

127 FERC ¶ 61,170  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

ISO New England Inc.

Docket No. OA08-58-002

ORDER ON COMPLIANCE FILING

(Issued May 21, 2009)

1. On August 13, 2008, ISO New England Inc. (ISO-NE) submitted revisions to its transmission planning process, as required by the Commission's May 15 Order<sup>1</sup> and Order No. 890.<sup>2</sup> In this order, we accept ISO-NE's compliance filing effective December 7, 2007, as requested.<sup>3</sup>

**I. Background**

2. In Order No. 890, the Commission reformed the *pro forma* Open Access Transmission Tariff (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 stakeholders should be treated in the transmission planning process. 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 and to clearly describe that process in a new attachment to their OATT (Attachment K).

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<sup>1</sup> *ISO New England Inc.*, 123 FERC ¶ 61,161 (2008) (May 15 Order).

<sup>2</sup> *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, FERC Stats & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228 (2009).

<sup>3</sup> See May 15 Order, 123 FERC ¶ 61,161 at P 100.

3. The nine planning principles that the Commission directed each transmission provider to address in its Attachment K planning process are: (1) coordination; (2) openness; (3) transparency; (4) information exchange; (5) comparability;<sup>4</sup> (6) dispute resolution; (7) regional participation; (8) economic planning studies; and (9) cost allocation for new projects. 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, as supplemented with web-posted business practices when appropriate,<sup>5</sup> must be specific and clear in order to facilitate compliance by transmission providers and place customers on notice of their rights and obligations.

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 initially approved these processes, they were found to be consistent with or superior to the existing *pro forma* OATT. However, 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 Nos. 890 and 890-A.<sup>6</sup>

5. On December 7, 2007, ISO-NE filed its transmission planning process as a proposed attachment to its Open Access Transmission Tariff (OATT) to comply with the nine planning principles and other requirements in response to Order No. 890 and the Commission accepted the filing in part, requiring a further compliance filing to address a number of issues.

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<sup>4</sup> In Order No. 890-A, the Commission clarified that the comparability principle requires each transmission provider to identify, as part of its Attachment K planning process, how it will treat resources on a comparable basis and, therefore, how it will determine comparability for purposes of transmission planning. *See* Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 216.

<sup>5</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1649-55.

<sup>6</sup> *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.

6. In the May 15 Order, the Commission accepted ISO-NE's revisions to its regional planning process effective December 7, 2007, subject to ISO-NE: (1) addressing how it will determine comparability for purposes of transmission planning; and (2) incorporating regulated transmission project language into ISO-NE's local system plan.

7. Although the Commission accepts ISO-NE's compliance filing below, the Commission remains interested in the development of transmission planning processes and will continue to examine the adequacy of the processes accepted to date. We reiterate the encouragement made in prior orders for further refinements and improvements to the planning processes as transmission providers, their customers, and other stakeholders gain more experience through actual implementation of the processes. As part of the Commission's ongoing evaluation of the implementation of the planning processes, the Commission intends to convene regional technical conferences later this year to determine if further refinements to these processes are necessary. 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 that may need improvement. The conferences will examine whether existing transmission planning processes adequately consider needs and solutions on a regional or interconnection-wide basis to ensure adequate and reliable supplies at just and reasonable rates. The Commission will also explore whether existing processes are sufficient to meet emerging challenges to the transmission system, such as the development of interregional transmission facilities, the integration of large amounts of location-constrained generation, and the interconnection of distributed energy resources.

## **II. Notice of Filing and Responsive Pleadings**

8. Notice of ISO-NE's filing was published in the *Federal Register*, 73 Fed. Reg. 52,344 (2008), with interventions and protests due on or before September 9, 2008. No protests or comments were filed.

