
FEDERAL ENERGY REGULATORY COMMISSION



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NEWS RELEASE

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FOR IMMEDIATE RELEASE

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ER03-563-060

COMMISSION DENIES STAY IN NEW ENGLAND FORWARD CAPACITY MARKET PROCEEDING

The Federal Energy Regulatory Commission today denied a request for a stay in proceedings involving transition payments by ISO New England to capacity providers, noting that it no longer had jurisdiction to issue a stay, since the case is now pending before a federal appeals court.

In June 2006, the Commission approved a settlement agreement involving over 100 parties that addressed New England's generation capacity market. The agreement, reached after protracted litigation, calls for a forward capacity market (FCM) to be implemented instead of the originally-proposed, and heavily contested, locational installed capacity (LICAP) mechanism. That settlement includes transition payments to be made to capacity providers pending full implementation of FCM. Connecticut Attorney General Richard Blumenthal (CTAG) sought a stay of the transition payments.

The Commission also found that the request for stay had failed to meet the legal standards required by the Administrative Procedures Act (APA), namely, whether "justice so requires" that the stay be granted. Under the factors considered by the Commission, if a party requesting a stay is unable to demonstrate that it will suffer irreparable harm absent the stay, other factors do not need to be considered. The Commission said that the CTAG's assertion that there would be irreparable harm to the New England region was unsupported and alluded only to economic loss, which alone is insufficient to establish economic injury, and also provided no specifics. "Such a claim is too broad and speculative to justify the granting of injunctive relief," the Commission said.

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