

# **NEPOOL Policy Statement re GIS Waiver Requests**

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## **1. Purpose and Guiding Principles**

The NEPOOL Generation Information System (“GIS”) issues and tracks certificates for all MWh of generation and load produced in the New England control area and for imported MWh from adjacent areas (“Certificates”). The GIS was established to provide the New England States with a reliable platform to support compliance with state renewable portfolio standard (“RPS”) and related programs, e.g., GIS issues and tracks Renewable Energy Certificates or RECs.

This Policy Statement ensures that waiver requests of the GIS Operating Rules and GIS Administration Agreement are handled in a manner that preserves market predictability and fairness while deferring to the authority of state regulatory agencies, which remain the ultimate arbiters of compliance with their respective programs.

## **2. NEPOOL GIS Governing Framework**

The NEPOOL GIS is operated under the GIS Operating Rules (“Rules”) and the Amended and Restated Generation Information System Administration Agreement dated as of October 1, 2017, between APX, Inc. (“APX”) and NEPOOL, as amended and extended (the “GIS Agreement”). Under the GIS Agreement, APX serves as the NEPOOL GIS Administrator.<sup>1</sup>

- GIS Operating Rule 1.4 and Section 4.2 of the GIS Agreement require APX to administer and operate the GIS in accordance with the GIS Operating Rules. Under these provisions, APX, as the GIS Administrator, has “the sole responsibility for the compilation, indexing, reasonable interpretation and implementation of the GIS Operating Rules.”
- Rule 2.8(a) provides that any request for an adjustment of the number of Certificates of different types or classes needs to be submitted at least five days prior to the Creation Date for those Certificates. The submission deadline is firm.

The information on Certificates can be corrected without a waiver only if they were issued erroneously because of a software error in the GIS or in the ISO-NE settlement system or because of a data entry error by APX or ISO-NE (Rule 3.8).

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<sup>1</sup> NEPOOL’s GIS Operating Rules Working Group is responsible for discussing, exploring and recommending proposed changes to the GIS Operating Rules. In addition, NEPOOL has a GIS Usability Group that provides a forum to discuss and vet future potential improvements to the usability of the GIS.

### **3. Seeking Waiver of the GIS Operating Rules & GIS Agreement**

Neither the GIS Rules nor the GIS Agreement between APX and NEPOOL provides APX the contractual authority to change or alter Certificates after they have been issued. As such, absent a software-related error or data entry error as described above, APX does not have the authority to correct the monthly generation data on the Certificates without both APX and NEPOOL waiving Section 4.2 of the GIS Agreement and Rule 1.4, which again requires APX to administer and operate the GIS in accordance with the Rules.

For purposes of this Policy Statement, a “GIS Waiver Request” means the request by any GIS Account Holder to waive one or more provisions of the GIS Operating Rules to permit a change to be made to any of the information on Certificates that would not otherwise be permitted under the GIS Operating Rules.

To provide relief for a GIS Waiver Request, NEPOOL would specifically need to waive applicable provisions of both the GIS Operating Rules and the GIS Agreement. As Section 13.5 of the GIS Agreement requires that any modifications to that Agreement be in writing signed by both NEPOOL and the GIS Administrator, APX would also need to agree to any waiver.

To date, no provisions of the GIS Rules or the GIS Agreement have been waived.

### **4. State Jurisdictional Authority**

Because the NEPOOL GIS was originally created as a service to the New England states to help demonstrate compliance with their RPS requirements, it is up to each state to make determinations on whether to accept Certificates to establish compliance with their state programs.

Historically, the New England States, through their relevant regulatory authority of jurisdiction have been willing to address certain errors or omissions in Certificates, with state regulators periodically resolving GIS Certificate related issues on a case-by-case basis. In doing so, NEPOOL rarely, if ever, has been presented with a request for waiver of the GIS Rules. This process has worked in the past, and NEPOOL encourages New England state regulators to continue to resolve these issues, as appropriate, outside of the NEPOOL process.

More recently though, with one New England state regulatory body no longer willing, in the normal course, to address such issues pursuant to its jurisdictional authority, there has been a steady increase in affected GIS Account Holders seeking NEPOOL’s (and APX’s) approval of requested waivers to the GIS Rules and GIS Agreement.<sup>2</sup>

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<sup>2</sup> NEPOOL does not take a position on how state regulatory authorities respond to GIS Account Holder requests or waivers. NEPOOL recognizes the burdens such requests may place on regulators. However, NEPOOL is supportive of relevant state regulatory authorities addressing Certificate-related issues/requests, as appropriate, on a case-by-case basis.

## 5. **NEPOOL Policy Protocol(s)**

As a matter of general policy and procedure, and all without prejudice as to the merits, NEPOOL will not formally consider or take action on a GIS Waiver Request.

For the avoidance of doubt, this policy protocol does not preclude the requesting party and a relevant state regulatory authority from addressing and resolving a Certificate-related issue outside of the NEPOOL process.

**Effective Date:** This Policy Statement is effective immediately upon adoption by the NEPOOL Participants Committee and may be updated or amended as needed.