## **III. Discussion**

### **A. Comparability**

9. In the May 15 Order, the Commission found that ISO-NE's Attachment K transmission system planning process was consistent with Order No. 890's comparability principle. However, the Commission noted that Order No. 890 was issued on December 28, 2007, subsequent to ISO-NE's submitting its Order No. 890 Attachment K compliance filing and that ISO-NE did not have an opportunity to demonstrate that it complies with the comparability requirement of Order No. 890-A.<sup>7</sup> Specifically, Order

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<sup>7</sup> *Id.*

No. 890-A required that the transmission provider needs 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.”<sup>8</sup> Therefore, the Commission directed ISO-NE to make a compliance filing addressing the necessary demonstration required by Order No. 890-A.

### 1. **ISO-NE Filing**

10. ISO-NE states that its Attachment K complies with the requirements of Order No. 890-A. Each year, ISO-NE begins the process of developing its Regional System Plan by seeking input from the Planning Advisory Committee on, among other things, the studies that will be the basis of the Regional System Plan and related Needs Assessments.<sup>9</sup> In consultation with the Planning Advisory Committee, ISO-NE will identify the system reliability and market efficiency needs, specifying the characteristics of the solutions that could meet identified needs. ISO-NE is specifically required to provide in the Regional System Plan sufficient information to allow market participants to assess the quantity, general locations, operating characteristics and required available criteria of the type of incremental supply or demand-side resources, or merchant transmission projects, that would satisfy identified needs or that may serve to modify offset or defer proposed regulated transmission upgrades.<sup>10</sup>

11. In consultation with the Planning Advisory Committee (PAC), ISO-NE will evaluate each market solution proposed in response to an identified need to determine whether it is sufficient to alleviate the need for a particular regulated transmission solution or transmission upgrade, based on the criteria specified in the pertinent Needs

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<sup>8</sup> *Id.* (citing Order No. 890-A, FERC Stats. & Regs. ¶ 31, 261 at P 216).

<sup>9</sup> Needs Assessment analyzes, among other things, whether PTF facilities are sufficient to meet applicable reliability standards, support the efficient operation of the wholesale electric markets, and sufficient to integrate new resources and loads on an aggregate or regional basis. *See* FERC Electric Tariff No. 3, § II, Attachment K § 4.1. Stakeholders may request that a Needs Assessment evaluate potential regulated transmission solutions or any other market responses or investments that could result in a net reduction in total production costs to supply system load, reduce congestion or integrate new resources and/or loads on an aggregate or regional basis. *Id.* § 4.1(b). ISO-NE economic planning activities are thereby incorporated into the broader transmission planning process.

<sup>10</sup> FERC Electric Tariff No. 3, § II, Attachment K § 3.1(iv) (Description of RSP).

Assessment or Regional System Plan.<sup>11</sup> ISO-NE will also determine whether the market solution is achievable within the required time period by considering if it has cleared in a Forward Capacity Auction, has been selected in a state-sponsored request for proposal, or has a financially binding obligation pursuant to a contract.<sup>12</sup> Any market solution meeting these criteria will be included in the Regional System Plan. In addition, the Regional System Plan will provide information to allow market participants to assess the incremental supply or demand-side resources, or merchant transmission projects that would satisfy the identified needs.<sup>13</sup> ISO-NE will evaluate the market responses in the Regional System Plan, which will include investments in resources (e.g., demand-side projects, generation, and distributed generation) and merchant transmission facilities.<sup>14</sup> Under ISO-NE's planning process, regulated transmission solutions (i.e., reliability transmission upgrades and market efficiency transmission upgrades) are implemented only after alternative market solutions, whether in transmission, generation, or demand resources, have been given first consideration.<sup>15</sup>

12. ISO-NE states that while the May 15 Order did not require specific modifications to ISO-NE's Attachment K – Regional System Planning Process, it discussed the compliance directives of the May 15 Order with stakeholders at the June 3, 2008 meeting

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<sup>11</sup> FERC Electric Tariff No. 3, § II, Attachment K § 3.5 (Market Responses in RSP).

