

169 FERC ¶ 61,195
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Richard Glick and Bernard L. McNamee.

ISO New England Inc.
New England Power Pool Participants Committee

Docket No. ER20-92-000

ORDER ACCEPTING TARIFF REVISIONS

(Issued December 10, 2019)

1. On October 11, 2019, pursuant to section 205 of the Federal Power Act (FPA),¹ ISO New England Inc. (ISO-NE), joined by the New England Power Pool Participants Committee (collectively, Filing Parties),² submitted proposed revisions to ISO-NE's Transmission, Markets and Services Tariff (Tariff) to enhance the competitive transmission solicitation process and make additional improvements to ISO-NE's transmission planning process (Transmission Planning Improvements). In this order, we accept the Transmission Planning Improvements, to become effective December 10, 2019, as requested.

I. Background

2. Filing Parties state that ISO-NE is preparing to issue the region's first competitive transmission solicitation in December 2019 via Request for Proposals³ under Section 4.3 of Attachment K to the Tariff (2019 RFP). The 2019 RFP will seek transmission solutions to the non-time sensitive needs⁴ identified in ISO-NE's 2028 Boston Needs

¹ 16 U.S.C. § 824d (2018).

² Filing Parties are joined by the Participating Transmission Owners Administrative Committee on behalf of the Participating Transmission Owners.

³ Capitalized terms not defined herein are used as they are defined in the Tariff. *See* Tariff, Rules of Construction; Definitions (125.0.0) § I.2.

⁴ Non-time sensitive needs are those needed more than three years after the Needs Assessment's completion. Filing Parties Transmittal at 2 n.6. A Needs Assessment is an evaluation of the New England region's transmission system and its ability to meet certain standards and criteria 10 years in the future. Filing Parties Transmittal, Oberlin Test. at 4:6-9.

Assessment Update and the Boston 2028 Needs Assessment Addendum (Boston Needs Assessment).⁵ Filing Parties explain that the Boston Needs Assessment identified several transmission facility overloads under peak load conditions, as well as system restoration concerns with the underground cable system in the Boston area.⁶

3. To participate in a competitive transmission solicitation pursuant to Attachment K of the Tariff, any entity that intends to respond to an RFP for a Reliability Transmission Upgrade, a Market Efficiency Transmission Upgrade, or a Public Policy Transmission Upgrade must first be qualified by ISO-NE as a Qualified Transmission Project Sponsor (QTPS). Once an entity qualifies as a QTPS and maintains that status, it may participate in the competitive transmission solicitation process under Sections 4.3 and 4A of Attachment K.⁷

4. Operationally, there are two steps in the competitive transmission solicitation process in which QTPSs submit information. During the first step, known as “Phase One” Proposals for Reliability Transmission Upgrades and Market Efficiency Upgrades or as “Stage One” for Public Policy Transmission Upgrades, transmission owners submit a plan demonstrating that they can solve the needs identified in the RFP and providing general costs and logistics information.⁸ ISO-NE reviews these proposals to ensure that they address all identified transmission needs, are cost competitive, and are feasible. After ISO-NE’s review, which includes input from stakeholders in the Planning Advisory Committee (PAC), ISO-NE determines which Phase One or Stage One proposals will advance to the second step of the competitive transmission solicitation process.⁹

5. If a QTPS RFP submission advances to Phase Two (for Reliability Transmission Upgrades and Market Efficiency Upgrades) or Stage Two (for Public Policy Transmission Upgrades), then, in this second step, the QTPS must submit additional details. These details allow ISO-NE to differentiate between the submitted solutions and choose the preferred solution.¹⁰ After making its selection, ISO-NE will notify the QTPS

⁵ Filing Parties Transmittal at 2.

⁶ Filing Parties Transmittal, Oberlin Test. at 4:13-22.

⁷ *Id.* at 5:21-6:5. Section 4.3 sets forth the process for Reliability Transmission Upgrades and Market Efficiency Transmission Upgrades, while Section 4A sets forth the process for Public Policy Transmission Upgrades.

