

**LICAP Oral Argument  
Devon Power LLC, *et al.*  
Docket No. ER03-563-030**

**September 20, 2005**

**OPENING STATEMENT**

**The Honorable Joseph T. Kelliher  
Chairman  
Federal Energy Regulatory Commission**

“Good morning. We are here this morning to hear oral arguments in Docket No. ER03-563-030, concerning the Locational Installed Capacity (LICAP) mechanism filed by ISO New England in these proceedings. The Connecticut Parties, who include the Connecticut Department of Public Utility Control, Connecticut Office of Consumer Counsel, and the Attorney General for the State of Connecticut, and the New England Conference of Public Utility Commissioners, along with various New England state commissions, each submitted motions requesting this oral argument.

“Commission Trial Staff will begin today’s agenda with an overview of the history of this proceeding. I would like to make a few introductory remarks about why we are here today. Basically, we are here today to solve a problem. There is a problem in New England’s wholesale power markets that cannot be ignored, namely, the collapse of generation additions and the threat that poses to reliability and just and reasonable wholesale power prices in New England. In particular, very little new generation is being added in Southwest Connecticut and Northeast Massachusetts. At the same time, demand continues to inexorably grow. Current reserve margins are barely adequate at best, and more severe supply problems threaten just over the horizon. That is the status quo.

“If there is a party in today’s proceedings who disagrees that there is a problem under the status quo, this is your opportunity – perhaps your last opportunity – to make a convincing argument that the status quo is working and is just and reasonable. The current record suggests otherwise.

“I am concerned that the situation in New England bears an uncomfortable resemblance to the situation facing California in the late 1990’s. One factor in the California crisis, of course, was lack of adequate electricity supply. I do not want to see the California crisis visited upon New England. I do not want to see the Commission criticized for not acting to assure reliability and just and reasonable wholesale power prices in New England. If the Commission is convinced there is a problem in wholesale power markets under the status quo, we have a duty to act.

“ISO New England filed LICAP, after a lengthy stakeholder process, as a proposed solution to this problem. The Commission’s role is to assess whether LICAP is a just and reasonable wholesale rate mechanism that will address the problems that have been identified in the New England capacity market.

“We will also consider in our deliberations the alternatives to LICAP that the parties propose. I want to emphasize that the Commission is extending the LICAP opponents an exceptional opportunity to advance workable alternatives. Doing so is consistent with the directive of section 1236 of the Energy Policy Act of 2005 that the Commission “carefully consider” the views of the region in this proceeding. In particular, I want to know whether any of the alternatives provide a greater assurance of entry of new generating capacity than the LICAP proposal itself.

“Any approach the Commission takes must complement regional regulation and recognize regional realities. One such reality is that New England relies very heavily on competitive suppliers for its electricity supply. That is the direct result of the region's decision to order or encourage state-regulated electric utilities to divest themselves of generation. We must bear that reality in mind as we craft a solution.

“The Commission agreed to hold oral argument because it believed doing so would help it make a decision in this proceeding. In my view, the arguments that will be the most persuasive are those that are based on the law and the facts. Ultimately, the law and the facts will govern the Commission’s decision, not other considerations.

“I appreciate your attention and look forward to hearing your arguments.”