

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

**Credit Reforms in Organized
Wholesale Electric Markets**)

Docket No. RM10-13-000

**JOINT COMMENTS OF ISO NEW ENGLAND INC., NEW YORK INDEPENDENT
SYSTEM OPERATOR, INC., AND PJM INTERCONNECTION, LLC**

ISO New England Inc. (“ISO-NE”), New York Independent System Operator, Inc. (“NYISO”), and PJM Interconnection, LLC (“PJM”) (collectively, the “Northeast ISOs”) respectfully submit these joint comments in response to the Notice of Proposed Rulemaking issued on January 21, 2010 in the captioned proceeding (the “Credit NOPR”),¹ in which the Federal Energy Regulatory Commission (the “Commission”) proposes to amend its regulations to reform credit practices in organized wholesale electric markets to ensure that credit practices result in jurisdictional rates that are just and reasonable.

As members of the ISO/RTO Council (the “IRC”), the Northeast ISOs also join in the comments filed today in this proceeding by the IRC and strongly support the Commission’s initiative to reform credit practices in wholesale electric markets. The Northeast ISOs file these separate comments to request the Commission’s clarification of a few discrete matters that are not specifically addressed in the IRC comments.

¹ *Credit Reforms in Organized Wholesale Electric Markets*, 130 FERC ¶ 61,055 (2010).

I. BACKGROUND

The Commission issued the Credit NOPR as the latest in a series of initiatives and rulings regarding credit policies in wholesale electric markets. As noted in the Credit NOPR, credit practices and related risk management tools have developed incrementally within these markets, and regional transmission organizations (“RTOs”) and independent system operators (“ISOs”) have historically developed their own processes for assessing risk, extending unsecured credit and settling accounts.² The November 2004 issuance of the Commission’s *Policy Statement on Electric Creditworthiness*³ encouraged the RTOs and ISOs to consider specific reforms, and the Commission has subsequently considered and accepted a number of proposals by RTOs and ISOs to amend their credit policies.⁴

The issuance of the Credit NOPR reflects the Commission’s belief, in light of the dialogue at the January 2009 technical conference on credit and capital issues,⁵ that more needs to be done to ensure that credit policies of the organized markets can “reasonably protect consumers against the adverse effects of default.”⁶ To that end, the Commission has requested comments on proposals that operators of organized wholesale markets: (i) shorten the settlement cycle;⁷ (ii) reduce the extension of unsecured credit;⁸ (iii) eliminate unsecured credit in financial

² Credit NOPR, at PP 3, 4.

³ *Policy Statement on Electric Creditworthiness*, 109 FERC ¶ 61,186 (2004) (“Policy Statement”).

⁴ Credit NOPR, at PP 7-9.

⁵ Credit NOPR, at P 9.

⁶ *Id.*

⁷ Credit NOPR, at PP 13-16.

⁸ Credit NOPR, at PP 17-20.

transmission rights (“FTR”) markets;⁹ (iv) clarify RTOs’/ISOs’ status as a party to each transaction;¹⁰ (v) specify minimum participation criteria for all market participants;¹¹ (vi) specify under what circumstances the market operator may invoke a “material adverse change” as a basis for requiring additional collateral;¹² and (vii) limit the time period for posting additional collateral when requested by the market operator.¹³

II. COMMENTS

The Northeast ISOs join with the IRC in supporting the Commission’s rulemaking efforts to promote sound credit practices that appropriately limit credit risks without diminishing market liquidity. In these comments, the Northeast ISOs seek clarification regarding a few discrete matters relating to: (a) shortening settlement cycles; (b) establishing aggregate caps (for corporate families) on unsecured credit usage; and (c) eliminating unsecured credit in FTR markets.

A. Shortened Settlement Cycle: Scope and Parameters

The Commission proposes to revise its regulations to require that each RTO and ISO include in the credit provisions of its tariff a settlement cycle of no more than seven calendar days with no more than an additional seven calendar days for final payment.¹⁴

⁹ Credit NOPR, at PP 21-23. Note that in the NYISO marketplace, financial transmission rights are called transmission congestion contracts, or TCCs.

¹⁰ Credit NOPR, at PP 24-25.

¹¹ Credit NOPR, at PP 26-27.

¹² Credit NOPR, at PP 28-29.

¹³ Credit NOPR, at PP 30-31.

¹⁴ Credit NOPR at P 15.

The Northeast ISOs, in general, support shortened settlement cycles as a matter of sound credit policy and note that the benefits of shortened settlement cycles include: (i) reductions in ISO/RTO, and market participant, exposure to credit risk, (ii) decreases in market participant credit requirements, and (iii) improvements in ISO/RTO market liquidity and efficiency. Two of the Northeast ISOs currently utilize weekly billing¹⁵ for their energy markets and associated products,¹⁶ while the third has been actively engaged in discussions with its stakeholders in an effort to develop a consensus proposal for weekly billing.¹⁷

The benefits of replacing monthly settlements with weekly settlements can be significant. For example, PJM's implementation of weekly settlements in June 2009 lowered the maximum cumulative transaction exposure by 70% as compared to monthly settlements. This shortened settlement period allowed PJM to return \$1 billion of collateral to market participants.

With respect to the Commission's proposed regulation on shortened settlement cycles, the Northeast ISOs seek clarification on two points. First, it is not clear whether the Commission intends for the proposed regulation to require ISOs/RTOs to invoice weekly for all products offered or billed by or through the ISOs/RTOs. The Northeast ISOs are able to determine the significant majority of the charges in their markets on a daily or weekly basis and consequently

¹⁵ On Friday, March 26, 2010, ISO-NE filed tariff changes to, among other things, bill twice weekly. *See* Docket No. ER10-942-000.