⁸ *Id.* at 6:7-16.

⁹ *Id.* at 6:18-21.

¹⁰ *Id.* at 7:1-10.

of the selected project that it has submitted the preferred Phase Two or Stage Two Solution for development, and the developer will accept responsibility to construct the transmission project after receiving all necessary siting and other approvals.¹¹

II. Filing

6. Filing Parties propose several Tariff revisions to facilitate the Transmission Planning Improvements. Filing Parties state that these revisions are intended to improve the competitive transmission process under Attachment K Sections 4.3 and 4A. Generally, Filing Parties explain that the proposed revisions improve the competitive transmission process by clarifying the applicable procedures, increasing the type of information included in responses to the competitive transmission process, providing more detail on the evaluation criteria, and clarifying that a transmission RFP may be cancelled.¹²

7. Filing Parties propose to revise Sections 4.3(a) (Initiating the Competitive Solution Process) and 4A.6(a) (Information Required for Stage One Proposals) to provide that a QTPS may submit a comprehensive transmission solution for Reliability Transmission Upgrades or Market Efficiency Transmission Upgrades that includes an upgrade on a Participating Transmission Owner's system when the QTPS is not the Participating Transmission Owner for the upgrade.¹³ Filing Parties also propose to revise Sections 4.3(c) and 4A.6(a) to require Phase One and Stage One Proposals to include the following information: (1) a description of the interconnection to the existing transmission system, (2) installed costs, (3) a description of the project's financing, and (4) any cost containment measures. Filing Parties state that this information will allow ISO-NE to more comprehensively evaluate and compare Phase One or Stage One Proposals and determine which proposals are eligible to advance to Phase Two or Stage Two Solutions.¹⁴

¹¹ *Id.* at 7:13-17.

¹² Filing Parties Transmittal at 2.

¹³ *Id.* at 6 (citing Oberlin Test at 8:11-9:4). Filing Parties propose similar changes to Sections 4.3(j) and 4A.9(a).

¹⁴ *Id.* at 6-7 (citing Oberlin Test. at 9:12-10:2).

8. Filing Parties also propose to include a detailed list of evaluation criteria that ISO-NE will consider when evaluating responses to the competitive transmission solicitation process. Filing Parties explain that this list provides guidance on the type of information ISO-NE will consider when it evaluates responses for Phase Two or Stage Two solutions.¹⁵

9. Filing Parties propose new Sections 4.3(m) and 4A.10, which permit ISO-NE to cancel a transmission RFP at any point during the competitive transmission solicitation process if changed assumptions modify or eliminate the identified need. In such circumstances, Filing Parties state that QTPSs recover the Phase Two or Stage Two costs pursuant to existing Tariff provisions.¹⁶

10. Filing Parties propose the addition of a new *pro forma* agreement between ISO-NE and the selected QTPS (Selected QTPS) that will govern the development, design, and construction of the new selected transmission solution. Filing Parties label this new *pro forma* agreement the Selected Qualified Transmission Project Sponsor Agreement (SQTPSA).¹⁷ Filing Parties state that the SQTPSA outlines the rights and obligations of the Selected QTPS and ISO-NE for a given project. Filing Parties add that the SQTPSA serves a different purpose than a Transmission Operating Agreement and the Non-Incumbent Transmission Developer Agreement, neither of which is project-specific. Filing Parties explain that, by contrast, the SQTPSA provides the terms and conditions for development and construction of the selected project, including, among other things, project milestones, status reports, modifications, assignment, and any cost containment.¹⁸ Filing Parties note that the SQTPSA is modeled on the Designated Entity Agreement that PJM Interconnection, L.L.C. uses in its competitive transmission solicitation process.¹⁹

11. Filing Parties propose revisions to the definition of Localized Costs to reflect the competitive transmission process and to update the process to account for asset condition and reconstruction projects.²⁰ Filing Parties state that these Localized Cost revisions for competitively developed transmission upgrades will base Localized Costs on “the

¹⁵ *Id.* at 7.

