISO-NE pursuant to the offer, and the rate per megawatt received by the NNY Capacity Resource.

CT/ISO 1-5. Please provide a spreadsheet containing the following data for each import offer that each NNY Capacity Resource made from or through NYISO into the ISO-NE Day-Ahead Energy Market from December 1, 2005, through August 31, 2009, that was not made pursuant to an ICAP Import Contract or capacity obligation:

- a. the number of megawatts offered;
- b. the price of the offer submitted to ISO-NE;
- c. any other bid characteristics (*e.g.*, start-up and shut-down costs, minimum ramping and off-line times, and minimum economic limit and other bid characteristics);
- d. the price of the corresponding export offer submitted to NYISO;
- e. any modifications to the amount or price of the offer in the Real-Time Energy Market;
- f. any modifications to the amount of the export offer submitted to NYISO;
- g. the number of megawatts, if any, that were backed by an External Resource, and, if so, the identity of that resource;
- h. the bid characteristics for each such External Resource (*e.g.*, start-up and shut-down costs, minimum ramping and off-line times, and minimum economic limit);
- i. the number of megawatts of the offer, if any, that were accepted by ISO-NE;
- j. the number of megawatts specified in response to (i) that were cleared by NYISO for export; and
- k. the number of megawatts, if any, that the NNY Capacity Resource delivered to ISO-NE pursuant to its offer, and the rate per megawatt received by the NNY Capacity Resource.

CT/ISO 1-6. By contract identification number, please provide for NNY Capacity Resource all communications and documentation, including requests and submissions, relating to “verification that [the NNY Capacity Resource] has made all arrangements required by [NYISO] to ensure that the Energy associated with the Resource’s Unforced

Capacity Sale to the New England Control Area can be delivered to the New England Control Area,” as Section 3.8.7.4(5) of Manual M-20 requires.

CT/ISO 1-7. By contract identification number, please provide for each NNY Capacity Resource all communications and documentation, including requests and submissions, relating to “checkout” in accordance with Section III.8.3.7.2.2(d) and the provisions of ISO New England Operating Procedures.

CT/ISO 1-8. By contract identification number, please provide for each NNY Capacity Resource all notifications to the ISO Operations Department required by Section III.8.3.7.2.2 of the Tariff indicating for any hour of any day that the NNY Capacity Resource cannot provide the full amount of temperature-adjusted rated capacity due to maintenance or forced outage from December 1, 2005, through August 31, 2009.

CT/ISO 1-9. By contract identification number, please provide for all other resources with ICAP Import Contracts documentation of “check out” in accordance with Section III.8.3.7.2.2(d) and the provisions of ISO New England Operating Procedures from December 1, 2006, through August 31, 2009.

CT/ISO 1-10. Please identify and provide a thorough description (including an example) of every “reason code” that may be recorded by the EES-MOI software, *e.g.*, “MW adjusted to match neighboring control area” or “Scheduling Algorithm: Economics.”

CT/ISO 1-11. Please provide each version of the Tariff and the applicable FERC Orders pertaining to the market rules on capacity imports (*e.g.*, currently effective Section III.8.3.7 of the tariff pertaining to ICAP Import Contracts), effective from December 1, 2005, through November 31, 2006.

CT/ISO 1-12. Please identify each communication internally within ISO-NE or between anyone at ISO-NE and any NNY Capacity Resource or between anyone at ISO-NE and NYISO or between anyone at ISO-NE and the IMMU or between anyone at ISO-NE and the INTMMU relating in any way to any NNY Capacity Resources’ energy market offers (either in the Day-Ahead or Real-Time markets), the possible dispatch of those resources, the ability of those resources to perform if called, any decision whether those resources should be called, or any reliability need for those resources from December 1, 2005, through August 31, 2009. For each such communication please provide

- a. The date and time of the communication;
- b. Whether the communication was oral or in writing and, if in writing, the form of the communication (*e.g.*, email, letter, memo, etc.);
- c. Any written documents relating to the communication;

- d. Each person who participated in the communication;
- e. The title of each person who participated in the communication;
- f. The entire substance of the communication; and
- g. Any documents relating to those Market Participants' offers in the ISO-NE Day-Ahead or Real-Time energy markets.

