

123 FERC ¶ 61,161
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

ISO New England Inc.

Docket No. OA08-58-000

ORDER ON COMPLIANCE FILING

(Issued May 15, 2008)

1. On December 7, 2007, pursuant to section 206 of the Federal Power Act (FPA),¹ ISO New England Inc. (ISO-NE) submitted its transmission planning process as a proposed attachment to its Open Access Transmission Tariff (OATT),² as required by Order No. 890.³ In this order, we accept ISO-NE's filing, as modified and subject to further compliance filings, as discussed below.

I. Background

2. In Order No. 890, the Commission reformed the *pro forma* OATT to clarify and expand the obligations of transmission providers to ensure that transmission service is provided on a non-discriminatory basis. One of the Commission's primary reforms was designed to address the lack of specificity regarding how customers and other

¹ 16 U.S.C. § 824e (2000 & Supp. V 2005).

² The Participating Transmission Owners Administrative Committee, on behalf of the participating transmission owners (PTO); Cross-Sound Cable Company, LLC; the Schedule 20A Service Providers (SSP), which are the entities providing service over the Phase I/II high voltage, direct current tie to Québec under Schedule 20A of the ISO-NE OATT; Maine Electric Power Company (MEPCO), and the New England Power Pool (NEPOOL) Participant Committee joined ISO-NE in submitting this filing. *See infra* note 10 (listing PTOs).

³ *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 Fed. Reg. 12,266 (Mar. 15, 2007), FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, 73 Fed. Reg. 2984 (Jan. 16, 2008), FERC Stats & Regs. ¶ 31,261 (2007).

stakeholders should be treated in the transmission planning process.⁴ To remedy the potential for undue discrimination in planning activities, the Commission directed all transmission providers to develop a transmission planning process that satisfies nine principles (discussed below) and to clearly describe that process in a new attachment to their OATT (Attachment K). Pursuant to a subsequent order, transmission providers were directed to submit their transmission planning process for Commission review on or before December 7, 2007.⁵

3. As discussed more fully below, the nine planning principles each transmission provider was directed by Order No. 890 to address in its Attachment K planning process are: (1) coordination; (2) openness; (3) transparency; (4) information exchange; (5) comparability; (6) dispute resolution; (7) regional participation; (8) economic planning studies; and (9) cost allocation for new projects. The Commission also directed transmission providers to address the recovery of planning-related costs. The Commission explained that it adopted a principles-based reform to allow for flexibility in implementation of and to build on transmission planning efforts and processes already underway in many regions of the country. The Commission also explained, however, that although Order No. 890 allows for flexibility, each transmission provider has a clear obligation to address each of the nine principles in its transmission planning process and all of these principles must be fully addressed in the tariff language filed with the Commission. The Commission emphasized that tariff rules must be specific and clear in order to facilitate compliance by transmission providers and place customers on notice of their rights and obligations.⁶

⁴ The Commission also amended the *pro forma* OATT to require, among other things, greater consistency and transparency in the calculation of Available Transfer Capability and standardization of charges for generator and energy imbalance services. Further, the Commission revised various policies governing network resources, rollover rights, and reassignments of transmission capacity. These reforms have been or will be addressed in other orders.

⁵ See *Preventing Undue Discrimination and Preference in Transmission Service*, 120 FERC ¶ 61,103 (2007) (July 27 Order).

⁶ As the Commission explained in Order No. 890, not all rules and practices related to transmission service, or planning activities in particular, need to be codified in the transmission provider's OATT. Rules, standards, and practices that relate to, but do not significantly affect, transmission service may be placed on the transmission providers' websites, provided there is a link to those business practices on their Open Access Same-time Information Systems (OASIS). See Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1649-55. Transmission providers therefore could use a combination
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4. As for Regional Transmission Organizations (RTO) and Independent System Operators (ISO) with Commission-approved transmission planning processes already on file, such as ISO-NE, the Commission explained that when it approved these processes, they were found to be consistent with or superior to the existing *pro forma* OATT. Because the *pro forma* OATT was being reformed by Order No. 890, the Commission found that it was necessary for each RTO and ISO either to reform its planning process or show that its planning process is consistent with or superior to the *pro forma* OATT, as modified by Order No. 890.⁷ RTOs and ISOs were also directed to indicate in their compliance filings how all PTOs within their footprints will comply with Order No. 890's planning requirements.⁸

II. ISO-NE's Compliance Filing

5. At the outset, ISO-NE states that it has operating authority over all facilities comprising the New England transmission system. However, ISO-NE states that, under the terms of the Transmission Operating Agreement (TOA) and the ISO-NE OATT, the PTOs have planning authority over the non-pool transmission facilities in New England, i.e., there is no existing ISO-NE OATT provision for open and transparent stakeholder review of local transmission planning.⁹ Accordingly, ISO-NE proposes to move the substance of the existing regional system planning process set forth in section II.48 of its OATT into a new "Attachment K" and add an appendix (Appendix 1) to Attachment K that contains the local system planning process to be performed by the PTOs in close coordination with ISO-NE.¹⁰ ISO-NE states that it undertook "extensive consultations"

of tariff language in the Attachment K and a reference to planning manuals on their websites to satisfy their planning obligations under Order No. 890.

⁷ See Order No. 890, FERC Stats.& Regs. ¶ 31,241 at P 439; Order No. 890-A, FERC Stats.& Regs. ¶ 31,261 at P 174-75.

⁸ See Order No. 890, FERC Stats.& Regs. ¶ 31,241 at P 440.

⁹ Transmission facilities are designated as either Pool Transmission Facilities (PTF) or non-Pool Transmission Facilities (non-PTF). PTF facilities are higher voltage lines that are used to provide service throughout the region. In contrast, non-PTF facilities are lower voltage lines or radial lines that primarily perform a local service. Service on PTF facilities is provided under the ISO-NE OATT. Service on non-PTF facilities is provided under Local Service Schedules in the tariff of individual transmission owners.

¹⁰ The PTOs are transmission owners that physically operate and maintain transmission facilities under the operating authority of ISO-NE. They include: Bangor
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with its stakeholders in the development of Attachment K and the result is regional and local system planning processes that build on the existing regional planning process and fully meets or exceeds the requirements of Order No. 890.

6. ISO-NE addresses the merits of its existing planning process. It explains that, under the current section II.48 of its OATT, ISO-NE conducts studies on an ongoing and regular basis to detect reliability and market efficiency needs on the regional system; in collaboration with transmission owners, identifies alternative regulated transmission solutions in the event that market solutions are not forthcoming in response to the identified system needs; and evaluates and determines whether a particular transmission project should be built. ISO-NE states that it notifies the Planning Advisory Committee (PAC) of its intent to initiate system needs assessments, identifies those needs to the PAC, and posts them on its website. According to ISO-NE, the PAC is a stakeholder group open to any interested entity including, but not limited to, transmission customers, market participants, and various officials of the New England states.

III. Notice of Filing and Responsive Pleadings

7. Notice of ISO-NE filing was published in the *Federal Register*, 72 Fed. Reg. 73,017 (2007), with interventions and protests due on or before December 28, 2007. The Commission extended this comment period until January 7, 2008.

Hydro-Electric Company; Town of Braintree Electric Light Department; NSTAR Electric & Gas Corporation on behalf of its operating affiliates: Boston Edison Company, Commonwealth Electric Company, Cambridge Electric Light Company, and Canal Electric Company; Central Maine Power Company; Central Vermont Public Service Corporation; Connecticut Municipal Electric Energy Cooperative; The City of Holyoke Gas and Electric Department; Florida Power & light Company – New England Division; Green Mountain Power Corporation; Massachusetts Municipal Wholesale Electric Company; New England Power Company d/b/a National Grid; New Hampshire Electric Cooperative, Inc.; Northeast Utilities Service Company on behalf of its affiliates: The Connecticut Light and Power Company, Western Massachusetts Electric Company, Public Service Company of New Hampshire, Holyoke Power and Electric Company, and Holyoke Water Power Company; Taunton Municipal Lighting Plant; Town of Norwood Municipal Light Department; Town of Reading Municipal Light Department; The United Illuminating Company; Unitil Energy Systems, Inc. and Fitchburg Gas and Electric Light Company; Vermont Electric Cooperative, Inc.; Vermont Electric Power Company, Inc.; Vermont Transco, LLC; and Vermont Public Power Supply Authority. ISO-NE Filing at 1 n.2, 5.

8. On December 20, 2007, Exelon Corporation filed a motion to intervene. On December 21, 2007, the NRG Companies¹¹ filed a motion to intervene. On January 7, 2008, the Electric Power Supply Association, the Long Island Power Authority, and the PSEG Companies¹² filed motions to intervene. On the same date, the Connecticut Energy Advisory Board (CEAB) and the Connecticut Municipal Electric Energy Cooperative and Massachusetts Municipal Wholesale Electric Company (CMEEC/MMWEC) filed motions to intervene and comments, and the Maine Public Utilities Commission (Maine Commission) submitted a notice of intervention and comments.

9. On January 22, 2008, ISO-NE filed an answer; on January 23, 2008, ISO-NE filed a corrected answer.

IV. Discussion

A. Procedural Matters

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2007), timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

11. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2007), prohibits an answer to an answer unless otherwise ordered by the decisional authority. We will accept ISO-NE's answer because it has provided information that assisted us in our decision-making process.

