

**STATE OF CONNECTICUT
OFFICE OF THE ATTORNEY GENERAL**

SUBPOENA DUCES TECUM

**TO: David LaPlante
Vice President, Market Monitoring
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 23, 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 your employer, 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’s employer, ISO New England Inc. 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 you 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.
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. Identify all documents or information utilized, referred to or relied on in preparing the “Joint Testimony of David LaPlante and John P. O’Connor” filed with ER09-873, *ISO New England and New England Power Tool, Tariff Revisions Regarding Competitive Offer Requirement for Capacity Imports* dated March 20, 2009 (the “March 20, 2009 Filing”).
5. For every document or piece of information identified in response to the previous Interrogatory, identify the person or entity that provided you with the document or piece of information.
6. Identify every individual that you consulted or communicated with in order to prepare your testimony in the “Joint Testimony of David LaPlante and John P. O’Connor” filed with the March 20, 2009 Filing.
7. Identify every individual or entity that you communicated with regarding the substance of the allegations in the March 20, 2009 Filing that on 108 separate

occasions “Market Participants” with ICAP Import Contracts failed to perform when dispatched.

8. Identify and describe any involvement you may have had in the formulation or preparation of ISO-NE’s press release on April 21, 2009 titled “ISO New England Issues Statement Concerning Capacity Transactions” (the “April 21 Press Release”) or in the creation or formulation of the positions taken by ISO-NE in the April 21 Press Release.

9. Identify any communications between you and anyone else regarding the substance of the matters described, or the positions taken by ISO-NE, in the April 21 Press Release.

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 referring, relating to or evidencing your involvement in the creation or preparation of the April 21 Press Release.
4. All communications between you and anyone else relating to the substance of the matters described, or the positions taken by ISO-NE, in the April 21 Press Release.

HEREOF FAIL NOT UNDER PENALTY OF LAW.

Dated at Hartford, Connecticut this 23rd day of April, 2009.

RICHARD BLUMENTHAL
ATTORNEY GENERAL

By:



W. JOSEPH NIELSEN
Assistant Attorney General
Antitrust Department
Designee of the Attorney General
Pursuant to Section 35-42 of the
Connecticut General Statutes