CT/ISO 1-13. Please identify each communication internally within ISO-NE or between anyone at ISO-NE and any NNY Capacity Resource or between anyone at ISO-NE and the IMMU or between anyone at ISO-NE and the INTMMU relating in any way to any NNY Capacity Resources' bidding practices, patterns or behaviors or any change in practices, patterns, or behaviors relating to or concerns about one or more NNY Capacity Resources' adoption of similar bidding strategies or coordinated behavior in the energy market during the Transition Period. For each such communication please provide

- a. The date and time of the communication;
- b. Whether the communication was oral or in writing and, if in writing, the form of the communication (*e.g.*, email, letter, memo, etc.);
- c. Any written documents relating to the communication;
- d. Each person who participated in the communication;
- e. The job title and duties of each person who participated in the communication;
- f. The entire substance of the communication; and
- g. Any documents relating to those Market Participants' offers in the ISO-NE Day-Ahead or Real-Time energy markets.

CT/ISO 1-14. Please identify each communication internally within ISO-NE or between anyone at ISO-NE and any NNY Capacity Resource or between anyone at ISO-NE and the IMMU or between anyone at ISO-NE and the INTMMU relating in any way to any apparent or actual change in the NNY Capacity Resources' bidding practices, patterns or behaviors relating to their energy market offers (either in the Day-Ahead or Real-Time markets) during the Transition Period when compared with the period preceding the Transition Period or after implementation of the market mitigation rules accepted by FERC in Docket No. ER09-873-000. For each such communication please provide

- a. The date and time of the communication;
- b. Whether the communication was oral or in writing and, if in writing, the form of the communication (*e.g.*, email, letter, memo, etc.);
- c. Any written documents relating to the communication;
- d. Each person who participated in the communication;
- e. The job title and duties of each person who participated in the communication;
- f. The entire substance of the communication; and
- g. Any documents relating to those Market Participants' offers in the ISO-NE Day-Ahead or Real-Time energy markets.

CT/ISO 1-15. Please identify each communication internally within ISO-NE or between anyone at ISO-NE and any NNY Capacity Resource or between anyone at ISO-NE and the IMMU or between anyone at ISO-NE and the INTMMU relating in any way to any NNY Capacity Resources' megawatt quantities of capacity committed to ICAP Import Contracts during the Transition Period. For each such communication please provide

- a. The date and time of the communication;
- b. Whether the communication was oral or in writing and, if in writing, the form of the communication (*e.g.*, email, letter, memo, etc.);
- c. Any written documents relating to the communication;
- d. Each person who participated in the communication;
- e. The job title and duties of each person who participated in the communication;
- f. The entire substance of the communication; and
- g. Any documents relating to those Market Participants' capacity obligations.

CT/ISO 1-16. Please identify each communication internally within ISO-NE or between anyone at ISO-NE and any NNY Capacity Resource or between anyone at ISO-NE and the IMMU or between anyone at ISO-NE and the INTMMU relating in any way to any

apparent or actual change in the NNY Capacity Resources' megawatt quantities of ICAP Import Contracts during the Transition Period as compared with the period preceding the Transition Period or after implementation of the market mitigation rules accepted by FERC in Docket No. ER09-873-000. For each such communication please provide

- a. The date and time of the communication;
- b. Whether the communication was oral or in writing and, if in writing, the form of the communication (*e.g.*, email, letter, memo, etc.);
- c. Any written documents relating to the communication;
- d. Each person who participated in the communication;
- e. The job title and duties of each person who participated in the communication;
- f. The entire substance of the communication; and
- g. Any documents relating to those Market Participants' capacity obligations.

CT/ISO 1-17. For each NNY Capacity Resource, please provide any analysis or compilation that ISO-NE has prepared or has in its possession relating to the NNY Capacity Resources' offers in the ISO-NE Day-Ahead or Real-Time energy markets or their participation in the capacity markets during period December 1, 2006, through August 31, 2009. Please identify the author(s) and the date that analysis or compilation was prepared.

CT/ISO 1-18. Please identify all communications and provide all documents prepared for the ISO-NE Board of Directors, any of its committees, or any member of the Board relating to the performance or energy offers or committed capacity of one or more NNY Capacity Resource. For each such communication, please provide

- a. The date and time of the communication;
- b. Whether the communication was oral or in writing and, if in writing, the form of the communication (*e.g.*, email, letter, memo, etc.);
- c. Any written documents relating to the communication;
- d. Each person who participated in the communication;

- e. The job title and duties of each person who participated in the communication; and
- f. The entire substance of the communication.