¹⁶ *Id.* at 8 (citing Oberlin Test. at 13:12-20).

¹⁷ *Id.* Filing Parties propose to incorporate the *pro forma* SQTPSA as Attachment P to the Tariff. *Id.* at 9.

¹⁸ *Id.*

¹⁹ *Id.* at 10 (citing *PJM Interconnection, L.L.C.*, 148 FERC ¶ 61,187 (2014)).

²⁰ *Id.* at 19.

description of the project in the SQTPSA compared to the project described in the application for regional cost allocation.”²¹ Filing Parties explain that, absent these revisions, the Selected QTPS may be exposed to significant risks because ISO-NE does not provide input on proposals during their development phase. In contrast, during the Solutions Study process, ISO-NE works with the participating transmission owners to develop a solution.²²

12. Filing Parties propose a new subsection to the Tariff provisions governing modeling assumptions for determining the network model, which reflects the in-service date of the transmission project as specified in the execution of a SQTPSA for ISO-NE’s Forward Capacity Market model.²³ Filing Parties also propose several Tariff revisions to permit the submission of proposals to perform the engineering necessary to support the competitive transmission process and to clarify PAC membership descriptions, entity notice requirements, and ISO-NE’s obligation to report to the PAC, among other provisions related to the process of facilitating a transmission RFP.²⁴ Finally, Filing Parties propose several “clean-up” edits for Tariff consistency.²⁵

III. Notice of Filing and Responsive Pleadings

13. Notice of Filing Parties’ filing was published in the *Federal Register*, 84 Fed. Reg. 55,947 (2019), with interventions and protests due on or before November 1, 2019. Calpine Corporation; Dominion Energy Services, Inc.; Exelon Corporation; Massachusetts Attorney General Maura Healey (Mass AG); Massachusetts Municipal Wholesale Electric Company and New Hampshire Electric Cooperative, Inc.; National Grid; New England Energy Connection, LLC (NEEC); New England States Committee on Electricity; New Hampshire Transmission, LLC; NRG Power Marketing, LLC; and Vistra Energy Corp. filed timely motions to intervene. Massachusetts Department of Public Utilities filed a notice of intervention. Avangrid Networks, Inc. and William Tong, Attorney General for the State of Connecticut (CT AG) filed motions to intervene out of time. Mass AG and NEEC filed comments, and CT AG filed a protest. ISO-NE filed an answer to the Mass AG’s and NEEC’s comments.

²¹ *Id.*

²² *Id.* (citing Oberlin Test. at 15:24-16:2).

²³ *Id.* at 20 (citing Oberlin Test. at 17:1-4, 17:8-18:8).

²⁴ *Id.* at 20-21.

²⁵ *Id.* at 22-25.

14. NEEC and Mass AG support the Transmission Planning Improvements.²⁶ NEEC states that the Transmission Planning Improvements are a positive step forward and will result in the selection of cost-effective solutions that benefit the region and ratepayers.²⁷

15. In its protest, CT AG argues that the Transmission Planning Improvements do not go far enough. CT AG contends that, while the proposed changes are largely helpful, they are inadequate to ensure truly competitive transmission procurements in the New England region and are thus not fully compliant with Order No. 1000.²⁸ CT AG asserts that the Tariff requires ISO-NE to conduct a competitive transmission solicitation process to meet new regional needs, but ISO-NE has not run a single competitive transmission solicitation to date.²⁹ CT AG notes that, while ISO-NE intends to hold its first competitive solicitation in December 2019, the proposed Tariff revisions governing the competitive solicitation process do not adequately consider Non-Transmission Alternatives (NTAs).³⁰

