

restoration alternatives will be based on the area of habitat they create, improve, or provide access to, as well as their ability to complement flood hazard reduction measures and minimize adverse impacts to social, economic, cultural, historic, and recreational resources.

A public scoping meeting will be held in the summer of 2004. The date and time of this meeting will be announced in general media and will be at a time and location convenient to the public. Interested parties are encouraged to express their views during the scoping process and throughout the development of the alternatives and the EIS. To be most helpful, comments should clearly describe specific environmental topics or issues which the commenter believes the document should address.

The DEIS is anticipated to be available for public review in early 2005, subject to the receipt of federal funding.

Brenda S. Bowen,

Alternate Army Federal Register Liaison Officer.

[FR Doc. 04-13271 Filed 6-10-04; 8:45 am]

BILLING CODE 3710-NN-M

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services; Overview Information; Technical Assistance and Dissemination To Improve Services and Results for Children With Disabilities—IDEA General Supervision Enhancement Grant; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2004

Catalog of Federal Domestic Assistance (CFDA) Number: 84.326X.

Dates:

Applications Available: June 14, 2004.

Deadline for Transmittal of

Applications: July 23, 2004.

Deadline for Intergovernmental

Review: September 21, 2004.

Eligible Applicants: State educational agencies (SEAs), local educational agencies (LEAs), institutions of higher education (IHEs), other public agencies, nonprofit private organizations, for-profit organizations, outlying areas, freely associated States, and Indian tribes or tribal organizations.

Additional information concerning eligibility requirements is provided elsewhere in this notice under Section III., 1.

Eligible Applicants.

Estimated Available Funds:

\$6,700,000. Additional information

concerning funding amounts is provided elsewhere in this notice under Section II. Award Information.

Estimated Average Size of Awards: See Section II. Award Information.

Estimated Number of Awards: 13. Additional information concerning the number of awards is provided elsewhere in this notice under Section II. Award Information.

Note: The Department is not bound by any estimates in this notice.

Project Period: October 1, 2004–September 30, 2005.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: This program provides technical assistance and information that (1) support States and local entities in building capacity to improve early intervention, educational, and transitional services and results for children with disabilities and their families; and (2) address goals and priorities for improving State systems that provide early intervention, educational, and transitional services for children with disabilities and their families.

This competition contains one funding priority with four focus areas addressing services provided under Parts B and C of the Individuals with Disabilities Education Act, as amended (IDEA).

Priority: In accordance with 34 CFR 75.105(b)(2)(iv), this priority is from allowable activities specified in the statute (see sections 661(e)(2) and 685 of the IDEA).

Absolute Priority: For FY 2004 this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

Technical Assistance and Dissemination To Improve Services and Results for Children With Disabilities—IDEA General Supervision Enhancement Grant

Background of Priority: Consistent with the No Child Left Behind Act of 2001 (NCLB) and its focus on children with disabilities meeting State educational achievement standards, many States have begun the challenging but important process of—

- (1) Developing outcome indicators for children with disabilities;
- (2) Developing outcome indicators for infants and toddlers with disabilities;
- (3) Developing or redesigning State academic standards and assessment systems using universal design principles; and
- (4) Developing or enhancing State systems to disseminate research-based

promising practices in education and early intervention.

States may obtain technical assistance on these processes from a variety of sources, including the Office of Special Education Programs (OSEP) funded Technical Assistance and Dissemination Centers such as the National Center on Special Education and Accountability Monitoring, the National Center on Educational Outcomes, the Early Childhood Outcomes Center, the National Dissemination Center for Children with Disabilities, the Regional Resource Centers, and other sources of technical assistance. States may find the technical assistance provided by the Early Childhood Outcomes Center particularly useful with regard to early intervention and preschool outcomes.

Statement of Priority: This priority is to support projects that address the technical assistance and dissemination needs of States to improve services and results for children with disabilities in one or more of the following four focus areas.