CT/ISO 1-19. Please provide meeting minutes of the ISO-NE Board of Directors relating to the performance or energy offers or committed capacity of one or more NNY Capacity Resource.

CT/ISO 1-20. Please identify all persons who helped prepare, contributed information to preparing, or reviewed prior to distribution ISO-NE's presentation at the November 12, 2008 NEPOOL Market Committee Meeting entitled "Revised Capacity Import Competitive Offer Proposal." Please provide the following

- a. Each persons job title and duties;
- b. The date and time of each communication;
- c. Whether the communication was oral or in writing and, if in writing, the form of the communication (*e.g.*, email, letter, memo, etc.);
- d. Any written documents relating to the communication;
- e. The entire substance of the communication.
- f. All data or documents on which that presentation was based; and
- g. All notes or other documents relating to the draft presentation or the presentation at the November 12, 2008 Meeting.

CT/ISO 1-21. For each of the "Identified OP-4 Events," please provide

- a. Any relevant system conditions (*e.g.*, weather, load, transmission constraints, system outages) relating to that event;
- b. Day-Ahead and Real-Time energy clearing prices at the Roseton node during that event and for the three hours before and after that event; and
- c. Energy offer schedules of each NNY Capacity Resource for imports over the NNY AC Interface. Please identify each NNY Capacity Resource's offer that was scheduled in Day-Ahead or scheduled and dispatched in Real-Time during each of the hours identified in response to CT/ISO 1-

17(b) and indicate whether the offer was associated with an ICAP Import Contract, if so, the contract identification number.

CT/ISO 1-22. Please provide all data or documents relating to the Day-Ahead or Real-Time energy markets during the Identified OP-4 Events.

CT/ISO 1-23. Please provide all data or documents relating to the conduct or performance of the NNY Capacity Resources during the Identified OP-4 Events.

CT/ISO 1-24. Please identify all of the “operational concerns” on September 8, 2007, that are referenced in the May 6, 2009 Brandien/Taniwha Testimony at 26:17-27:3 and provide all documents relating to each of those operational concerns.

CT/ISO 1-25. Please identify each hour during the Transition Period when there were any “operational concerns” or other issues that prompted ISO-NE operators to contact the NYISO regarding the availability of the energy from any external capacity resource, and for each such hour, please provide

- a. The date and time of the contact with the NYISO;
- b. The nature of the “operational concerns;”
- c. The substance of any communication with the NYISO; and
- d. All documents relating to each such “operational concern” or the ISO-NE operator’s contact with the NYISO.

CT/ISO 1-26. Please identify each communication internally within ISO-NE or between anyone at ISO-NE and any NNY Capacity Resource or between anyone at ISO-NE and NYISO or between anyone at ISO-NE and the IMMU or between anyone at ISO-NE and the INTMMU relating in any way to any of the Identified OP-4 Events and to the NNY Capacity Resources’ energy market offers (either in the Day-Ahead or Real-Time markets), the possible dispatch of those resources, the ability of those resources to perform if called, any decision whether those resources should be called, or any reliability need for those resources during the Identified OP-4 Event. For each such communication please provide

- a. The date and time of the communication;
- b. Whether the communication was oral or in writing and, if in writing, the form of the communication (*e.g.*, email, letter, memo, etc.);
- c. Any written documents relating to the communication;

- d. Each person who participated in the communication;
- e. The title of each person who participated in the communication; and
- f. The entire substance of the communication.

CT/ISO 1-27. Please identify each control room operator at ISO-NE who was responsible for dispatch decisions during each of the Identified OP-4 Events, indicate whether that person is currently employed by ISO-NE, and describe that person's current job title and duties.

CT/ISO 1-28. Please identify any communications by anyone at ISO-NE with anyone at any of the NNY Capacity Resources or the NYISO relating to "the price of the energy export supply offers submitted by capacity importers in the New York market" (referenced in the May 6, 2009 LaPlante/O'Connor Testimony at 18:9-10) and for each such communication, please provide

- a. The date and time of the communication;
- b. Whether the communication was oral or in writing and, if in writing, the form of the communication (*e.g.*, email, letter, memo, etc.);
- c. Any written documents relating to the communication;
- d. Each person who participated in the communication;
- e. The title and employer of each person who participated in the communication; and
- f. The entire substance of the communication.