B. Substantive Matters

12. As discussed below, we find that ISO-NE's Attachment K transmission planning process, with certain modifications, complies with each of the nine planning principles and other planning requirements adopted in Order No. 890. Accordingly, we accept ISO-NE's Attachment K, as modified below, to become effective December 7, 2007. We also direct ISO-NE to file, within 90 days of the date of this order, a further compliance filing as discussed below.

¹¹ The NRG Companies include NRG Power Marketing Inc., Connecticut Jet Power LLC, Devon Power LLC, Middletown Power LLC, Montville Power LLC, Norwalk Power LLC, and Somerset Power LLC.

¹² The PSEG Companies include Public Service Electric and Gas Company, PSEG Power LLC, and PSEG Energy Resources & Trade LLC.

13. While we accept ISO-NE's transmission planning process in Attachment K, we nevertheless encourage further refinements and improvements to ISO-NE's planning process as ISO-NE and its customers and other stakeholders gain more experience through actual implementation of this process. Commission staff will also periodically monitor the implementation of the planning process to determine if adjustments are necessary and will inform the transmission provider and the Commission of any such recommendations. Specifically, beginning in 2009, the Commission will convene regional technical conferences similar to those conferences held in 2007 leading up to the filing of the Attachment K compliance filings. The focus of the 2009 regional technical conferences will be to determine the progress and benefits realized by each transmission provider's transmission planning process, obtain customer and other stakeholder input, and discuss any areas which may need improvement.

C. Compliance with Order No. 890's Planning Principles

1. Coordination

14. In order to satisfy the coordination principle, transmission providers must provide customers and other stakeholders the opportunity to participate fully in the planning process. The purpose of the coordination requirement, as stated in Order No. 890, is to eliminate the potential for undue discrimination in planning by opening appropriate lines of communication between transmission providers, their transmission-providing neighbors, affected state authorities, customers, and other stakeholders. The planning process must provide for the timely and meaningful input and participation of customers and other stakeholders regarding the development of transmission plans, thereby allowing customers and other stakeholders to participate in the early stages of development. In its Attachment K planning process, each transmission provider must clearly identify the details of how its planning process will be coordinated with interested parties.¹³

a. ISO-NE's Filing

15. ISO-NE states that its regional system planning process complies with the Commission's coordination principle. ISO-NE explains that the PAC was established to perform the functions that are specified in Attachment K section 2.2 (Role of Planning Advisory Committee). It states that the PAC plays an extremely important role in the regional system planning process and development of the regional system plan. Specifically, the PAC, *inter alia*, facilitates the development of the regional system plan by reviewing study assumptions and scope, providing input regarding the results of system needs assessments, and identifying and prioritizing desired economic planning

¹³ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 451-54.

studies. ISO-NE explains that, to comply with Order No. 890 reforms, section 2.4 (Procedures) of Attachment K includes procedures followed by ISO-NE to conduct PAC meetings, issue meeting notices, and make the planning-related materials available.

b. Comments

16. CEAB argues that the proposed regional and local processes are not sufficient to address the regional-state coordination that is needed. CEAB contends that a clear sub-regional planning coordination process, focused on Connecticut, would be beneficial to accomplish the mutual planning objectives of ISO-NE and the State of Connecticut. CEAB further argues that the proposed Attachment K stops short of establishing a collaborative planning process, stating simply that stakeholder participation in the planning process (i.e., through the PAC) “shall be advisory only.” As a result, CEAB contends Attachment K gives inadequate attention to establishing a foundation for the collaborative planning effort that must occur if state and regional planning processes are to work in concert toward common objectives.

17. CEAB also contends that ISO-NE’s Attachment K currently is silent on how environmental factors are to be considered in the region’s planning process. CEAB explains that there may be circumstances under which consideration of future environmental regulations would have an influence (positive or negative) on a particular “regulated” transmission solution. CEAB requests that the Commission explore how best to amend the proposed Attachment K to ensure that it clearly describes how environmental considerations will be factored into the regional planning process and suggests making the informal environmental subcommittee within the PAC a formal part of the regional planning process as a logical first step.

c. ISO-NE’s Answer

18. ISO-NE responds that coordination between it and representatives in the New England states, including CEAB, is important to ensure effective transmission planning of the New England transmission system and that in addition to its coordinated efforts within the stakeholder process, it will continue its ongoing outreach efforts with the representatives in the New England states on an individual basis and through regional organizations. ISO-NE states such efforts, however, supplement and do not replace its required coordination with all New England stakeholders in the PAC. ISO-NE offers further that its proposed Attachment K identifies and provides opportunities for the reasonable and meaningful participation of CEAB in each step of the regional system planning process, and argues that participation by CEAB in the PAC is essential in order for CEAB to continue the coordination of the planning responsibilities and to have issues of concern to Connecticut fully aired and considered by ISO-NE as well as other interested New England stakeholders.

19. ISO-NE maintains that CEAB's concerns as to how ISO-NE will ensure that Attachment K adequately supports associated state planning processes is unfounded because Attachment K already recognizes and provides mechanisms to account for state planning efforts in the regional system planning process. Specifically, ISO-NE states that section 4.1(b) (Requests by Stakeholders for Needs Assessments for Economic Considerations) of Attachment K also allows for stakeholders, including CEAB, to request economic studies to be performed by ISO-NE, which may consider the development of investments that can produce economic benefits for the region and encourage market responses. ISO-NE states that in addition, it is initiating a stakeholder process to review the criteria established under Attachment N (Procedures For Regional System Plan Upgrades) to the ISO-NE OATT for evaluating market efficiency transmission upgrades in light of the addition of economic studies under Attachment K. ISO-NE explains that this stakeholder process provides CEAB another opportunity to raise issues, such as the underpinnings of environmental considerations, for consideration by ISO-NE and other New England stakeholders.¹⁴

20. ISO-NE contends that Attachment K clearly allows for the coordination between the planning responsibilities of ISO-NE and CEAB by providing CEAB the opportunity to participate and provide meaningful input in the regional system planning process in a manner that, consistent with the principles set forth in Order No. 890, does not infringe upon state authority over integrated resource planning.

21. With regard to CEAB's suggestion that ISO-NE formalize its existing environmental subcommittee, ISO-NE argues that Attachment K already allows for the regional system planning process to account for environmental considerations and provides the necessary platform for the consideration of specific factors and development of creative solutions that can achieve environmental goals.¹⁵

¹⁴ In its answer, ISO-NE states that the Environmental Advisory Group was established by ISO-NE and reports to the PAC to provide assistance on environmental regulations and issues that could affect future reliability. ISO-NE also states that information on the Environmental Advisory Group is available on its website at: www.iso-ne.com/committees/comm_wkgrps/prtcpnts_comm/eag/mtrls/index.html.

¹⁵ For example, ISO-NE states that in addition to the extensive analysis on environmental issues described in the 2007 regional system plan, its recent "scenario analysis" conducted in collaboration with state regulators and market participants can inform the environmental effort. That "scenario analysis" examined different scenarios of future mixes of fuels and technologies for electric supply resources and their implications for a number of reliability, economic, and environmental outcomes of importance to the region. The purpose of the "scenario analysis" was to demonstrate the
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d. Commission Determination

22. Under Attachment K, ISO-NE will develop the regional system plan for approval by the ISO-NE Board of Directors following stakeholder input through the PAC. Participation in PAC is open to all interested New England constituents, including the regional state committee formed for the New England region (the New England State Committee on Electricity) through the designation of a member to the PAC.¹⁶ The PAC serves to review and provide input and comment on, *inter alia*, the development of the regional system plan. Specifically, the PAC may provide input and feedback to ISO-NE concerning the development and review of needs assessments, assumptions for studies, the conduct of solution studies, the development of the regional system plan, and potential market responses to the need identified by ISO-NE in a needs assessment or the regional system plan. The PAC, in consultation with ISO-NE, also serves to identify and prioritize requests for economic studies performed by ISO-NE.¹⁷

23. Through the PAC, customers are given additional opportunities to be included at the early stages of the development of the transmission plan and not merely given an opportunity to comment on transmission plans that were developed in the first instance without their input.¹⁸ For example, the regional plan provides an opportunity for participation and involvement in the conduct of needs assessments and development of transmission solutions. For these reasons, we find that ISO-NE's regional planning proposal satisfies the Commission's Order No. 890 coordination requirements. We do not agree with CEAB that the process stops short of providing a collaborative planning process because the PAC has only advisory voting authority. Consistent with the Commission's determination in Order No. 890-A, we find customers and other stakeholders have been given a meaningful opportunity to participate in the planning process and voice their concerns, not a formal "vote" on the transmission plan.¹⁹

effect of alternative electricity development and its implications. *See* www.iso-ne.com/committees/comm_wkgrps/othr/sas/mtrls/elec_report/index.html.

¹⁶ ISO-NE, FERC Electric Tariff, No. 3, § II, Attachment K § 2 (Planning Advisory Committee).

¹⁷ ISO-NE, FERC Electric Tariff, No. 3, § II, Attachment K § 2.2 (Role of Planning Advisory Committee).

¹⁸ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 454.

¹⁹ Order No. 890-A, FERC Stats & Regs. ¶ 31,261 at P 189.