Focus 1: Developing or Enhancing Part B State Outcome Indicators and Methods To Collect and analyze Part B outcome indicator data

Background of Focus: The development of outcome indicators, against which progress can be measured, is the cornerstone of any accountability system. State performance reports, self-assessments, and other extant data show that most States, as well as their LEAs, have not developed outcome indicators for children with disabilities served under Part B of IDEA or methods to collect and analyze Part B outcome indicator data, especially for preschool children. Therefore, the States lack the capacity to collect sufficient data to determine the impact of special education services.

Statement of Focus: This focus supports development or enhancement of Part B State outcome indicators and methods to collect and analyze Part B State outcome indicator data. These indicators must provide information about one or more of the following:

- (a) The impact of Part B preschool services (age 3–5) on children with disabilities at the State and LEA level.
- (b) The impact of Part B services on school-aged children with disabilities at the State and LEA level.
- (c) Post-secondary education and employment outcomes (including the impact of Part B services on these outcomes) at the State and LEA level using indicators that have been shown to lead to positive post-secondary school outcomes.

(d) Whether children served under Part B of the IDEA are meeting State educational achievement standards, including, as appropriate, whether preschool-aged children with disabilities are meeting appropriate academic achievement and developmental standards at the State and LEA level.

(e) Trend data on the extent to which children who have received services under Part B of the IDEA are meeting State educational achievement standards at the State and LEA level.

Focus 2: Developing or Enhancing Part C State Outcome Indicators and Methods To Collect and Analyze Part C Outcome Indicator Data.

Background of Focus: The development of outcome indicators, against which progress can be measured, is the cornerstone of any accountability system. State performance reports, self-assessments, and other extant data show that most State Lead Agencies (as defined under Part C of the IDEA) and LEAs have not developed outcome indicators for infants and toddlers with disabilities and their families served under Part C or methods to collect and analyze Part C outcome indicator data. Therefore, the States lack the capacity to collect sufficient data to determine the impact of early intervention services.

Statement of Focus: This focus supports development or enhancement of Part C State outcome indicators and methods to collect and analyze Part C State outcome indicator data. These indicators must provide information about one or more of the following:

(a) The impact of Part C services on infants and toddlers with disabilities and their families at the State and local level.

(b) If the State has standards for early intervention outcomes, whether infants and toddlers with disabilities are meeting those standards.

(c) Trend data on the extent to which infants and toddlers with disabilities are meeting State standards.

Focus 3: Developing, Enhancing, or Redesigning State Assessment Systems, Including Alternate Assessments and Alternate Achievement Standards, Using Universal Design Principles.

Background of Focus: The NCLB requires accountability for the academic achievement of all students. Under the law, every student and every group of students is expected to be able to meet State standards. For that very limited group of students with the most significant cognitive disabilities, whose intellectual functioning is well below

that of their peers, the Department's regulations allow States to develop alternate achievement standards that are aligned with the State's academic content standards and reflect professional judgment of the highest learning standards possible for those students. The regulation permits the proficient and advanced scores of students assessed based on alternate achievement standards to be included in AYP calculations in the same manner as scores based on grade level achievement, subject to a one percent cap. See <http://www.ed.gov/legislation/FedRegister/finrule/2003-4/120903a.pdf> for more information.

Assessments used for system accountability purposes should be designed to include the widest possible range of students. Universal design can be applied to all phases of test development, including creation of test designs and formats, development of tasks and items, standardization, and development of scoring and reporting procedures. Universally designed assessments can reduce confusion concerning the appropriate uses of accommodations with tests, and can also improve the consistency with which tests are administered and scored.

Statement of Focus: This focus supports development, enhancement, or redesign of State systems, including alternate assessments and alternate achievement standards, using universal design principles.