CT/ISO 1-29. Please explain why "the selection of External Transactions associated with capacity imports in the next-hour scheduling process is . . . not dependent on the operating characteristics of the resource in the neighboring control area" (May 6, 2009 Brandien/Taniwha Testimony at 8:16-18) even though "[t]he New York Independent System Operator, Inc. ("NYISO") only permits capacity exports that are backed by specific resources," and "[f]or capacity imports backed by an external resource, a specific resource has been designated as the resource that will provide energy when requested from the neighboring control area" (May 6, 2009 LaPlante/O'Connor Testimony at 14:9-12).

CT/ISO 1-30. Please identify all entities that were awarded FTRs for the Northern NY AC Interface (over Roseton Node) during the Transition Period and provide all the data

for those awards, including, but not limited to, the amount of megawatts, source and sink points, specific periods of time, and the price.

CT/ISO 1-31. For each FTR award identified in CT/ISO 1-32, please identify the FTR revenues collected by the respective FTR owners.

CT/ISO 1-32. Please explain whether and, if so, in what particular way, the FTR revenues identified in your response to CT/ISO 1-32 would have been affected if the NNY Capacity Resources had not used a High offer bid strategy in ISO-NE Day-Ahead and Real-Time energy markets.

CT/ISO 1-33. Please provide a copy of all of ISO-NE's responses to the CT AG's subpoena to ISO-NE dated April 14, 2009, and attached hereto as Exhibit A.

Date: September 10, 2009

_____/s/_____
Randall L. Speck
KAYE SCHOLER LLP
901 Fifteenth Street, N.W.
Washington, D.C. 20005-2327
Tel. (202) 682-3510
Fax (202) 414-0320
rspeck@kayescholer.com

Counsel for the Connecticut Department of
Public Utility Control

_____/s/_____
Joseph A. Rosenthal
Office of Consumer Counsel
Ten Franklin Square
New Britain, CT 06051
Tel.: (860) 827-2906
Fax: (860) 827-2929
Email: Joseph.Rosenthal@ct.gov

Counsel for the Connecticut Office of
Consumer Counsel

_____/s/_____
Michael C. Wertheimer
John S. Wright
Assistant Attorneys General
10 Franklin Square
New Britain, CT 06051
Tel.: (860) 827-2620
Fax: (860) 827-2893
Email:
Michael.Wertheimer@po.state.ct.us

Counsel for Richard Blumenthal, Attorney
General for the State of Connecticut

EXHIBIT A

STATE OF CONNECTICUT OFFICE OF THE ATTORNEY GENERAL

SUBPOENA DUCES TECUM

**TO: ISO New England Inc.
One Sullivan Road
Holyoke, MA 01040-2841**

BY AUTHORITY OF THE STATE OF CONNECTICUT, and more particularly, pursuant to the Connecticut Antitrust Act, Chapter 624, Section 35-42 of the Connecticut General Statutes, you are hereby commanded and required to submit to the Attorney General of the State of Connecticut, or his designee, at his office, 55 Elm Street, Hartford, Connecticut 06106, on or before **May 13, 2009** the following documentary materials, UNDER OATH, because the Attorney General has reason to believe that a person has engaged in a contract, combination or conspiracy which is in restraint of trade or commerce and, more particularly, which is for the purpose, or has the effect of: (a) fixing, controlling or maintaining prices, rates, quotations, or fees for electricity; (b) fixing, controlling, maintaining, limiting or discontinuing the production, manufacture, sale or supply of electricity; or (c) bid rigging, in violation of Sections 35-26 and 35-28 of the Connecticut General Statutes, and you have information relevant thereto.

DEFINITIONS

AS USED HEREIN:

(A) “You,” “your,” or “your company” shall mean the addressee of this set of Interrogatories and Subpoena Duces Tecum, including its domestic and foreign parents, each and every local or regional office, subsidiary, division, partnership, joint venture, affiliate or related company or entity thereof, all past and present officers, directors, partners, employees, agents, predecessors, successors, assigns and all other persons or entities, acting on behalf of said addressee. The terms “subsidiary”, “affiliate” and “joint venture” refer to any entity in which there is a partial (25 percent or more) or total control between your company and any other person.

(B) “Agreement” means any written or oral understanding, promise or condition, or any document containing any such understanding, promise or condition, including any amendment or modification thereto.