24. Moreover, in addition to the PAC, the New England States Committee on Electricity, the regional state committee for the New England region, which includes a representative from Connecticut, will have an opportunity to be involved in the development of system planning and expansion issues utilizing ISO-NE's stakeholder mechanisms. For example, section 3.04(h) of the ISO-NE TOA provides for regional state committee input into regional cost allocation section 205 filings. As we stated previously, this assures the regional state committee the right to provide transmission owners with an alternate proposal, if parties are unable to reach an agreement, which will be "considered on an equal footing" with the transmission owner's proposal. In addition, section 3.04(h) provides for a stakeholder process for regional rate filings.²⁰

Accordingly, we are not persuaded by CEAB's argument that ISO-NE's Attachment K must be amended to reflect a regional planning process that focuses on sub-areas in Connecticut. Order No. 890 provides that a transmission provider could meet the coordination requirement by facilitating the formation of a permanent planning committee made up of itself, its neighboring transmission providers, affected state authorities, customers, and other stakeholders.²¹

25. We also find that ISO-NE's Attachment K provides mechanisms that include state planning processes. For example, the ISO-NE planning process will incorporate or update information regarding a needs assessment that has been proposed and selected in a state-sponsored request for proposal.²² Additionally, any entity, including state regulators or agencies, a regional state committee, or similarly situated entity, may designate a member to the PAC to provide input on the projects to include in the regional or local plans. Moreover, the regional plan provides for ISO-NE to undertake assessments of the needs of the PTF system on a system-wide or specific-area basis.

26. Finally, we find that there is no need to formalize the existing environmental subcommittee. The proposed regional system planning process provides an adequate platform for environmental considerations to be taken into account utilizing stakeholder mechanisms. For instance, Attachment K provides that the regional system plan, which was developed using the stakeholder process, will address the needs of PTF determined by ISO-NE through needs assessments initiated and updated on an ongoing basis to,

²⁰ *ISO New England Inc.*, 121 FERC ¶ 61,105 (2007); *The Governors of: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont*, 112 FERC ¶ 61,049 (2005); *ISO New England Inc.*, 109 FERC ¶ 61,383 (2004).

²¹ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 452.

²² ISO-NE, FERC Electric Tariff, No. 3, § II, Attachment K § 4.2(a) (Treatment of Market Solutions in Needs Assessments).

among other things, account for market performance and economic, environmental, and other considerations that may be agreed to from time to time.²³ In addition, ISO-NE's existing annual regional system plan takes environmental considerations into account.

2. Openness

27. The Order No. 890 openness principle requires that transmission planning meetings be open to all affected parties, including, but not limited to, all transmission and interconnection customers, state authorities, and other stakeholders. While the Commission recognized that it may be appropriate in certain circumstances to limit participation in a meeting to a subset of parties, such as a particular meeting of a subregion it emphasized that the overall development of the transmission plan and the planning process must remain open.²⁴ It also found that transmission providers, in consultation with affected parties, must develop mechanisms to manage confidentiality and Critical Energy Infrastructure Information (CEII) concerns.²⁵

a. ISO-NE's Filing

28. ISO-NE states that the regional system planning process complies with the openness principle because PAC meetings are open to all affected and any other interested parties. ISO-NE also states that today, registered PAC members include NEPOOL participants, transmission owners, transmission customers, representatives of state commissions and other state agencies, environmental regulators, interest groups, and other stakeholders. ISO-NE explains that, to date, it has been able to conduct an open and transparent planning process while protecting (i) confidential and market-sensitive information as requested under the ISO New England Information Policy contained in Attachment D of the ISO-NE tariff and (ii) CEII, in a manner consistent with the Commission's guidance. ISO-NE further explains that sections 2.4(c) (Availability of Materials) and (d) (Access to Planning Related Materials that Contain CEII) of Attachment K ensure these protections are met.

²³ ISO-NE FERC Electric Tariff, No. 3, § II, Attachment K § 1 (Overview).

²⁴ The Commission made clear in Order No. 890-A that any circumstances under which participation in a planning meeting is limited should be clearly described in the transmission provider's Attachment K planning process, as all affected parties must be able to understand how, and when, they are able to participate in planning activities. *See* Order No. 890-A, FERC Stats & Regs. ¶ 31,261 at P 194.

²⁵ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 460.

b. Commission Determination

29. Order No. 890 requires that transmission planning meetings be open to all affected parties, including, but not limited to, all transmission and interconnection customers, state commissions, and other stakeholders.²⁶ Section 2.3 (Membership) of Attachment K provides that any entity, including the regional state committee or similarly situated entity, may designate a member to the PAC. We find that the ISO-NE's regional system planning process satisfies the Order No. 890 openness principle primarily because the PAC meetings are open to all interested New England constituents to participate in the planning process.

30. In Order No. 890, the Commission required that transmission providers, in consultation with affected parties, develop mechanisms, such as confidentiality agreements and password-protected access to information, in order to manage confidentiality and CEII concerns.²⁷ Consistent with Order No. 890, Attachment K provides that ISO-NE will post materials for PAC meetings on its website and the materials for such meetings will be made available to members of the PAC pursuant to protections warranted by confidentiality requirements of the ISO-NE information policy and CEII policy.²⁸

31. Additionally, section 2.4(d) (Access to Planning-Related Materials that Contain CEII) defines CEII in a manner consistent with the guidance provided by the Commission in Order No. 702²⁹ and specifies that planning-related materials determined to be CEII will be posted on ISO-NE's password-protected website and information will be made available to parties pursuant to confidentiality agreements or other rules and protocols governing CEII information.³⁰

²⁶ *Id.*

²⁷ *Id.*

²⁸ ISO-NE, FERC Electric Tariff, No. 3, § II, Attachment K § 2.4(c) (Availability of Meeting Materials).

²⁹ *Critical Energy Infrastructure Information*, Order No. 702, 72 Fed. Reg. 63,980 (Nov. 14, 2007), FERC Stats. & Regs. ¶ 31,258 (2007).

³⁰ ISO-NE, FERC Electric Tariff, No. 3, § II, Attachment K § 2.4(d) (Access to Planning-Related Materials that Contain CEII).

3. Transparency

32. Order No. 890's transparency principle requires transmission providers to reduce to writing and make available the basic methodology, criteria, and processes used to develop transmission plans, including how they treat retail native loads, in order to ensure that standards are consistently applied. To that end, each transmission provider must describe in Attachment K the method(s) it will use to disclose the criteria, assumptions, and data that underlie its transmission system plans.³¹ The Commission specifically found that simple reliance on Form Nos. 714 and 715 failed to provide sufficient information to provide transparency in planning because those forms were designed for different purposes. Transmission providers were also directed to provide information regarding the status of upgrades identified in the transmission system plan.

33. The Commission explained that sufficient information should be made available to enable customers, other stakeholders, and independent third parties to replicate the results of planning studies and thereby reduce the incidence of after-the-fact disputes regarding whether planning has been conducted in an unduly discriminatory fashion. The Commission explained in Order No. 890 that simultaneous disclosure of transmission planning information should alleviate standards of conduct concerns regarding disclosure of information. It also found that where demand-side resources are capable of providing the functions assessed in a transmission planning process and can be relied upon on a long-term basis, they should be permitted to participate in that process on a comparable basis.³²

a. ISO-NE's Filing

34. ISO-NE states that its regional system planning process is conducted in an open and transparent manner, covers both regulated and market (e.g., demand resources, conservation and energy efficiency, distributed generation, merchant transmission, etc.) solutions, and provides for transparency of the methodologies, criteria, and protocols used to develop its system plan. For example, ISO-NE states that pursuant to section 4.1(c) (Notice of Initiation of Needs Assessments) of Attachment K, it notifies the PAC and other affected or interested parties of the initiation of its needs assessments to

³¹ In Order No. 890-A, the Commission made clear that this includes disclosure of transmission base case and change case data used by the transmission provider, as these are basic assumptions necessary to adequately understand the results reached in a transmission plan. *See* Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 199.

³² Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 471-79.

identify the needs of the PTF system, and coordinates with the PTOs and other transmission owners regarding any impacts of such needs on their transmission facilities.

35. The details of the methodology are set forth in the ISO-NE operating and planning procedures, all of which are available on the ISO-NE website.³³ The Northeast Power Coordinating Council (NPCC) criteria and North American Electric Reliability Corporation (NERC) standards applicable to the New England bulk power system are also made available on the ISO-NE website; and as a matter of practice, ISO-NE states that it discusses the assumptions, standards, and criteria applied in conducting system assessments and studies of transmission solutions with stakeholders through the PAC. ISO-NE states that the availability of targeted study groups for affected and/or interested parts, pursuant to sections 4.1(e) (Needs Assessment Study Groups) and 4.2(c) (Notice of Initiation of a Solutions Study) also provides stakeholders the opportunity for early involvement in the planning process.

36. ISO-NE provides additional transparency through other provisions of its OATT. The regional system planning process informs stakeholders of the factors it must consider in identifying transmission projects that meet reliability and market efficiency needs in Attachment N of the ISO-NE OATT. The standards and criteria applied in reviewing applications for proposed additions or modifications to the New England transmission system are pursuant to section I.3.9 (Review of Market Participant's Proposed Plans) of the ISO-NE OATT, and are also specified in the ISO-NE planning procedures. Further, ISO-NE explains that the review undertaken by it of applications for regional cost recovery is clearly specified in Schedule 12C (Determination of Localized Costs on and After January 1, 2004) of the ISO-NE OATT.

b. Comments

37. CEAB argues that the process for conducting the assessments of non-transmission solutions is not adequately specified in the proposed Attachment K and requests additional information on how this process will be conducted. CEAB contends that the Commission should ensure that the regional planning process is fully transparent to providers of non-transmission solutions (including distributed and demand-side providers) by requiring that the process for evaluating non-transmission alternatives be fully described in Attachment K.

