

Complaint Involving Small Controversy
Efiling with the
Federal Energy Regulatory Commission
888 First Street, N.E., Washington, DC 20426

November 3, 2008

(1) The name of the complainant:

Joan Rennie, President
Lavand & Lodge, LLC
42 Walton Street
Saratoga Springs, NY 12866
Tel: 518-583-4877
Email: lavandlodge@nycap.rr.com

(2) The name of the respondent:

ISO New England, Inc
1 Sullivan Road
Holyoke, MA 01040-2841

(3) A description of the relationship to the respondent:

Lavand & Lodge, LLC is a virtual trading organization with the NYISO in New York. In September 2007, Lavand & Lodge, LLC became a customer of ISO-NE; however, four months later, in December 2007 Lavand & Lodge, LLC decided to withdraw from ISO-NE due to the ISO-NE's expensive unbundled hidden reliability costs applied to virtual traders who, at the same time, do not wish to use reliability service as in New York. Since then, Lavand & Lodge, LLC has paid any re-bills associated with the four months of ISO-NE activity and is no longer a direct customer of the ISO-NE.

(4) The amount in controversy:

\$725.42 as listed on ISO-NE invoice document number 54259 - bill issuance date of 10/16/2008 regarding customer ID #51023.

(5) A statement why the complaint will have a *de minimis* impact on other entities:

The \$725.42 is a small amount that can be reallocated among parties that are directly responsible for settlement payment.

(6) The facts and circumstances surrounding the complaint, including the legal or regulatory obligation breached by the respondent:

On April 4, 2008, NEPOOL Participants voted in support of a settlement construct.

On May 30, 2008, the FERC issued settlement order in FERC Docket No. EL01-93-013-5-30-08 regarding the settlement construct passed by the NEPOOL Participants.

On October 16, 2008, the ISO-NE issued an invoice to Lavand & Lodge, LLC for \$725.42 that was a result of the settlement in FERC Docket No. EL01-93.

On October 22, 2008, Lavand & Lodge, LLC requested a Billing Adjustment covered under section 6 of the ISO-NE's Billing Policy.

On October 24, 2008, the ISO-NE denied Lavand & Lodge, LLC from their Tariff's billing dispute process stating that the ISO's responsibility is limited to administering the FERC Settlement EL01-93 and that no ISO-NE Tariff rate was violated or error was made by the ISO-NE to warrant any billing adjustment consideration. (Note: This would not have happened in the NYISO marketplace since the NYISO has an internal Discretionary Action Committee, in addition to their Billing Dispute Process, to address various customer billing issues with some discretion.)

On November 3, 2008, without any other recourse, Lavand & Lodge, LLC files this FERC Complaint and argues that the ISO-NE did make two errors.

First, Lavand & Lodge, LLC was not adequately notified as the FERC had ordered.

And second, given that the item on the bill in dispute is for services between May 1, 1999 and March 1, 2003, a fee should not apply to Lavand & Lodge, LLC which was an ISO-NE customer for less than four months in late 2007; and thus, Lavand & Lodge, LLC was incorrectly identified by the ISO-NE as one of the Net Payors in the FERC Settlement – Attachment B.

In Section IV, the FERC Settlement states:

“The Commission is not being asked to approve the specific methodology used by the ISO to reach the result stated in Attachment B. Rather, the Commission is being asked to approve a Settlement Agreement which provides for the result for each Identified Participant (including Settling Parties) stated in Attachment B. The ISO has described for the Settling Parties and all other Participants the mechanics of how it calculated the collections and distributions to be made and as represented on Attachment B. This description is included in this Section IV and has been shared with and reviewed by all Settling Parties prior to the point at which each executed the Settlement Agreement, with all other intervenors or parties to this Docket who are not Settling Parties, and with all NEPOOL Participants prior to the time at which they were asked to vote to support the settlement construct at the April 4, 2008 Participants Committee meeting. In

addition, each Net Payor and each Net Payee Participant identified in Attachment B, whether or not a party to the Docket, was provided with an explanation of the settlement construct in essentially the form stated below, an opportunity to discuss with the ISO the methodology to implement the construct and an opportunity to verify with the ISO that the outcome reflected in Attachment B for it was accurate under the settlement construct.”

Regarding inadequate notification, Lavand & Lodge, LLC was not an ISO-NE customer after January 2008 and was not contacted regarding this issue and thus was not provided an explanation of the settlement construct up for vote or an opportunity to have the ISO-NE excluded Lavand & Lodge, LLC from Attachment B. Lavand & Lodge, LLC was telephoned to ensure payment of any re-bill or settlement invoice after 2007 but never contacted about any other matter.

Regarding the ISO-NE incorrectly identifying Lavand & Lodge, LLC as one of the Net Payors in the FERC Settlement, the FERC inherently trusted the ISO-NE to develop a methodology that would hopefully adhere to one of the main guiding principle of an unbundled deregulation market, that is, to have users of a service pay for that service. The ISO-NE simply allocated the settlement to participants that had an active status in November 2007 which was arbitrary and this methodology was not stated in the settlement construct that was voted on – only a list of Payees and Payors was presented without explanation. It can only be assumed, at this point, that it was either without thought or laziness that the ISO-NE used a November 2007 customer snapshot rather than creating a list from its customer database of organizations active during the 1999 to 2003 period of customers directly responsible for the unpaid services.

Also, in Section IV.D.2.a a. -The “Ameliorative Adjustment” for Certain Participants states: “the “Ameliorative Adjustment” ... is intended conceptually to reduce the impact of the Settlement Agreement on those Participants who are essentially “bystanders” with respect to the Bid Mitigation Agreements.” In the settlement construct, it seems that this section’s intent is to identify “bystanders” like Lavand & Lodge, LLC and to exclude them as a Net Payor in Attachment B; however, it does not.

(7) The requested relief:

ISO-NE refunded to Lavand & Lodge, LLC the amount of \$725.42 and reallocated this amount among the correct parties that are directly responsible for settlement payment.

Document Content(s)

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