(C) The terms “and” and “or” are terms of inclusion and not of exclusion and shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this subpoena any document or information that might otherwise be construed to be outside its scope.

(D) The term “any” means each and every and one or more.

(E) “Communicate” or “communication” means every manner or means of disclosure, transfer or exchange, and every disclosure, transfer or exchange of ideas or information, whether orally, by document, or electronically, or whether face-to-face, by telephone, mail, personal delivery, electronic transmission or otherwise.

(F) The term “concerning”, “relate to” or “relating to” means in whole or in part constituting, evidencing, containing, discussing, commenting upon, describing, analyzing, identifying, stating, pertaining to, referring to, or forming the basis of.

(G) The term “documentary material” or “document” shall mean all written or graphic matter, whether in final or draft form, however produced, or reproduced, of every kind and description in your actual or constructive possession, custody, care or control, including without limitation, all writings, account letters, account recommendations, appointment books, books, books of accounts, calendars, CD-ROMs, charts, computer or electronic files stored on file servers, e-mail servers, hard drives or other electronic media within your control, computer printouts, contracts, cost sheets, data compilations from which information can be obtained or can be translated through detection devices into reasonably usable form, diaries, drafts, drawings, e-mail, faxes, graphs, hotel charges, invoices, ledgers, magnetic discs, magnetic strips, magnetic tape, memoranda, microfiche, microfilm, minutes, notes, optical characters, papers, photographs, punched cards, punched paper tapes, receipts, recognition characters, reports, sound tapes or recordings, statements, statistical records, stenographer notebooks, studies, telegraphs, time sheets or logs, video tapes or recordings, vouchers, weigh tickets, working papers, or any other tangible thing.

(H) “Identify,” “identity,” or “identification,” when used in reference to a natural person, means to state his or her full name and present or last-known address, present or last-known position and business affiliation and each position with you, social security numbers, and telephone numbers for residence and business; when used in reference to any other person means to state its full name, present or last-known address,

and telephone number; when used in reference to a document means to state the type of document (i.e., letter, memoranda, chart, handwritten notes, calendar (electronic or paper), spreadsheet, sound reproduction, report, computer inputs or outputs, etc.) , the location where maintained, your identifying marks and code, the subsidiary, division, or department where prepared and sent, the document date, the author and persons to whom copies were sent or persons initialing or reading or approving the document, and the name and address of each of the present custodians of the document; when used in reference to an event or instance means to identify each natural person involved in the event, to state when and where the event occurred, to state a description of the nature and substance of the event, and to identify any document related to the event; when used in reference to a communication means to state each communication, the persons involved in the communication, where the communication took place, and a brief description of the substance of the communication, and to identify any document related to the communication.

(I) The term “person” includes any natural person, corporate entity, partnership, association, joint venture, government entity or trust, and any other business or legal entity.

(J) The present tense shall be construed to include the past tense and the past tense shall be construed to include the present tense.

(K) All references to the singular include the plural and vice versa.

(L) “ISO-NE” means ISO-New England Inc., and/or any affiliate or subsidiary.

(M) “ICAP Import Seller” means each entity receiving ICAP transition payments from ISO-NE with respect to generating capacity located outside the ISO-NE control area during the Period.

(N) “Import Seller Generating Unit” means each electric generating unit located outside the ISO-NE control area which was treated as qualifying for ICAP transition payments by ISO-NE during the Period..

(O) “Period” means the time commencing on January 1, 2005 to the date of service of this Subpoena.

INSTRUCTIONS

The response to this Demand shall be submitted in the following manner:

1. Documents provided shall be complete and, unless privileged, unredacted, submitted as found in the company’s files (*e.g.*, documents that in their original condition were stapled, clipped or otherwise fastened together or maintained in separate file folders shall be produced in such form). The company may submit photocopies (with color photocopies where necessary to interpret the document), in lieu of original documents, provided that such copies are true, correct and complete copies of the original documents.

2. Number each box and mark each box with corporate identification and the name(s) of the person(s) whose files are contained in that box. Documents shall be submitted in sturdy cartons not larger than 1.5 cubic feet. Cartons shall be filled completely.

3. Documents submitted shall be produced in the order in which they appear in the company’s files and shall not be shuffled or otherwise rearranged. Mark each page with corporate identification and consecutive document control numbers. Place all

documents produced in file folders. Mark each file folder with corporate identification, the name of the person whose documents are in the folder and how the original file was labeled.