38. CEAB maintains that the Commission should act to ensure that ratepayers are not abandoned to expensive transmission investments when low-cost, non-transmission solutions exist but remain unknown to market providers because the information

³³ ISO-NE refers to http://www.iso-ne.com/rules_proceeds/index/html.

necessary to identify and advance such approaches resides solely with transmission providers (and/or the ISO).

c. ISO-NE's Answer

39. ISO-NE replies that no modifications are needed to the proposed Attachment K to meet CEAB's concerns. It contends that while its planning authority is limited to the development of regulated transmission solutions, the regional system planning process provides for the ISO-NE to account for market responses to determine whether other market solutions are available to defer or obviate the need for a regulated transmission solution. ISO-NE contends that the core principle that CEAB seeks to advance is already set forth in section III.A.2 of Attachment N, which states that "Reliability Transmission Upgrades and Market Efficiency Transmission Upgrades are implemented only after market solutions have been given first consideration."

40. ISO-NE states that, in furtherance of the transparency principle, the needs assessment that is conducted as part of the regional system planning process clearly identifies needs that can be met by market responses to the extent they meet certain milestones specified in Attachment K. ISO-NE also states that more generally the annual regional system plan will identify the physical solutions reflected in ISO-NE's system needs assessments.

d. Commission Determination

41. We find that ISO-NE's regional system planning process provides for transparency of the methodologies, criteria, and protocols used to develop its system plan consistent with Order No. 890's transparency requirements.³⁴ Through the stakeholder process ISO-NE and the stakeholders have the opportunity to discuss assumptions, standards, and criteria used in developing assessments and studies of solutions.³⁵ ISO-NE's planning process makes information available to all interested stakeholders that should assist in the consideration of infrastructure investment to address reliability and mitigate congestion costs.

42. The PAC may provide input and feedback to ISO-NE concerning the regional system planning process, including the development and review of Needs Assessments,

³⁴ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 471.

³⁵ ISO-NE, FERC Electric Tariff, No. 3, § II, Attachment K §§ 4.1(f) (Input from the PAC), (g) (Publication of Needs Assessment and Response Thereto), 5 (Supply of Information and Data Required for Regional System Planning).

the conduct of Solutions Studies (i.e., regulated transmission solutions), the development of the regional system plan, and updates to the project list. Under the regional plan, ISO-NE, undertakes needs assessments of the PTF on a system wide or specific area basis. As a part of its assessment, ISO-NE will incorporate market responses into a needs assessment or regional system plan. These market responses may include, but are not limited to resources (e.g., demand-side projects and distributed generation) and merchant transmission facilities).³⁶ The regional plan will incorporate or update information regarding resources in needs assessments that have been proposed and (i) have cleared in a Forward Capacity Market (FCM) auction pursuant to Market Rule 1; (ii) have been selected in, and are contractually bound by a state-sponsored Request For Proposals, or (iii) have a financially binding obligation pursuant to a contract.

43. In the event market responses incorporated into the needs assessments do not eliminate or address the needs identified by ISO-NE in the needs assessments or the regional system plan, it will develop or evaluate regulated transmission solutions proposed in response to the needs identified by ISO-NE.³⁷ With respect to regulated transmission solutions (Solutions Studies), ISO-NE in coordination with affected and interested stakeholders, will conduct or participate in studies to evaluate and identify whether proposed regulated transmission solutions meet the PTF system needs identified in needs assessments. The parties proposing regulated solutions in response to needs assessment must also identify local system plans that require coordination with their proposal. Thus, under Attachment K, ISO-NE will develop the regional plan for approval by the ISO-NE Board of directors following stakeholder input through the PAC that will include an evaluation and assessment of both market responses and regulated transmission projects. In addition, under Attachment N (Procedures for Regional System Plan Upgrades), reliability transmission upgrades and market efficiency upgrades are implemented only after market solutions have been given first consideration.

44. With regard to data supply, ISO-NE will post materials for PAC meetings on the PAC section of ISO-NE's website prior to each meeting. The materials for the PAC meetings will be made available to the members of the PAC subject to protections warranted by confidentiality requirements of ISO-NE Information Policy. Additionally, planning-related materials determined to be CEII will be posted on ISO-NE's password-protected website and the entity seeking to obtain such materials must contact ISO-NE's

³⁶ ISO-NE, FERC Electric Tariff, No. 3, § II, Attachment K § 4.2(a) (Treatment of Market Solutions in Needs Assessments).

³⁷ ISO-NE, FERC Electric Tariff, No. 3, § II, Attachment K § 4.1(b) (Evaluation and Development of Regulated Transmission Solutions in Solutions Studies).

Customer Service Department.³⁸ Moreover, in accordance with Attachment K transmission owners, generation owners, transmission customers, market participants and other entities requesting transmission or interconnection service or proposing the integration of facilities to PTF in the New England Transmission system or alternatives to such facilities, and stakeholders requesting a needs assessment must supply the necessary documents subject to CEII and confidentiality protections as required.

45. Given that both market responses and regulated transmission solutions are developed and evaluated through an open and transparent stakeholder process, we disagree with CEAB's argument that ISO-NE's planning process falls short of providing market solutions to an identified need. Order No. 890 requires transmission providers to allow demand resource participation in the planning process, in a manner comparable to generation, where the demand resource is capable of providing the functions assessed in the transmission planning process and may be relied upon on a long-term basis.³⁹ We find that ISO-NE's planning process allows market responses such as demand-side projects, distributed generation and other similar solutions.⁴⁰ As a result, ISO-NE's planning process takes into account whether the market solution addresses an identified reliability or market efficiency need.

4. Information Exchange

46. Order No. 890's information exchange principle requires network customers to submit information used by transmission providers with regard to native load. Point-to-point customers are required to submit any projections they have of a need for service over the planning horizon and at what receipt and delivery points. As the Commission made clear in Order No. 890-A, these projections are intended only to give the transmission provider additional data to consider in its planning activities and should not be treated as a proxy for actual reservations.⁴¹ Transmission providers, in consultation with their customers and other stakeholders, are to develop guidelines and a schedule for the submittal of such customer information.

³⁸ ISO-NE, FERC Electric Tariff, No. 3, § II, Attachment K § 2.4 (Procedures).

³⁹ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 479.

⁴⁰ ISO-NE, FERC Electric Tariff, No. 3, § II, Attachment K § 4.2 (Treatment of Market Responses and Evaluation of Regulated Transmission Solutions).

⁴¹ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 207.

47. Order No. 890 also provides that, to the extent applicable, transmission customers should provide information on existing and planned demand-side resources and their impacts on demand and peak demand. Stakeholders, in turn, should provide proposed demand response resources if they wish to have them considered in the development of the transmission plan.

a. ISO-NE's Filing

48. ISO-NE states that its Attachment K regional system planning process meets the Order No. 890 information exchange principles. ISO-NE states that section 5 (Supply of Information and Data Required for Regional System Planning) of Attachment K requires that market participants, transmission owners, transmission customers and other entities supply information for ISO-NE to conduct its planning function pursuant to the ISO-NE OATT and other agreements.

b. Commission Determination

49. We find that ISO-NE's regional planning process satisfies Order No. 890's information exchange principle. As ISO-NE indicates, section 5 of its Attachment K requires transmission owners, generation owners, transmission customers, market participants, and other entities requesting transmission or interconnection service to supply agreements, procedures, or protocols (subject to specified confidentiality and CEII protections); any information including cost estimates; and data that is reasonably required to prepare a regional system plan or to perform a needs assessment or solutions study.

50. In addition, information regarding demand response and generation resources is available to ISO-NE through its tariffs and agreements, such as Market Rule 1, Appendix E (Load Response Program) and Schedule 22 (Large Standard Generation Interconnection Procedures).

5. Comparability

51. Order No. 890's comparability principle requires transmission providers, after considering the data and comments supplied by customers and other stakeholders, to develop a transmission system plan that meets the specific service requests of their transmission customers and treats them in the same manner as it treats its network and retail native load customers. The comparability requirement was the result of the Commission's concern that transmission providers have historically planned their transmission systems to address their own interests without regard to, or ahead of, the interests of their customers. The Commission stated that demand resources should be

considered on a comparable basis to the service provided by comparable generation resources where appropriate.⁴²

a. ISO-NE's Filing

52. ISO-NE states that its regional system planning process meets the comparability principle by virtue of its independent structure. ISO-NE states that the open and inclusive structure of its planning process serves as a method by which any interested party can remain apprised of, and provide input into, how ISO-NE is carrying out its planning function. ISO-NE also states that its regional planning process allows any stakeholder to request the initiation of a needs assessment to explore potential problems in the system based on its particular concerns. ISO-NE further states that the Attachment K provisions governing economic planning studies provide stakeholders an opportunity to request and collectively identify and prioritize studies that ISO-NE will conduct during a given year to address market inefficiencies, address congestion constraints or integrate new resources or load. ISO-NE avers that its regional system plan provides for comparable treatment of all market responses. ISO-NE states that, while it can develop market mechanisms to encourage the development of non-transmission resources in New England, it does not have the ability to direct their construction. ISO-NE maintains that, to the extent a resource addresses an identified system need, it does not favor one resource or, for that matter, one market participant, over another.

b. Commission Determination

53. We find that ISO-NE's Attachment K transmission system planning process is consistent with Order No. 890's comparability principle. As ISO-NE indicates, its planning process requires transmission providers, after considering data and comments supplied by customers, to develop a system plan that meets the specific needs of its transmission customers and treats them on the same basis it treats its native load customers.⁴³ Under section 4.1(b) of Attachment K, ISO-NE's stakeholders may request ISO-NE to initiate a needs assessment to evaluate potential regulated transmission solutions or market responses that could result in (i) a net reduction in total production cost to supply system load based on the factors specified in Attachment N of the Tariff, (ii) reduced congestion, or (iii) the integration of new resources and/or loads on an aggregate or regional basis. In addition, Attachment K allows all interested New England constituents including the Regional State Committee formed for the New England region (the New England State Committee on Electricity) to participate in the planning process.