Focus 4: Developing or Enhancing State Systems to Disseminate and Implement Research-Based Promising Educational or Early Intervention Practices

Background of Focus: OSEP has found that many States either do not have a State technical assistance and dissemination structure to identify, disseminate, and implement research-based promising educational or early intervention practices, or the existing structure lacks sufficient resources to be effective. OSEP believes that a State technical assistance and dissemination structure is a critical component to every State's effort to support better outcomes for infants, toddlers, and children with disabilities.

Statement of Focus: This focus supports the development or enhancement of Statewide technical assistance systems that are aligned with the State's process for planning improved outcomes for infants, toddlers, and children with disabilities and that address such areas as—

(a) Developing models to be used in Statewide technical assistance efforts.

(b) Providing information about research-based intervention and instructional practices.

(c) Supporting the use of research-based approaches in instruction and the delivery of service in local schools and agencies.

(d) Serving as a conduit for the dissemination of research-based information among SEAs, State Lead Agencies, and LEAs, and national technical assistance centers.

(e) Improving the efficiency of disseminating information by existing State technical assistance centers.

In addition, the projects funded under this priority must—

(a) Budget for a two-day Project Directors' meeting in Washington, DC.

(b) If a project maintains a Web site, include relevant information and documents in an accessible form.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities. However, section 661(e)(2) of IDEA makes the public comment requirements inapplicable to the priority in this notice.

Program Authority: 20 U.S.C. 1485.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 85, 86, 97, 98, and 99.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: \$6,700,000. The Secretary intends to award at least \$2,000,000 for joint applications from SEAs and Part C Lead Agencies (LA) that address that portion of Focus 1 related to children with disabilities served under section 619 of the IDEA and Focus 2.

Estimated Average Size of Awards: \$412,000 for awards addressing either Part B activities or Part C activities; \$825,000 for awards addressing both Part B activities and Part C activities.

Estimated Number of Awards: 13. The Secretary will award a maximum of (a) one award in a State to address Part B activities and (b) one award in a State to address Part C activities, or (c) one award in a State to address Parts B and C activities together.

Note: The Department is not bound by any estimates in this notice.

Project Period: October 1, 2004–September 30, 2005.

III. Eligibility Information

1. *Eligible Applicants:* SEAs, LEAs, IHEs, other public agencies, nonprofit private organizations, for-profit organizations, outlying areas, freely associated States, and Indian tribes or tribal organizations.

Eligibility information for specific types of applicants is as follows: (a) If an applicant is not an SEA and applying under Focus 1, 3, or 4 (with regard to Part B services only), the applicant must include in its application a signed letter of endorsement from the SEA. (b) If an applicant is not a Part C LA and is applying under Focus 2 or 4 (with regard to Part C services only), then the applicant must include in its application a signed letter of endorsement from the director of the Part C LA. (c) If an application is not being jointly submitted by an SEA and Part C LA, and the application proposes to address both Part B and Part C activities, the applicant must include in its application signed letters of endorsement from the directors of the SEA and Part C LA, as applicable.

2. *Cost Sharing or Matching:* This competition does not involve cost sharing or matching.

3. *Other: General Requirements—*(a) The projects funded under this notice must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of IDEA).

(b) Applicants and grant recipients funded under this notice must involve individuals with disabilities or parents of individuals with disabilities in planning, implementing, and evaluating the projects (see section 661(f)(1)(A) of IDEA).

IV. Application and Submission Information

1. *Address to Request Application Package:* Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–576–7734.

You may also contact ED Pubs at its Web site: www.ed.gov/pubs/edpubs.html or you may contact ED Pubs at its e-mail address: edpubs@inet.ed.gov.

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.326X.

Individuals with disabilities may obtain a copy of the application package in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) by contacting the Grants and Contract Services Team listed under **FOR FURTHER INFORMATION CONTACT** in Section VII of this notice.

2. *Content and Form of Application Submission:* (a) If the SEA endorses the State LA or the State LA endorses the SEA as the applicant, the proposed project must describe: (1) How the State LA and SEA collaborated to develop the application; and (2) how the award will address the needs of children served under Parts B and C as appropriate (e.g., developing language development outcome measures for children participating in Part C early intervention and Part B early childhood programs).