4. Documents should be produced as they are maintained in the normal course of business, and thus if documents are maintained in electronic form, they should be produced in electronic form. Data must be produced in the data format in which it is typically used and maintained. Moreover, to the extent a responsive document has been electronically scanned (for any purpose), that document must be produced in a readable and accessible electronic format, with the opportunity provided to review the original document. Documents that have been electronically scanned should be produced in a .tif (TIFF image format) files, with an Opticon load file and a Concordance database with beginning and ending page, and numbers of pages noted. If a Concordance database is not attainable, a .csv (Comma Delimited Text) file with the same information is acceptable, with a caret (^) used to separate multi-value fields. If the OCR data is provided in individual text (.txt) files and there is no text for a text file, the following should be inserted in that text file; "Page intentionally left blank." If your documents are maintained electronically in an OCR (Optical Character Recognition) format, we ask that the OCR text be produced as well. Moreover, this subpoena requires all objective coding for the production, to the extent it exists.

5. For electronic mail, please provide all responsive emails and if applicable, email attachments and any related documents, in a Concordance database format with .tif images, an Opticon load file, and an OCR (Optical Character Recognition) file. If a

Concordance database is unattainable, please provide the data in a .pst (Outlook personal folder) file.

6. Produce deposition, proceeding, and trial transcripts in minuscrit form, with a word index, and electronically on CD or DVD. The electronic version of the transcripts should be in Live notes PTF (Portable Transcript Format), PCF (Portable Case Format), or Plain Text format.

7. Your Company's document retention policy should be suspended to prevent the destruction of any documents that may be relevant to the Attorney General's investigation as described in this subpoena.

8. Documents to be produced include all documents in the possession, custody or control of your company, wherever located, including documents in the possession, custody or control of your company's directors, officers, employees, representatives or agents. Without limitation on the term "control," a document is deemed to be in your control if you have the right to secure that document or a copy thereof from another person.

9. No agreement by the Attorney General of the State of Connecticut purporting to modify, limit or otherwise vary this subpoena shall be valid or binding on the Attorney General of the State of Connecticut unless confirmed or acknowledged in writing by a duly authorized representative thereof.

CLAIMS OF PRIVILEGE

If you contend that any answer to any Interrogatory or any document demanded by this subpoena is privileged in whole or in part, file with your response to

these Interrogatories and Subpoena Duces Tecum a statement in writing and under oath and in such statement: (1) identify each such interrogatory answer or document; (2) state its general subject matter; and (3) state in detail the basis for each claim of privilege made with respect to it. If a claim of privilege is made to only a part of a document, then in addition to the statement required herein, produce a copy of such document from which the alleged privileged portion has been redacted, noting where in the document such redactions have been made.

SCOPE

Except where otherwise indicated, this set of Interrogatories and Subpoena Duces Tecum covers the period from **January 1, 2005** up to and including the date of service.

If subsequent to your initial compliance with this Subpoena duces tecum you discover additional or new material or information responsive to any interrogatory or request for production in the Subpoena duces tecum, or you discover that any response you provide herein was totally or partially incorrect or, though correction was made, is no longer true, you must promptly (a) produce any additional responsive documents that come into your possession, custody or control or (b) notify the Attorney General of the State of Connecticut, or his designee and serve supplemented, corrected, and sworn responses upon the Attorney General of the State of Connecticut, or his designee.

COMPLIANCE

Attached to this request is a Certificate of Compliance which you are to complete and return, notarized, with your response.

INTERROGATORIES

1. Identify each person responding to this subpoena on behalf of your company.
2. Identify each person from whom documents responsive to this subpoena were obtained.
3. Briefly describe the process and procedure you followed in order to conduct a reasonable and diligent search for all documents under your custody or control that are responsive to this subpoena.
4. Briefly describe your document retention policy as it relates to any documents responsive to this subpoena, including your document retention policy relating to electronically stored information.
5. Identify a copy of your document retention policy as it relates to any documents responsive to this subpoena.
6. State whether you have suspended your company's document retention policy to the extent it may cause the destruction of any documents that may be relevant to the Attorney General's investigation as described in this subpoena.
7. Identify each person consulted in order to respond to this subpoena. For each person identified, state the interrogatory or request for documentary material for which that person(s) was consulted.
8. Identify the "Market Participants" with ICAP Import Contracts that failed to perform when dispatched as described in ER09-873, *ISO New England and New England Power Pool, Tariff Revisions Regarding Competitive Offer Requirement for Capacity Imports* ("March 20, 2009 Filing").