⁴² Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 494-95.

⁴³ *Id.* P 495.

Moreover, PAC members have the opportunity to discuss, identify, and prioritize economic studies. To this end, any stakeholder may submit to ISO-NE for public posting on its website a request for an economic study.

54. Order No. 890-A was issued on December 27, 2007, subsequent to ISO-NE and its transmission owners submitting its Order No. 890 Attachment K compliance filing. In Order No. 890-A, the Commission provided additional guidance, among other things, as to how the transmission provider can achieve compliance with the comparability principle. Specifically, the Commission stated that the transmission provider needed to identify as part of its Attachment K planning process “how it will treat resources on a comparable basis and, therefore, should identify how it will determine comparability for purposes of transmission planning.”⁴⁴ Here, ISO-NE and its transmission owners have submitted tariff language providing that, as a general matter, demand response resources will be treated comparably. However, since Order No. 890-A was issued subsequent to the filing before us, ISO-NE and its transmission owners did not have an opportunity to demonstrate that it complies with this requirement of Order No. 890-A. Therefore, ISO-NE is directed to file within 90 days of issuance of this order, a compliance filing addressing the necessary demonstration required by Order No. 890-A.

6. Dispute Resolution

55. Order No. 890’s dispute resolution principle requires transmission providers to identify a process to manage disputes that arise from the planning process. The Commission explained that an existing dispute resolution process may be utilized, but that transmission providers seeking to rely on an existing dispute resolution process must specifically address how its procedures will address matters related to transmission planning. Transmission providers, customers, and other stakeholders were encouraged to utilize the Commission’s Dispute Resolution Service (DRS) to help develop a three-step dispute resolution process, consisting of negotiation, mediation, and arbitration. Order No. 890 required that the dispute resolution process must address both procedural and substantive planning issues with the understanding that all affected parties retain any rights they may have under FPA section 206 to file complaints with the Commission.⁴⁵

a. ISO-NE’s Filing

56. ISO-NE states that its regional system planning process complies with Order No. 890’s dispute resolution principle. It states that the regional system planning process

⁴⁴ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 216.

⁴⁵ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 501-03.

affords stakeholders numerous opportunities to discuss with ISO-NE staff and/or the PAC any concerns at various stages of the process. It also states that, because of the openness and transparency of the planning process, disputes over inputs or related study processes are usually resolved before having to go to dispute resolution. ISO-NE further states that, with stakeholder input, it has developed a three-step resolution process to address both procedural and substantive regional system planning disputes pursuant to section 12 (Dispute Resolution Procedures) of Attachment K. The three-step process includes discussions with the PAC, negotiation, and an alternative dispute resolution process that does not include binding arbitration. ISO-NE explains that due to concerns raised by state regulators regarding potential legal prohibitions for states to participate in binding arbitration, binding arbitration was excluded as a means of dispute resolution.

b. Commission Determination

57. We find that ISO-NE's three-step dispute resolution process satisfactorily addresses both procedural and substantive planning issues as required by Order No. 890. Under the proposed Attachment K, any member of the PAC who believes it has been adversely affected under the regional planning process is eligible to participate in this dispute resolution process. We note that ISO-NE explains that the dispute resolution process does not permit PAC members to contest retail native load and/or state siting issues.

58. Under the proposed Attachment K three-step dispute resolution process, disputing parties first attempt to resolve any dispute through the PAC. This provides the parties the ability to discuss an issue that may impact other stakeholders. To the extent the PAC is unable to resolve the dispute, it will become subject to good-faith negotiations among the disputing parties for a 30-day period, or a date mutually agreed upon. To the extent the parties are unable to resolve the dispute at this level, it may be submitted to mediation or some other form of alternative dispute resolution process which will not include binding arbitration.

59. Accordingly, we accept ISO New England's proposed Attachment K (both regional and local) Dispute Resolution language.

7. Regional Participation

60. Order No. 890's regional participation principle provides that, in addition to preparing a system plan for its own control area on an open and nondiscriminatory basis, each transmission provider is required to coordinate with interconnected systems to: (i) share system plans to ensure that they are simultaneously feasible and otherwise use consistent assumptions and data and (ii) identify system enhancements that could relieve congestion or integrate new resources. The Commission stated that the specific features of the regional planning effort should take account of and accommodate, where appropriate, existing institutions, as well as physical characteristics of the region and

historical practices. The Commission declined to mandate the geographic scope of particular planning regions, instead stating that the geographic scope of a planning process should be governed by the integrated nature of the regional power grid and the particular reliability and resource issues affecting individual regions and subregions. The Commission also made clear that reliance on existing NERC planning processes may not be sufficient to meet the requirements of Order No. 890 unless they are open and inclusive and address both reliability and economic considerations. To the extent a transmission provider's implementation of the NERC processes are not appropriate for such economic issues, individual regions or sub-regions must develop alternative processes.⁴⁶

61. In Order No. 890-A, the Commission clarified that while the obligation to engage in regional coordination is directed to transmission providers, participation in such processes is not limited to transmission providers and should be open to all interested customers and stakeholders.⁴⁷ In Order No. 890-A, the Commission emphasized that effective regional planning should include coordination among regions and sub-regions as necessary, in order to share data, information, and assumptions in order to maintain reliability and allow customers to consider resource options that span the regions.⁴⁸

a. ISO-NE's Filing

62. ISO-NE states that the regional system planning process requires ISO-NE to conduct planning activities in coordination with the transmission-owning entities in, or other entities interconnected to, the New England transmission system and neighboring systems. ISO-NE states it must coordinate its planning-related activities with the PTOs on a regional and local basis. ISO-NE also states that the PTOs, pursuant to the ISO-NE OATT and the TOA, retain planning-responsibility over the non-PTF. ISO-NE states that it must coordinate with the owners of Other Transmission Facilities (OTF) and Merchant Transmission Facilities (MTF) that are part of the New England transmission system. ISO-NE explains that, while this coordination is explicitly provided in the ISO-NE OATT or applicable transmission operating agreements, ISO-NE has revised the existing planning process to provide further transparency on regional/local coordination level. To this end, ISO-NE states that the PTOs have developed the local system planning process included in Appendix 1 of Attachment K that is based on and coordinated with the regional system process.

⁴⁶ *Id.* P 523-28.

⁴⁷ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 226.

⁴⁸ *Id.*

63. Additionally, ISO-NE states that pursuant to section 6.3 (Inter-Area Coordination) of Attachment K,⁴⁹ it proactively engages in inter-regional coordination. ISO-NE states that section 6.3 specifically requires ISO-NE to conduct the regional system planning process and develop the annual system plan in coordination with the similar plans of the surrounding ISOs/RTOs and control areas pursuant to the Northeastern ISO/RTO Planning Coordination Protocol (the Protocol) and other agreements with neighboring systems and NPCC. ISO-NE also states that section 6.3 requires that inter-area studies be conducted in as broad a region as feasible including the adjacent Canadian systems, and members of NPCC, Mid-Atlantic Area Council, and Reliability First. ISO-NE explains that as further required by section 6.3, ISO-NE convenes meetings of the PAC that focus on providing input to ISO-NE on inter-area needs, as well as solutions that could address those needs. ISO-NE states that it also coordinates its findings with its neighboring control areas (i.e., NYISO, Hydro Québec TransÉnergie (Hydro Québec), and New Brunswick System Operator).

64. ISO-NE states that its inter-area planning has continued through its participation in NPCC activities and the implementation of the Protocol. ISO-NE explains that the Protocol among ISO-NE, PJM, and NYISO, with the technical participation of the Ontario Independent Electric System Operator (Ontario IESO), Ontario Power Authority, Hydro Québec, and New Brunswick, has served as the vehicle for exchange of data and information among these systems. ISO-NE states that the Protocol describes the committee structure established for the coordination of inter-area planning activities, provides the procedures for exchange of planning-related data and information, and establishes the system planning analysis procedures to be utilized by the parties. ISO-NE states that the Protocol's primary purpose is to contribute to the ongoing reliability and enhanced operational and economic performance of the neighboring systems. ISO-NE explains that the Protocol also provides for the parties to develop a Northeastern Coordinated System Plan, which, among other things, integrates the individual system plans. ISO-NE further explains that through this Protocol, the parties have also formed the Joint Interregional Planning Committee to coordinate the planning process among the system operators, and the Inter-area Planning Stakeholder Committee to allow for broader stakeholder participation from all sectors in the entire Northeast Region. Lastly, ISO-NE states that as an active member of NPCC, it fully participates in NPCC's coordinated inter-regional studies with its neighboring control areas.