16. Mass AG, CT AG, and NEEC make requests in their pleadings. Mass AG asks the Commission to investigate and determine ways in which NTAs can more fully and meaningfully compete as alternatives to traditional transmission solutions in ISO-NE, such as allowing NTAs to compete in and be awarded competitive solicitations to address transmission needs.³¹ CT AG argues that ISO-NE needs to review its transmission planning process to include NTAs, such as battery storage units and transmission line ratings, in future competitive solicitations.³² It suggests that the Commission consider directing regional transmission organizations to report annually or biannually on the extent to which each is adopting NTAs or other grid management technologies and practices in order to provide information about best practices and create pressure for their adoption.³³ NEEC asks the Commission to encourage ISO-NE to establish a stakeholder

²⁶ Mass AG Comments at 2; NEEC Comments at 1, 3.

²⁷ NEEC Comments at 3.

²⁸ CT AG Protest at 3.

²⁹ *Id.* at 5-6 (citing Tariff, § II, Att. K (Regional System Planning Process) (23.0.0) §§ 4.1(j)(i), 4.3, 4A.5-.8).

³⁰ *Id.* at 7.

³¹ Mass AG Comments at 3-4.

³² CT AG Protest at 7-9.

³³ *Id.* at 10.

process to address broader issues in the existing transmission competitive solicitation process after the 2019 RFP's conclusion.³⁴

17. In its answer, ISO-NE asserts that Mass AG's comments and request regarding NTAs are outside the scope of this FPA section 205 proceeding, which does not modify the role of NTAs, and should instead be raised in an FPA section 206 complaint.³⁵ Nevertheless, ISO-NE notes that the Commission has previously found that ISO-NE's treatment of NTAs complies with Order Nos. 890 and 1000.³⁶ In response to NEEC's request for a stakeholder process following the conclusion of the 2019 RFP, ISO-NE states that it intends to hold follow-up stakeholder discussions to identify any issues and potential improvements to the process.³⁷

IV. Discussion

A. Procedural Matters

18. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2019), the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d), we grant Avangrid Networks, Inc.'s and CT AG's late-filed motions to intervene given their interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

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

³⁴ NEEC Comments at 3-4.

³⁵ ISO-NE Answer at 3 (citing *ISO New England Inc.*, 129 FERC ¶ 61,008, at P 30 (2009)) (additional citations omitted).

³⁶ *Id.* at 4 (citing *ISO New England Inc.*, 150 FERC ¶ 61,209, at P 84 (2015), *aff'd sub nom. Emera Maine v. FERC*, 854 F.3d 662 (D.C. Cir. 2017); *ISO New England Inc.*, 127 FERC ¶ 61,170 (2009)).

³⁷ *Id.* at 8.

B. Substantive Matters

20. We accept the Transmission Planning Improvements. Filing Parties have shown that the proposed Tariff revisions are just and reasonable and will improve the competitive transmission solicitation process in ISO-NE.

21. We agree with ISO-NE that Mass AG's comments regarding the current role of NTAs in ISO-NE's competitive solicitation process are outside the scope of this proceeding because the proposed Tariff revisions do not address NTA participation or ISO-NE's consideration of them in the competitive transmission solicitation process. Similarly, we find that CT AG's protest related to NTA participation in ISO-NE's competitive transmission solicitation process and the role of NTAs in regional transmission processes generally is outside the scope of this proceeding.³⁸ Although we find that NEEC's request to encourage ISO-NE to establish a stakeholder process to address broader issues in the existing transmission competitive solicitation process is also outside the scope of this proceeding, we note ISO-NE's intention to hold stakeholder discussions following the 2019 RFP to consider additional changes to the competitive solicitation process.³⁹

The Commission orders:

The Transmission Planning Improvements are hereby accepted, to become effective December 10, 2019, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

³⁸ As ISO-NE notes, the Commission has previously found that ISO-NE's transmission planning process considers all types of resources on a comparable basis in compliance with Order Nos. 890 and 1000. *See ISO New England Inc.*, 150 FERC ¶ 61,209 at P 84; *ISO New England Inc.*, 127 FERC ¶ 61,170 at P 13.

³⁹ *See supra* note 33.