¹⁶ For example, ISO-NE currently bills weekly for Real-Time Energy, Day-Ahead Energy, Real-Time Reserves, Day-Ahead Operating Reserves, Forward Reserves, Regulation Service, Emergency Sales, Net Commitment Period Compensation, and Emergency Purchases.

¹⁷ The NYISO currently uses a monthly settlement cycle. In March 2008, the NYISO initiated discussions with stakeholders about, and later introduced a proposal to, move to a weekly settlement cycle for a majority of the settlements it administers; however, to date the proposal has failed to gain support from a majority of the NYISO's stakeholders. An account of the NYISO's discussions with its stakeholders and efforts to develop a consensus proposal for a shortened settlement cycle is set forth in the NYISO's separate comments filed in this proceeding on March 29, 2010.

bill those charges weekly, rather than monthly.¹⁸ The Northeast ISOs note, however, that some products are sold on a monthly basis, or the data required to calculate related charges and credits to support billing of those items is available only monthly.¹⁹ For such charges, the Northeast ISOs believe it is appropriate for ISOs/RTOs to continue billing those items monthly.

Accordingly, the Northeast ISOs respectfully request that the Commission clarify in its final rule that any requirement for weekly billing applies only to energy and associated products, for which sufficient data is available to invoice weekly, but also include sufficient flexibility in the rule for ISOs/RTOs to bill weekly for other products and services as appropriate.

Second, the Northeast ISOs seek clarification regarding whether the Commission intends to prescribe a payment due date that is a maximum of 14 days from the date a cost is incurred (e.g., date of the bid). As a matter of sound credit policy, the Northeast ISOs support billing no less frequently than once a week, and agree that no longer than a one-week limit for payment on such a bill is reasonable. At the same time, as a result of holidays, it may not in every case be practical to issue a bill for each week immediately upon the conclusion of that week.

Accordingly, the Northeast ISOs respectfully request that in the final rule, the Commission include flexibility for ISOs/RTOs to adjust the length of the cost incurrence-to-payment cycle when, and to the extent, required to account for practical timing issues that may arise, rather than prescribing a “hard” 14-day limit.

As an administrative matter, the Northeast ISOs also respectfully request that the Commission clarify its usage of the phrases “settlement cycle” and “settlement period” in the

¹⁸ For example, since implementing weekly settlements in June 2009, PJM has billed 95% of invoice amounts in weekly bills.

¹⁹ For example, ISO-NE currently bills monthly for monthly markets, other ancillary services, New England Power Pool expenses, ISO-NE administrative costs, and monthly meter adjustments.

final rule. The Credit NOPR refers to “a *settlement cycle* of no more than seven calendar days with no more than an additional seven calendar days for final payment,” implying that a “settlement cycle” encompasses only the time between transaction and billing. Elsewhere the Credit NOPR refers to “settlement period” as “the time between when a cost is incurred and when payment is ultimately received by an ISO/RTO.”²⁰ The related regulatory text (in § 35.47(b)) utilizes the undefined term “settlement period” in establishing the requirement to “adopt a settlement period of no more than seven days and allow no more than an additional seven days to receive payment.”

B. Aggregate Caps for Corporate Families on Unsecured Credit Usage

The Commission proposes to require that each RTO and ISO revise the credit provisions of its tariff to reduce the amount of unsecured credit it extends to a market participant to no more than \$50 million.²¹ In relation to this proposal, the Commission seeks comments on a number of issues, including whether there should be a further aggregate cap to cover an entire corporate family (*e.g.*, holding company, subsidiaries, associates, and affiliates) and also whether the cap should be different for markets of different sizes.²²

The IRC comments express support – on behalf of the Northeast ISOs and others – for establishing appropriate limits on the amount of unsecured credit extended to any one market participant. In addition, the Northeast ISOs support the concept of establishing “aggregate caps” for the amounts of unsecured credit extended to families of affiliated entities to limit the concentration of credit in a corporate family. The Northeast ISOs believe regional variations

²⁰ Credit NOPR, at P 13.

²¹ Credit NOPR, at P 19.

²² *Id.*

among the organized market operators – such as in the frequency of billing and the size of the particular market/region – make it important that any rule devising an aggregate cap for affiliated groups allow market operators a degree of flexibility in determining the appropriate dollar amount of the aggregate cap.

C. Elimination of Unsecured Credit in FTR Markets

The Commission proposes to revise its regulations to require that each RTO and ISO eliminate the use of unsecured credit in FTR markets.²³

The Northeast ISOs agree with this proposal. NYISO and PJM have already eliminated the use of unsecured credit in connection with FTRs, and ISO-NE's recent filing proposes to do so as well.²⁴ The Commission has correctly noted (both in the Credit NOPR and in its order accepting PJM's filing to terminate unsecured credit for FTRs²⁵) that FTR markets present unique risks, because FTRs have a longer-term performance obligation than other market products, are relatively illiquid and their value depends on unforeseeable events. Permitting unsecured credit is inappropriate in light of these and other factors.

For this reason, the Northeast ISOs support the elimination of unsecured credit in FTR markets.

²³ Credit NOPR, at P 23.

²⁴ See supra, fn. 16

²⁵ See *PJM Interconnection, L.L.C.*, 127 FERC ¶ 61,017, at P 4 (2009).

III. CONCLUSION

The Northeast ISOs respectfully request that the Commission consider and act favorably on these comments.

Respectfully submitted,

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