

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Nora Mead Brownell, and Suedeen G. Kelly.

Milford Power Company, LCC

Docket No. EL05-147-000

v.

ISO New England, Inc.

ORDER APPROVING UNCONTESTED SETTLEMENT

(Issued April 20, 2006)

1. On February 23, 2006, Milford Power Company, LLC (Milford) filed an Offer of Settlement resolving Milford's dispute with ISO New England, Inc. (ISO-NE) regarding ISO-NE's calculation of Milford's Maximum Net Dependable Capacity under the parties' Reliability-Must-Run Cost-of-Service Agreement (RMR Agreement).¹ The parties also submitted a revised tariff sheet reflecting the settlement. This Offer of Settlement is uncontested.

2. On August 31, 2005, Milford Power filed a complaint against ISO-NE arguing that ISO-NE's implementation of the RMR Agreement resulted in Milford Power not receiving recovery of its Annual Fixed Revenue Requirement, which is paid through its Monthly Fixed-Cost Charge. Milford argues that this discrepancy results from ISO-NE overstating the Maximum Net Dependable Capacity, which is based upon a summer and winter Claimed Capability (90 degrees Fahrenheit and 20 degrees Fahrenheit, respectively). The Seasonal Claimed Capability is not adjusted for variations in daily ambient air temperatures. Further, Milford contends that adjusting for the Seasonal Claimed Capability is within the intent of the RMR Agreement.

¹ The RMR Agreement was accepted by the Commission effective November 3, 2004, in *Milford Power Company, LLC*, 110 FERC ¶ 61,299, *reh'g denied*, 112 FERC ¶ 61,154 (2005). Pursuant to these Commission orders, Milford's cost-of-service was set for hearing and settlement procedures. The parties in this Offer of Settlement represent that this settlement will have no effect on pending proceedings. *See* Offer of Settlement at 1 and 8.

3. On September 29, 2005, Milford filed an Amended Complaint seeking to recover additional Requested Billing Adjustments that had been denied by ISO-NE since the filing of the initial complaint. In its complaint and amended complaint, Milford contends that under its RMR Agreement, it was underpaid more than \$2 million and, based upon its projections, Milford alleges that there will be a total underpayment of over \$2.8 million for 2005.

4. On September 14, 2005, ISO-NE filed a motion for extension of time to answer Milford Power's complaint, and represented that the request was being made to allow the parties time to negotiate a settlement. On December 15, 2005, ISO-NE filed a motion for a further extension of time. ISO-NE explained that the parties had reached an agreement in principle, but needed time to complete preparation of an Offer of Settlement.

5. The Offer of Settlement adjusts the Seasonal Claimed Capability for monthly variations in ambient air temperature based upon local average temperatures. The Offer of Settlement also provides for recalculation of amounts due Milford Power based on revised unit capacities, with an effective date of November 3, 2004. This date corresponds to the effective date of the RMR Agreement.

6. The Offer of Settlement as proposed by the parties is fair and reasonable and in the public interest and is hereby approved. The Commission's approval of this Offer of Settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding. The Commission retains the right to investigate the rates, terms and conditions under the just and reasonable and not unduly discriminatory or preferential standard of section 206 of the Federal Power Act, 16 U.S.C. § 824e (2000). The parties have also submitted a revised tariff sheet, which we accept for filing and make effective as specified in the settlement herein.

The Commission orders:

The Commission hereby approves the Offer of Settlement.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.