⁴⁹ ISO-NE, FERC Electric Tariff, No. 3, § II, Attachment K § 6.3 (Inter-Area Coordination).

b. Comments

65. In response to ISO-NE's filing with respect to its compliance with the regional participation principle, CEAB repeats the arguments made above regarding the coordination principle.

66. MEPCO states that it is not submitting tariff sheets as part of the Attachment K compliance filing, because its transmission facilities, once defined as PTF, would be subject to the regional system planning process. MEPCO notes that the classification of its transmission facilities as PTF is currently pending before the Commission in Docket No. ER07-1289-000. Additionally, MEPCO notes that its request for temporary waiver of Order No. 890 is pending before the Commission in Docket No. OA07-99-000.

c. Commission Determination

67. The regional participation principle requires that transmission providers: (i) share system plans to ensure that they are simultaneously feasible and otherwise use consistent assumptions and data and (ii) identify system enhancements that could relieve congestion or integrate new resources. We find that ISO-NE's regional participation and its compliance with these two requirements is sufficient with respect to the transmission owners in the ISO-NE footprint.

68. We also find that ISO-NE complies with the inter-regional coordination requirement found in the regional participation principle. Specifically, Order No. 890 requires that regions should coordinate as necessary to share data, information, and assumptions to maintain reliability and allow customers to consider resource options that span the regions.⁵⁰ ISO-NE has adequately explained in its compliance filing how its agreements with its neighboring transmission systems provides a forum for the sharing of data, information, and assumptions in order to coordinate planning among the regions. For example, section 6.3 of Attachment K requires ISO-NE to conduct the regional system planning process and develop the annual system plan in coordination with the similar plans of the surrounding ISOs/RTOs and control areas pursuant to the Protocol, as well as other agreements with neighboring systems and NPCC. The Protocol provides the procedures for the exchange of planning-related data and information and establishes the system planning analysis procedures to be utilized by the parties. Additionally, the stated purpose of the Protocol is to contribute to the ongoing reliability and enhanced operational and economic performance of the neighboring systems. The Protocol also provides, among other things, for the development of a Northeastern Coordinated System

⁵⁰ See Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 527; Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 226.

Plan among PJM, NYISO, and ISO-NE (including the technical participation of the Ontario IESO, Ontario Power Authority, Hydro Québec, and New Brunswick) which will integrate the individual system plans of the parties.

69. Beyond ISO-NE's participation in the Protocol, section 6.3 of Attachment K further enhances regional participation by requiring that inter-area studies for identifying system enhancements be conducted in as broad a region as feasible, including adjacent systems. Additionally, as also required by section 6.3, ISO-NE will convene certain PAC meetings to focus on providing input to ISO-NE on inter-area needs and solutions to those needs. ISO-NE then shares these findings with its neighboring control areas of NYISO, Hydro Québec, and New Brunswick System.

70. We also note that consistent with the inter-regional coordination requirement, as early as 2004, ISO-NE and NYISO entered into a seams issue resolution agreement that includes, among other things, coordination of inter-regional planning.⁵¹ The seams resolution agreement also includes a work plan for ongoing identification of additional seams issues. Moreover, ISO-NE posts updates of seams resolutions that involve neighboring regions.⁵²

71. We do not agree with CEAB that a more explicit recognition of coordination in regional and subregional planning is needed. As we explain in the coordination section, ISO-NE's Attachment K provides opportunities for CEAB to participate and provide meaningful input pertaining to specific sub-regional issues, such as upgrades proposed to reduce transmission constraints in southwest Connecticut. For example, the regional system planning process provides for ISO-NE to undertake assessments of the needs of the PTF system on a system-wide or specific-area basis. Therefore, we find that ISO-NE's planning process, with the modifications discussed herein, will ensure that CEAB may provide input into and receive feedback on a project proposed to alleviate congestion. We likewise disagree with CEAB's contention that Attachment K must be amended to more clearly describe how environmental concerns will be factored into the regional planning process. The proposed process provides an adequate platform for environmental considerations through ISO-NE's regional system plan, since, according to section 6.3, such plans must be coordinated with the similar plans of adjacent systems.

72. Given that the classification of MEPCO's transmission facilities and its request for waiver are pending, MEPCO's compliance with Order No. 890's planning

⁵¹ *ISO New England Inc.*, 109 FERC ¶ 61,147 (2004); *ISO New England Inc.*, 106 FERC ¶ 61,280 (2004).

⁵² See ISO-NE's website at: www.iso-ne.com/regulatory/seams/index.html.

requirements are subject to the outcome of these pending proceedings. We note that MEPCO's Schedule 20B, which is a service schedule that governs the rates, terms and conditions of transmission service over MEPCO, remains in full force and effect.⁵³

8. Economic Planning Studies

73. The economic planning studies principle requires transmission providers to account for economic as well as reliability considerations in the transmission planning process. The Commission explained in Order No. 890 that good utility practice requires vertically integrated transmission providers to plan not only to maintain reliability, but also to consider whether transmission upgrades can reduce the overall cost of serving native load. The economic planning principle is designed to ensure that economic considerations are adequately addressed when planning for customers receiving service under an OATT as well. The Commission emphasized that the scope of economic studies should not be limited just to individual requests for transmission service. Further, customers must be given the opportunity to obtain studies that evaluate potential upgrades or other investments that could reduce congestion or integrate new resources and loads on an aggregated or regional basis.

74. The Commission emphasized that existing regional processes conducted by RTOs and ISOs are not exempt from these economic planning study requirements. All transmission providers, including RTOs and ISOs, were directed to develop procedures to allow stakeholders to identify a certain number of high priority studies annually and a means to cluster or batch requests to streamline processing. The Commission determined that the cost of the high priority studies would be recovered as part of transmission providers' overall cost of service under the OATT, while the cost of additional studies would be borne by the stakeholder(s) requesting the study.⁵⁴

75. In Order No. 890-A, the Commission made clear that the transmission provider's Attachment K must describe the process by which economic planning studies can be requested and how they will be prioritized.⁵⁵ In Order No. 890-A, the Commission also made clear that a transmission provider's affiliates should be treated like any other stakeholder and, therefore, their requests for studies should be considered comparably, pursuant to the process outlined in the transmission provider's Attachment K.⁵⁶

⁵³ See *ISO New England Inc.*, 122 FERC ¶ 61,093, at P 26 (2008).

⁵⁴ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 542-51.

⁵⁵ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 236.

⁵⁶ *Id.* P 237.

Additionally, in Order No. 890-A, the Commission clarified that to the extent an RTO or ISO delegates any of its responsibilities in the context of economic planning, it will be the obligation of the RTO or ISO, as the transmission provider, to ensure ultimate compliance with the requirements of Order No. 890.⁵⁷

a. ISO-NE's Filing

76. ISO-NE states that in compliance with Order No. 890, it has revised its existing regional planning process to include a process by which stakeholders may submit requests for economic planning studies to ISO-NE. Under section 4.1(b) (Requests by Stakeholders for Needs Assessments for Economic Considerations) of Attachment K, stakeholders may request ISO-NE to initiate a needs assessment to evaluate any potential upgrades or investments that could result in (i) a net reduction of total production costs to supply system load, (ii) reduced congestion, or (iii) the integration of new resources and/or loads. ISO-NE also states that section 4.1(b) provides the process for stakeholders to request economic planning studies and the procedures for prioritizing these studies. ISO-NE explains that the factors that must be considered in studying the potential of an upgrade to result in a net reduction of production costs are specified in Attachment N (Procedures for Regional System Plan Upgrades) of the ISO-NE OATT.⁵⁸ ISO-NE may also trigger a needs assessment, as it deems necessary.

b. Comments

77. CMEEC/MMWEC raise concerns regarding whether the ISO-NE planning process takes into account the results of capacity auctions. CMEEC/MMWEC urge that the

⁵⁷ *Id.* P 238.

⁵⁸ We note that in the series of orders related to granting ISO-NE status as an RTO, the Commission approved ISO-NE's methodology for identifying reliability and market efficiency upgrades. Attachment N of ISO-NE's existing planning process includes (i) standards for identifying reliability transmission upgrades; and (ii) standards for identifying market efficiency transmission upgrades. Under the planning process, ISO-NE will identify proposed market efficiency transmission upgrades where the net present value of the net reduction in total costs to supply the system load exceeds the net present value of the carrying cost of the identified transmission upgrade. Additionally, in order to determine the net present value of bulk power system resource costs, ISO-NE will take into account economic factors. *See ISO New England, Inc.*, 110 FERC ¶ 61,335, at P 34-35 (2005); *ISO New England, Inc.*, 109 FERC ¶ 61,147, at P 157-63 (2004); *ISO New England Inc.*, 106 FERC ¶ 61,280, at P 210-15 (2004).

inputs and results of the FCM qualification analysis be factored into and integrated in a timely manner with the regional and local planning process.

78. CMEEC/MMWEC contend that, given their focus and content, the qualification analyses for the FCM conducted by ISO-NE have generated data that appear to be directly relevant to immediate-term and (and longer-term) regional and system-specific transmission planning in New England, including with respect to the establishment of infrastructure upgrade priorities. CMEEC/MMWEC believe that absent timely transmission construction, proposed new resources will be unable to qualify to seek or receive FCM payments and, even more importantly, the region will be robbed of the economic (and reliability) value of those new resources.