<sup>12</sup> FERC Electric Tariff No. 3, § II, Attachment K § 4.2(a) (Treatment of Market Responses and Evaluation of Regulated Transmission Solutions). ISO-NE states that the Forward Capacity Auction held on February 4-6, 2008, evidences a level of parity between demand and generating resources in the New England wholesale market. In particular, ISO-NE notes that demand resources represented a significant portion of the new resources that cleared the auction (approximately 1,188 MW of 1,813 MW of Capacity Supply Obligations). ISO-NE cites its Forward Capacity Auction Results Filing, *ISO New England Inc.*, Docket No. ER08-633-000, at 5 (filed Mar. 3, 2008); *see also ISO New England Inc.*, 123 FERC ¶ 61,290 (2008) (accepting the FCA Results Filing).

<sup>13</sup> FERC Electric Tariff No. 3, § II, Attachment K § 3.1(iv) (Description of Regional System Plan).

<sup>14</sup> FERC Electric Tariff No. 3, § II, Attachment K § 3.5 (Market Responses in Regional System Plan).

<sup>15</sup> FERC Electric Tariff No. 3, § II, Attachment N § III. A. 2 (Adequacy of the market responses, and as necessary, adequacy of Reliability Transmission Upgrades and Market Efficiency Transmission Upgrades).

of the NEPOOL Reliability Committee and at the June [July] 21/22, 2008 joint meeting of the NEPOOL Reliability Committee and the Transmission Committee. ISO-NE also states that at these meetings ISO-NE and stakeholders discussed the manner in which Attachment K currently integrates market responses, including demand resources, in the transmission planning process and no concerns were raised.

## **2. Commission Determination**

13. We find that ISO-NE has sufficiently described how it will treat resources on a comparable basis and identified how it will determine comparability for purposes of transmission planning. ISO-NE's Attachment K identifies where and when in the planning process sponsors of transmission, generation, and demand resources have an opportunity to provide their input regarding the development of assumptions used by ISO-NE in transmission planning activities and the potential solutions, including alternatives, being considered by ISO-NE to address system reliability and market efficiency needs. In addition, the Attachment K clearly indicates how ISO-NE will evaluate competing alternatives to ensure that all types of resources (i.e., transmission, generation, and demand resources) are considered on a comparable basis. We therefore find that ISO-NE's planning process complies with the comparability requirements of the May 15 Order.

### **B. ISO-NE Transmission Owner Local Planning**

14. In the May 15 Order, the Commission found that the local planning process provided for in Attachment K – Local generally satisfied the planning requirements of Order No. 890. In particular, the Commission found that the local planning process adequately takes into account the results of Forward Capacity Auction results through the coordination of local and regional planning activities. However, the Commission directed ISO-NE to modify Attachment K – Local to include language regarding the coordination of Needs Assessment in local planning.

#### **1. ISO-NE's Filing**

15. ISO-NE indicates that it has modified Attachment K – Local on behalf of the Participating Transmission Owners (PTO) to comply with the Commission's comments by inserting language that will obligate PTOs to identify regional plans that require coordination with non-Pool Transmission Facilities system planning. Additionally, ISO-NE explains that the PTOs will communicate such proposals to the PAC and other interested stakeholders for coordination with the regional system planning process.

16. ISO-NE explains that for purposes of this filing, the PTOs, through the PTO Administrative Committee have coordinated with each other, ISO-NE and the other transmission owners in New England prior to ISO-NE and the PTO Administrative Committee making this compliance filing. ISO-NE states that pursuant to the provisions

of the Transmission Operating Agreement and the Disbursement Agreement, the PTO Administrative Committee has unanimously approved the Local System Planning Process tariff provisions in Attachment K – Local proposed in this filing. ISO-NE notes that at its August 6, 2008 meeting the PTO Administrative Committee voted 98.49 percent in favor (1.51 percent abstained) to unanimously approve the proposed Attachment K – Local revisions.

## **2. Commission Determination**

17. Consistent with the directives in the May 15 Order, ISO-NE has incorporated language into the Attachment K – Local requiring that the local system planning Needs Assessments will be coordinated with the regional system planning process. In addition, the proposed revisions provide that the proponents of regulated transmission proposals in response to local system plan Needs Assessment will identify any regional system plans that require coordination with non-Pool Transmission Facilities system needs. Therefore, we accept ISO-NE's proposed tariff revisions.

The Commission orders:

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

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.