(b) Additional requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition. Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application.

If your proposed project addresses only Part B activities or only Part C activities, you must limit Part III to the equivalent of no more than 20 pages. If your proposed project addresses both Part B and Part C activities, you must limit Part III to the equivalent of no more than 40 pages. To determine the number of pages or the equivalent, you must use the following standards:

- A “page” is 8.5” x 11”, on one side only, with 1” margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.

- Use a font that is either 12-point or larger or no smaller than 10 pitch (characters per inch).

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, the references, or the letters of support. However, you must include all of the application narrative in Part III.

We will reject your application if—

- You apply these standards and exceed the page limit; or
- You apply other standards and exceed the equivalent of the page limit.

3. *Submission Dates and Times:*

Applications Available: June 14, 2004.
Deadline for Transmittal of Applications: July 23, 2004.

The dates and times for the transmittal of applications by mail or by hand (including a courier service or commercial carrier) are in the application package for this competition. The application package also specifies the hours of operation of the e-Application Web site.

We do not consider an application that does not comply with the deadline requirements.

Deadline for Intergovernmental Review: September 21, 2004.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* Instructions and requirements for the transmittal of applications by mail or by hand (including a courier service or commercial carrier) are in the application package for this competition.

Application Procedures

Note: Some of the procedures in these instructions for transmitting applications differ from those in the Education Department General Administrative Regulations (EDGAR) (34 CFR 75.102). Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed regulations. However, these amendments make procedural changes only and do not establish new substantive policy. Therefore, under 5 U.S.C. 553(b)(A), the Secretary has determined that proposed rulemaking is not required.

Pilot Project for Electronic Submission of Applications: We are continuing to expand our pilot project for electronic submission of applications to include additional formula grant programs and additional discretionary grant competitions. The Special Education—Technical Assistance and Dissemination of Services and Results for Children with Disabilities—General Supervision Enhancement Grant competition—CFDA number 84.326X is one of the competitions included in the pilot project. If you are an applicant under the Special Education—Technical Assistance and Dissemination of Services and Results for Children with Disabilities—General Supervision

Enhancement Grant competition, you may submit your application to us in either electronic or paper format.

The pilot project involves the use of the Electronic Grant Application System (e-Application). If you use e-Application you will be entering data online while completing your application. You may not e-mail an electronic copy of a grant application to us. If you participate in this voluntary pilot project by submitting an application electronically, the data you enter online will be saved into a database. We request your participation in e-Application. We shall continue to evaluate its success and solicit suggestions for its improvement.

If you participate in e-Application, please note the following:

- Your participation is voluntary.
- When you enter the e-Application system, you will find information about its hours of operation. We strongly recommend that you do not wait until the application deadline date to initiate an e-Application package.

- You will not receive additional point value because you submit a grant application in electronic format, nor will we penalize you if you submit an application in paper format.

- You may submit all documents electronically, including the Application for Federal Education Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.

- Your e-Application must comply with any page limit requirements described in this notice.

- After you electronically submit your application, you will receive an automatic acknowledgement, which will include a PR/Award number (an identifying number unique to your application).

- Within three working days of submitting your electronic application, fax a signed copy of the Application for Federal Education Assistance (ED 424) to the Application Control Center after following these steps:

1. Print ED 424 from e-Application.
2. The institution's Authorizing Representative must sign this form.
3. Place the PR/Award number in the upper right hand corner of the hard copy signature page of the ED 424.
4. Fax the signed ED 424 to the Application Control Center at (202) 245-6272.

- We may request that you give us original signatures on other forms at a later date.