79. Notably, neither CMEEC nor MMWEC seek in this proceeding to challenge ISO-NE's determinations with respect to either the Bean Hill Power Station or the Stony Brook New Unit projects. CMEEC/MMWEC state their concern here is to ensure that the information generated through the analyses conducted as part of the FCM qualification process is appropriately and timely factored into, and fully integrated with, the transmission planning process at issue in this proceeding. Phrased differently, CMEEC/MMWEC state that the regional and provider-specific "local" planning process must take into account other existing sources of relevant information.⁵⁹

c. ISO-NE's Answer

80. In its reply, ISO-NE contends that section 4.2(a) (Treatment of Market Solutions in Needs Assessments) of its Attachment K requires it to incorporate in the base case for the needs assessments (which may examine resource adequacy or projected congestion levels) resources that have cleared in the FCM auction. ISO-NE states that, in turn, it utilizes the results of the FCM, which has a locational component, as a formal input into the system needs assessments for transmission upgrades. ISO-NE explains that the objective of this part of the process, contrary to CMEEC/MMWEC's request, is to determine whether the need for additional regulated transmission solutions persists in light of the market responses, or whether the expected market response defer or eliminate the need for a regulated transmission solution to maintain system reliability. Accordingly, ISO-NE states that an appropriate linkage between the FCM, particularly the market responses that result from the FCM auction, and regional system planning process is already in place.

⁵⁹ We note that the PTOs' local system planning process will be discussed more fully below.

81. In addition, ISO-NE argues that contrary to CMEEC/MMWEC's claim that FCM results were driven by the lack of response to long-standing problems, the regional system planning process is not only being effectively implemented to address prevailing transmission issues generally, but efforts are also ongoing to bring about identified transmission upgrades that are required for reliability, specifically in the Springfield, Massachusetts area.

d. Commission Determination

82. We find that consistent with Order No. 890, ISO-NE's planning process provides a mechanism for stakeholders to request economic studies, establishes a timeline for the identification and prioritization of these studies, and provides for the recovery of costs through section IV.A (Self-Funding Tariff) as part of the OATT-related services.⁶⁰ ISO-NE states that it will honor stakeholder requests to conduct additional economic or other studies consistent with its tariff provisions regarding elective upgrade studies provisions (i.e., stakeholder requesting additional studies would be responsible for paying the cost of such studies). Therefore, we find that ISO-NE's proposal, with the modifications stated herein, satisfies Order No. 890's economic planning studies requirements.

83. Consistent with Order No. 890, the ISO-NE planning process also provides customers with the opportunity to obtain studies that evaluate potential upgrades or other investments that could reduce congestion or integrate new resources and loads on an aggregated or regional basis.⁶¹ For example, under section 4.2(a) of Attachment K ISO-NE will incorporate the resources that result from the FCM auction into its base case transmission planning to either update an existing, or initiate a new, system needs assessment that takes into account the results of an auction. Additionally, Attachment K provides ISO-NE will also incorporate or update information regarding resources in needs assessments that have been selected in a state-sponsored Request for Proposals or have a financially binding contract. As ISO-NE explains, it uses the results of the FCM as an input into the system needs assessments to determine whether there is a need for additional regulated solutions or whether market responses eliminate the need for a regulated transmission solution. In fact, under Attachment K, CMEEC/MMWEC may request that ISO-NE, in coordination with the PTOs and the PAC, perform needs assessment to evaluate potential regulated transmission solutions or market responses or investment that could result in the mitigation of congestion. ISO-NE may also request a needs assessment as a result of the failure of a resource to clear the FCM auction.

⁶⁰ See ISO-NE, FERC Electric Tariff, No. 3, § IV.A (Self-Funding Tariff), available at http://www.iso-ne.com/regulatory/tariff/sect_4/index.html.

⁶¹ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 544.

Therefore, contrary to CMEEC/MMWEC's claims, ISO-NE's regional system planning process factors in the outcome of FCM auctions.

9. Cost Allocation

84. The cost allocation principle requires that transmission providers address in their Attachment K the allocation of costs of new facilities that do not fit under existing rate structures. In Order No. 890, the Commission suggested that such new facilities might include regional projects involving several transmission owners or economic projects that are identified through the study process, rather than individual requests for service. The Commission did not impose a particular allocation method for such projects and, instead, permitted transmission providers and stakeholders to determine the criteria that best fits their own experience and regional needs. Transmission providers therefore were directed to identify the types of new projects that are not covered under existing cost allocation rules and, as a result, would be affected by the cost allocation proposal.

85. The Commission suggested that several factors be weighed in determining whether a cost allocation methodology is appropriate. First, a cost allocation proposal should fairly assign costs among participants, including those who cause them to be incurred and those who otherwise benefit from them. Second, the cost allocation proposal should provide adequate incentives to construct new transmission. Third, the cost allocation proposal should be generally supported by state authorities and participants across the region. The Commission emphasized that each region should address cost allocation issues up front, at least in principle, rather than have them relitigated each time a project is proposed.⁶² In Order No. 890-A, the Commission made clear that the details of proposed cost allocation methodologies must be clearly defined, as participants seeking to support new transmission investment need some degree of certainty regarding cost allocation to pursue that investment.⁶³

a. ISO-NE's Filing

86. ISO-NE states that its current transmission cost allocation methodology—reflected in Schedule 12 of the ISO-NE OATT—provides clear rules for the cost allocation process, as required by Commission precedent.⁶⁴ Specifically, ISO-NE states that Schedule 12 describes the cost allocation treatment of upgrades, modifications, or

⁶² Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 557-61.

⁶³ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 251.

⁶⁴ ISO-NE cites *New England Power Pool*, 105 FERC ¶ 61,300 (2003).

additions to the New England transmission system. ISO-NE explains that under the current methodology, only two types of upgrades qualify as regional benefit upgrades and can receive recovery through regional rates from transmission customers taking service under the ISO-NE OATT. ISO-NE states that those two types are reliability transmission upgrades and market efficiency transmission upgrades.

87. Under ISO-NE's planning process, the costs for reliability upgrades are socialized; the costs for economic upgrades are allocated based on a beneficiary-pays approach. ISO-NE explains that the current methodology excludes from region-wide cost support projects or components of projects that do not provide system-wide benefits. According to ISO-NE, under Schedules 12 and 12C, it "localizes" costs even for regional benefit upgrades to the extent they exceed the reasonable requirements for upgrades. ISO-NE states that, pursuant to section 3.04 of the TOA, the PTOs and not ISO-NE have the section 205 rights over the current methodology for the allocation of transmission upgrade costs. ISO-NE explains that the TOA also imposes stringent limitations on attempts to change the methodology by providing that neither ISO-NE nor the PTOs have section 205 filing rights to propose amendments to the current methodology during a five-year period ending January 31, 2010.

b. Comments

88. The Maine Commission asks the Commission to direct ISO-NE to develop a plan to address both the short-term and long-term issues related to transmission cost allocation, because the current methodology inhibits development and delivery of the diverse resources that the region needs. The Maine Commission argues that fairness and efficiency are better served when costs are recovered in proportion to the benefits received. For example, the Maine Commission contends that it is simply not the case that customers in Maine benefit to any significant extent from system upgrades intended to preserve reliability in southern Connecticut, notwithstanding the fact that Maine and Connecticut are interconnected within the transmission system. The Maine Commission states that pursuant to section 3.04 of the TOA, the PTOs and not ISO-NE have the section 205 rights over current methodology for the allocation of transmission upgrade costs. The Maine Commission contends that the TOA also imposes stringent limitations on attempts to change the methodology by providing that neither ISO-NE nor the PTOs have section 205 filings rights to propose amendments to the current methodology during a five-year period ending January 31, 2010.

c. ISO-NE's Answer

89. In its reply, ISO-NE argues that the Maine Commission's discussion of alternative cost allocation principles fails to demonstrate that New England's existing cost allocation methodology is unjust or unreasonable. ISO-NE further argues that the Maine Commission's comments fail to support a determination that the existing cost allocation rules do not comply with the Order No. 890's requirements.

d. Commission Determination

90. We find that ISO-NE's cost allocation methodology described in its Attachment K, which incorporates its current cost allocation methodology, is consistent with Order No. 890's cost allocation requirements. Cost responsibility for transmission upgrades under the local system plan project list will be determined in accordance with Schedule 21 of ISO-NE's OATT.⁶⁵ Similarly, the costs for MTF are not recovered under the ISO-NE's OATT. Stated differently, the existing methodology socializes costs for regional upgrades, and costs are assigned to the beneficiaries of the project for elective upgrades.

91. We are not persuaded by the Maine Commission's argument that ISO-NE's cost methodology inhibits development of infrastructure and is unjust and unreasonable. With regard to the Maine Commission's concern that neither ISO-NE nor the PTOs have section 205 authority to propose amendments to current cost allocation methodology, while a rate moratorium currently exists, it will expire in 2010.⁶⁶ In addition, as part of the stakeholder review process, some parties have expressed interest in developing a third standard for incorporating transmission upgrades into the regional transmission rates, potentially with a unique cost allocation methodology for upgrades that provide access to renewable resources.⁶⁷ Therefore, ISO-NE and the stakeholders will have the opportunity to evaluate alternative regional and local transmission allocation methodologies following the expiration of the rate moratorium and we encourage such discussions.

⁶⁵ See Local Service Schedules from the various local transmission owners in Schedule 21 of the ISO-NE OATT, located at: www.iso-ne.com/regulatory/tariff/sect_2/sch21/index.html.