9. Identify all payments from ISO-NE or effected by ISO-NE administered settlement to each of the Market Participants identified in response to Interrogatory 8 for all energy and capacity products by date.

10. Describe in detail each request (time, type of product, duration and volume) for energy and capacity issued by the ISO-NE to each Market Participant identified in response to Interrogatory 8. Describe in detail the Market Participant's response. If this information is compiled in excel format, please provide in that format.

11. Describe in detail any and all communications between ISO-NE and the Market Participants identified in response to Interrogatory 8 concerning the latter's failure to perform when dispatched. Describe the ISO-NE attempts to contact those Market Participants in order to secure their performance or to improve their performance when next dispatched by ISO-NE.

12. If not already provided in response to the previous interrogatories, provide the following with respect to all capacity and energy sales, bids or energy dispatch instructions, as applicable, by, affected by or affecting ICAP Import Sellers with respect to the ISO-NE control area during the Period.

12.1. The name of each ICAP Import Seller during the Period and, if applicable, the name and location of each Import Seller Generating Unit owned/operated or controlled by such ICAP Import Seller. If the ICAP Import Seller during the Period has not committed (a) specific generating resource(s) for qualification for ICAP Transition Payments, please so identify that fact.

12.2. The megawatts of UCAP capacity of each Import Seller Generating Unit or unit "undifferentiated" capacity for each ICAP Import Seller, if no Import Seller Generating Unit capacity is identified for such seller, described in response to 12.1, which ISO-NE has qualified for ICAP transition payments.

- 12.3. Any other unit-specific information in ISO-NE's possession regarding each of the Import Seller Generating Units (e.g., heat rate, start-up, no-load, fuel consumption characteristics, type of fuel, fuel costs, bilateral contract obligations).
- 12.4. The amount of settlement payments (by month) paid with respect to each Import Seller Generating Unit or ICAP Import Seller (if no specific generating resources identified for such ICAP Import Seller).
- 12.5. The EFORd calculation for each Import Seller Generating Unit or ICAP Import Seller (if no specific generating resources identified for such ICAP Import Seller).
- 12.6. Transmission arrangements in place to allow each Import Seller Generating Unit and/or ICAP Import Seller to qualify for transitional ICAP payments.
- 12.7. The energy bids (both price and volume stated separately) during the Period with respect to output available for sale within the ISO-NE control area from each such Import Seller Generating Unit (in Excel format) and/or ICAP Import Seller, as applicable.
- 12.8. The time, volume and duration of each request for dispatch by ISO-NE to each such Import Seller Generating Unit and/or ICAP Import Seller, as applicable.
- 12.9. The time, duration and volume of output delivered by each Import Seller Generating Unit and/or ICAP Import Seller, as applicable, to the ISO-NE control area in response to ISO-NE dispatch instructions.
- 12.10. Identify, if any, each instance (period, duration, price impact, node(s) affected, volume) during which the failure to perform by an ICAP Import Seller in response to ISO-NE dispatch instructions affected the locational marginal price at one or more pricing nodes.

DOCUMENTARY MATERIAL TO BE PRODUCED

Produce the following:

1. All documents identified in response to the Interrogatories.

2. All Workpapers and supporting materials utilized in the preparation of the “Joint Testimony of David La Plante and John P. O’Connor” filed with the March 20, 2009 Filing.

3. All documents resulting from audits or investigations performed by ISO-NE with respect to each Import Seller Generating Unit and/or ICAP Import Seller during the Period.

HEREOF FAIL NOT UNDER PENALTY OF LAW.

Dated at Hartford, Connecticut this ____ day of April, 2009.

RICHARD BLUMENTHAL
ATTORNEY GENERAL

By: _____
MICHAEL E. COLE
Assistant Attorney General
Chief, Antitrust Department
Designee of the Attorney General
Pursuant to Section 35-42 of the
Connecticut General Statutes

CERTIFICATE OF SERVICE

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

Dated at Washington, D.C. on this 10th day of September, 2009.

_____/s/
Kimberly Frank
Kaye Scholer LLP
901 Fifteenth Street, NW
Washington, DC 20005-2327
(202) 682-3578