Application Deadline Date Extension in Case of System Unavailability: If you elect to participate in the e-Application

pilot for the Special Education—Technical Assistance and Dissemination of Services and Results for Children with Disabilities—General Supervision Enhancement Grant competition and you are prevented from submitting your application on the application deadline date because the e-Application system is unavailable, we will grant you an extension of one business day in order to transmit your application electronically, by mail or hand delivery. We will grant this extension if—

1. You are a registered user of e-Application, and have initiated an e-Application for this competition; and
2. (a) The e-Application system must be unavailable for 60 minutes or more between the hours of 8:30 a.m. and 3:30 p.m., Washington, DC time, on the application deadline date; or
- (b) The e-Application system is unavailable for any period of time during the last hour of operation (that is, for any period of time between 3:30 p.m. and 4:30 p.m., Washington, DC time) on the application deadline date.

We must acknowledge and confirm these periods of unavailability before granting you an extension. To request this extension or to confirm our acknowledgement of any system unavailability, you may contact either (1) the person listed elsewhere in this notice under **FOR FURTHER INFORMATION CONTACT** (see VII. Agency Contact) or (2) the e-GRANTS help desk at 1-888-336-8930.

You may access the electronic grant application for the Special Education—Technical Assistance and Dissemination of Services and Results for Children with Disabilities—General Supervision Enhancement Grant competition at: <http://e-grants.ed.gov>.

V. Application Review Information

Selection Criteria: The selection criteria for this program are listed in 34 CFR 75.210 of EDGAR. The specific selection criteria to be used for this competition are in the application package.

VI. Award Administration Information

1. **Award Notices:** If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may also notify you informally.

If your application is not evaluated or not selected for funding, we notify you.

2. **Administrative and National Policy Requirements:** We identify administrative and national policy requirements in the application package and reference these and other

requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. **Reporting:** At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as specified by the Secretary in 34 CFR 75.118.

4. **Performance Measures:** Under the Government Performance and Results Act (GPRA), the Department is currently developing measures that will yield information on various aspects of the quality of the Technical Assistance to Improve Services and Results for Children with Disabilities program (e.g., the extent to which projects use high quality methods and materials, provide useful products and services, and contribute to improving results for children with disabilities). Data on these measures will be collected from the projects funded under this notice.

Grantees will also be required to report information on their project's performance in annual reports to the Department (EDGAR CFR 75.590).

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Larry Wexler, U.S. Department of Education, 400 Maryland Avenue, SW., room 4019, Potomac Center Plaza, Washington, DC 20202-2550. Telephone: (202) 205-5390.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request by contacting the following office: The Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center Plaza, Washington, DC 20202-2550. Telephone: (202) 205-8207.

VIII. Other Information

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document

Format (PDF) on the Internet at the following site: www.ed.gov/news/fedregister.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1-888-293-6498; or in the Washington, DC, area at (202) 512-1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: www.gpoaccess.gov/nara/index.html.

Dated: June 8, 2004.

Troy R. Justesen,

Acting Deputy Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 04-13330 Filed 6-10-04; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER03-563-030 and EL04-102-000]

Devon Power LLC, et al.; Order on Compliance Filing and Establishing Hearing Procedures

Issued June 2, 2004.

Before Commissioners: Pat Wood, III, Chairman; Nora Mead Brownell, and Joseph T. Kelliher

I. Introduction

1. On March 1, 2004, ISO New England Inc. (ISO-NE) submitted a filing in compliance with the Commission's directive in *Devon Power LLC, et al.* that a locational installed capacity (LICAP) market or deliverability requirements be implemented in New England by June 1, 2004.¹ Installed Capacity (ICAP) obligations are intended to ensure that there is sufficient capacity to supply system peak load under all contingencies taking into account events such as generator outages. In this order, the Commission establishes hearing procedures regarding ISO-NE's filing, and delays the implementation of a LICAP market until the conclusion of those proceedings. The Commission will direct the presiding judge to issue an initial decision by June 1, 2005. The Commission will defer implementation of the LICAP proposal, as modified in