⁶⁶ Section 3.04 of the ISO-NE TOA provides for regional state committee input into regional cost allocation section 205 filings. Additionally, section 3.04 provides for a stakeholder process for regional rate filings. These provisions include requirements for notification to and consultation with the regional state committee in advance of making a section 205 filing. Notably, the TOA also provides a five-year moratorium on section 205 filings related to (i) the ISO-NE OATT provisions addressing the methodology by which the costs of transmission upgrades for generation interconnections are regionally allocated and (ii) the ISO-NE OATT provisions describing the methodology by which the costs of existing and new transmission are allocated.

⁶⁷ The economic studies process scope of work strawman presentation, dated March 26, 2008, is located on ISO-NE's website: [Http://www.iso-ne.com/committees/comm_wkgrps/othr/econ_stdy/mtrls/2008/mar262008/index.html](http://www.iso-ne.com/committees/comm_wkgrps/othr/econ_stdy/mtrls/2008/mar262008/index.html).

10. Recovery of Planning Costs

92. In Order No. 890, the Commission recognized the importance of cost recovery for planning activities, specifically addressing that issue after discussing the nine principles that govern the planning process. The Commission directed transmission providers to work with other participants in the planning process to develop cost recovery proposals in order to determine whether all relevant parties, including state agencies, have the ability to recover the costs of participating in the planning process. The Commission also suggested that transmission providers consider whether mechanisms for regional cost recovery may be appropriate, such as through agreements (formal or informal) to incur and allocate costs jointly.⁶⁸

Commission Determination

93. We find that ISO-NE's OATT and agreements provide all relevant parties, including state agencies, with the ability to recover the costs of participating in the planning process. ISO-NE's costs associated with implementation of the transmission planning process and associated studies are recovered under section IV.A of the ISO-NE Self-Funding Tariff.⁶⁹ Additionally, the costs for the PAC are funded by NEPOOL,⁷⁰ and the New England States Committee on Electricity, the regional state committee for the New England region, is funded pursuant to Schedule 5 of the ISO-NE Self-Funding Tariff.⁷¹

D. ISO-NE Transmission Owner Local Planning

94. In Order No. 890, the Commission found that in order for an RTO's or ISO's planning process to be open and transparent, transmission customers and stakeholders must be able to participate in each underlying transmission owner's planning process. Accordingly, as part of their Order No. 890 compliance filings, RTOs and ISOs were directed to indicate how all PTOs within their footprints will comply with Order No. 890's planning requirements. The Commission emphasized that while it left the mechanics of such compliance to each RTO and ISO, it would nevertheless find an

⁶⁸ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 586.

⁶⁹ See ISO-NE FERC Electric Tariff, No. 3, § IV.A (Self-Funding Tariff), available at http://www.iso-ne.com/regulatory/tariff/sect_4/index.html.

⁷⁰ Second Restated NEPOOL Agreement, available at http://www.iso-ne.com/regulatory/restatd_nepool_agree/index.html.

⁷¹ *ISO New England Inc.*, 121 FERC ¶ 61,105 (2007).

RTO's or ISO's planning process to be insufficient if its underlying transmission owners are not also obligated to engage in transmission planning that complies with Order No. 890.⁷² In Order No. 890-A, the Commission made clear that the filing and posting requirements associated with the planning-related reforms adopted in Order No. 890 apply only to the transmission provider, which in the case of RTOs or ISOs is the RTO or ISO itself and not the transmission-owning RTO or ISO members who have turned the operational control of their transmission facilities over to the RTO or ISO.⁷³ The Commission explained that each RTO and ISO may fulfill its obligations under Order No. 890 by delegating certain actions to, or otherwise relying on, their transmission-owning members, provided that the rights and responsibilities of all parties are clearly stated in the transmission provider's OATT. The Commission concluded, however, that in the end it was each RTO's and ISO's responsibility to demonstrate compliance with each of the nine planning principles adopted in Order No. 890.⁷⁴ This includes the responsibility of ensuring that any plans developed by an RTO's or ISO's transmission-owning members, and relied upon by the RTO or ISO, are developed through a process that also complies with the requirements of Order No. 890.⁷⁵

1. ISO-NE's Filing

95. ISO-NE states that, under the terms of the TOA and the ISO-NE OATT, the PTOs have planning authority over the non-PTF transmission system in New England. ISO-NE states that there is no existing ISO-NE OATT provision providing for open and transparent stakeholder participation in the transmission planning conducted by PTOs for the non-PTF system, as the regional system process is "focus[ed] primarily on regional problems and solutions, not local planning issues."⁷⁶ Accordingly, on behalf of the PTOs, the PTO administrative committee submitted a local system planning process in

⁷² Order No. 890, FERC Stats.& Regs. ¶ 31,241 at P 440.

⁷³ A transmission-owning RTO or ISO member that continues to have an OATT on file under which it provides service over jurisdictional facilities not under control of the RTO or ISO must file an Attachment K to that OATT covering planning for those facilities. This would apply equally to a transmission provider that has retained operational control of facilities governed by other non-OATT arrangements. *See* Order No. 890-A, 121 FERC ¶ 61,297 at P 175 & n.71.

⁷⁴ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 175.

⁷⁵ *Id.* P 175-77.

⁷⁶ *Id.*

Appendix 1 to the ISO-NE Attachment K, referred to as “Attachment K – Local.”⁷⁷ In addition to the filing of Attachment K – Local, the PTO administrative committee, on behalf of the PTOs, is also sponsoring amendments to Schedule 21 – Common, in order to include specific references to Attachment K. ISO-NE also explains that local system planning issues are to be periodically reviewed by all interested individuals at regularly scheduled PAC meetings, which will allow input and feedback to the PTOs.

2. Comments

96. Consistent with the concerns raised in the economic planning studies section, CMEEC/MMWEC contend that ISO-NE must take into account the results of FCM auctions for resources that fail to clear the auction in the regional as well as the local planning process.

3. Commission Determination

97. Under the local system plan in Attachment K – Local, ISO-NE provides that the PAC will periodically provide input and feedback to the PTOs concerning the development of the local system plan and the conduct of associated system enhancement and expansion studies.⁷⁸ In addition, under Attachment K – Local, the PTOs’ local system plans will be made available on a website for review by the PAC, transmission customers, and other stakeholders, subject to ISO-NE’s information policy and CEII restrictions or requirements. The local system plan of a PTO will be posted not less than three (3) business days prior to its presentation by the PTO to the PAC. After the presentation, the PAC, transmission customers, and other stakeholders will have a 30 day period to provide any written comments for consideration by the PTO.⁷⁹ Additionally, according to Attachment K, it is contemplated that local system planning issues for identified local areas will be periodically addressed at the end of regularly scheduled PAC meetings. We find that ISO-NE’s local system planning process, with the modifications discussed below, satisfies Order No. 890’s planning requirements.

⁷⁷ Filing at 35 & n.84 (noting that the transmission facilities at issue are all under the operating authority of ISO-NE and all provide service under the ISO-NE OATT).

⁷⁸ ISO-NE, FERC Electric Tariff, No. 3, § II, Attachment K – Local § 1.2 (PAC Review).

⁷⁹ ISO-NE, FERC Electric Tariff, No. 3, § II, Attachment K – Local § 1.4 (Description of Local System Plan).

98. Consistent with Order No. 890's local planning requirement, ISO-NE's local system planning process provides for the timely and meaningful input and participation of customers into the development of the plans. The PAC will periodically provide input and feedback to the PTOs concerning the development of the local system plan and the conduct of associated system enhancement studies. Under ISO-NE's local system plan, each PTO will be responsible for publicly posting and updating the status of its respective local system plan and the transmission projects arising from such plan on a website in a format comparable to the manner in which regional system plans and projects are posted. As discussed above, the PTOs will post their respective local system plans and present such plans to the PAC for review and comments.

99. Additionally, ISO-NE's Attachment K – Local provides provisions for Order No. 890's nine planning principles. For example, with respect to the comparability principle, section 1.3 (Role of the PTOs) of ISO-NE's local plan provides that in developing the local system plan, each PTO will ensure comparable treatment of similarly situated customers or potential customers and will take into consideration data, comments and specific requests supplied by the PAC, transmission customers and other stakeholders. Additionally, under the local system plan, to the extent generation and/or demand resources are identified that could impact planning for non-PTF, each PTO will take such resources into account when developing the local system plan for its facilities. For all the above reasons, we find that ISO-NE's local system plan complies with Order No. 890's local planning requirements.

100. With respect to CMEEC/MMWEC's argument that ISO-NE's local planning process fails to take into account FCM auction results for resources that do not clear the auction, we disagree. Under the regional system planning process, proponents of regulated transmission proposals in response to needs assessment will also identify any local system plans that require coordination with their regulated transmission proposals addressing PTF needs. Given that the regional system planning process will be conducted and the annual regional system plan will be developed in coordination with the local system plans of the PTOs, we find that consistent with our determination for the regional planning process, ISO-NE's local plan adequately takes into account FCM auction results for resources that did not clear the auction. However, the regulated transmission project language in the regional system plan is not reflected in Attachment K – Local. Therefore, we require ISO-NE to modify the local system plan to include the needs assessment provision within 90 days of the date of this order.

The Commission orders:

(A) ISO-NE's compliance filing is hereby accepted, as modified, effective December 7, 2007 as discussed in the body of this order.

(B) ISO-NE is hereby directed to submit a compliance filing, within 90 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.