this order, until January 1, 2006. The Commission believes that deferring implementation until then will not only allow for a comprehensive examination of the issues at hearing but will also allow for completion of needed infrastructure upgrades in New England's constrained areas. Consistent with the recent policy on Reliability Compensation Issues, the Commission's goal in establishing these hearing procedures is to arrive at a final LICAP market design that will appropriately compensate generators needed for reliability and attract and retain necessary infrastructure to assure long-term reliability. Along with deferring the implementation date, the Commission directs ISO-NE to file reports updating progress made in the siting, permitting and construction of transmission and generation upgrades within the New England control area, with particular emphasis on progress within Designated Congested Areas (DCAs). ISO-NE is directed to file these reports every 90 days, beginning 90 days after the date of this order.

2. In this order, the Commission agrees with two broad concepts in ISO-NE's proposal. First, the Commission finds it appropriate to establish ICAP regions, but is concerned that the specific regions proposed by ISO-NE do not adequately reflect where infrastructure investment is needed, especially with regard to the constrained area of Southwest Connecticut (SWCT). Based on the analytical approach to Reliability Compensation Issues established in the May 6, 2004 PJM Order², the Commission believes that a separate ICAP region for SWCT may be appropriate, and is considering revising ISO-NE's proposal to incorporate a separate SWCT region. Accordingly, this order directs ISO-NE to submit a further filing addressing whether the Commission should revise ISO-NE's proposal to create a separate import-constrained ICAP region for SWCT. Additionally, ISO-NE has indicated that an ICAP region cannot be a subset of an energy load zone. The Commission acknowledges this potential problem, and finds that the institution of a separate energy load zone for SWCT in advance of the implementation of LICAP may be appropriate, as it would send more appropriate price signals and more appropriately distribute reliability costs to those who benefit from them. Thus, the Commission also institutes an investigation and paper hearing in Docket No. EL04-102-000 regarding

whether a separate energy load zone should be created for SWCT, and whether it should be implemented in advance of the implementation of LICAP.

3. Second, the Commission agrees with the overarching concept of a demand curve, but finds that more information is necessary to appropriately set the parameters of the demand curve for each ICAP region and is establishing a hearing for that purpose. For example, ISO-NE has proposed a methodology that may understate the level of capacity that may be transferred between ICAP regions. The Commission finds that, as a result, ISO-NE has not justified its proposed method for calculating the Capacity Transfer Limits (CTLs). The hearing established by the Commission, in addition to determining the demand curve parameters, shall also determine the proper method for calculating CTLs, the appropriate method for determining the amount of Capacity Transfer Rights (CTRs) to be allocated, and the proper allocation of CTRs.

4. Until LICAP is implemented, the Commission will extend the Peaking Unit Safe Harbor (PUSH) mechanism, and will consider reliability-must-run (RMR) contracts to ensure that market participants are appropriately compensated for reliability services in the short-term. This order benefits customers by ensuring that there is sufficient generation available in New England to meet current and long-term needs.

II. Background and Procedural History

A. Procedural History

5. This proceeding began on February 26, 2003, when Devon Power LLC, Middletown Power LLC, Montville Power LLC, Norwalk Power LLC and NRG Power Marketing Inc. (collectively NRG) filed, pursuant to section 205 of the Federal Power Act (FPA),³ four cost-of-service RMR agreements covering 1,728 MW of generating capacity located within Connecticut and the SWCT DCAs. These agreements were negotiated between NRG and ISO-NE in accordance with New England Power Pool (NEPOOL) Market Rule 17.3 to provide compensation for generating units (and associated reliability projects) necessary for reliability in SWCT and Connecticut. NRG contended in its filing that the recently-approved New England Standard Market Design (NE-SMD) market would not provide

¹ Devon Power LLC, et al., 103 FERC ¶ 61,082 (2003) (April 25 Order).

² PJM Interconnection, L.L.C., 107 FERC ¶ 61,112 (2004).

³ 16 U.S.C. 824d (2000).