

125 FERC ¶ 61,224
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

November 25, 2008

In Reply Refer To:
ISO New England Inc. &
Braintree Electric Light Department
Docket Nos. ER09-19-000
EL09-1-000

ISO New England Inc.
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Attention: Monica Gonzalez
Counsel for ISO New England Inc.

Attention: John P. Coyle
Counsel for
Braintree Electric
Light Department

Reference: Interconnection Agreement

Dear Ms. Gonzalez and Mr. Coyle:

1. On September 30, 2008, ISO New England Inc. (ISO-NE) and Braintree Electric Light Department (Braintree) submitted an executed, non-conforming Standard Large Generator Interconnection Agreement between ISO-NE as System Operator, and Braintree as both Interconnection Customer and Interconnecting Transmission Owner (Interconnection Agreement). The Interconnection Agreement governs the interconnection of Braintree's Thomas A. Watson Generating Station, which consists of two 58 megawatt Rolls Royce Trent 60 combustion turbine units located in Braintree, Massachusetts. Braintree will own the facility and retain entitlement to approximately thirty percent of the output. The remaining output is committed to six consumer-owned utilities that have entered into Unit Contracts with Braintree for terms of at least twenty years.

2. ISO-NE has submitted the filing pursuant to section 205 of the Federal Power Act (FPA).¹ Braintree states that it is a political subdivision of the Commonwealth of Massachusetts, organized under Mass. Gen. Laws ch. 164, §§ 34-69 (2008), as amended. Due to its status as a municipally-owned entity, Braintree is not subject to the Commission's jurisdiction under section 205 of the FPA.² Therefore, Braintree has submitted the filing under Rule 207 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.207.³ In its filing, Braintree has requested a declaratory order finding the proposed deviations from ISO-NE's *pro forma* Large Generator Interconnection Agreement (*pro forma* Agreement) satisfy the just and reasonable standard of FPA section 205. Braintree has also submitted a petition pursuant to 18 C.F.R. § 381.108(b) for waiver of the filing fee with respect to its request for declaratory relief.

3. In the instant filing, Braintree, with the support of ISO-NE, has proposed three categories of deviations from the *pro forma* Agreement: (i) creating a two-party, rather than the standard three-party, interconnection agreement; (ii) replacing the term "Point of Change of Ownership" with "Point of Change of Function" throughout the Interconnection Agreement; and (iii) removing any provisions regarding the construction of interconnection facilities. Braintree contends that these changes are necessary to reflect Braintree's status as both Interconnection Customer and Interconnecting Transmission Owner.

4. In addition, in its Petition for Declaratory Order, Braintree has proposed additional deviations from the *pro forma* Agreement to reflect Braintree's status as a non-public utility. ISO-NE takes no position with respect to these additional non-conforming provisions. Specifically, Braintree has proposed to delete articles 5.17.2 (Representations and Covenants) and 5.17.6 (Subsequent Taxable Events) in their entirety because it cannot make the representations required thereunder. Braintree has also proposed the revision of article 30.11 regarding its rights as a transmission owner to make unilateral filings under section 205 of the FPA. Braintree states that because it is a non-public utility, it does not have the authority or the obligation to make section 205 filings. Therefore, Braintree has proposed the insertion of the phrase "as applicable" to reflect this limitation on Braintree's rights under the Interconnection Agreement.

¹ 16 U.S.C. § 824d (2006).

² 16 U.S.C. §§ 824d, 824f (2006); *Transmission Agency of Northern California v. FERC*, 495 F.3d 663, 673 (D.C. Cir. 2007); *see also Startrans IO, L.L.C.*, 122 FERC ¶ 61,307, at P 4 (2008).

³ 18 C.F.R. § 381.207 (2008).

5. ISO-NE and Braintree have requested an effective date of December 1, 2008 for the Interconnection Agreement.
6. Notice of the filing was published in the *Federal Register*, 73 Fed. Reg. 62,493 (2008), with interventions, comments or protests due on or before October 31, 2008. No protests, comments, or motions to intervene were filed in this proceeding.
7. For agreements that contain provisions that do not conform to a transmission provider's Commission-approved *pro forma* interconnection agreement, the Commission applies a case-specific analysis that examines the operational and other reasons that necessitate the non-conforming language.⁴ The filing party is responsible for clearly identifying the portions of the interconnection agreement that differ from its *pro forma* agreement and explaining the unique circumstances of the interconnection and why these circumstances necessitate the filing of a non-conforming interconnection agreement.⁵
8. Here, Braintree has provided sufficient justification for the proposed deviations from the *pro forma* Agreement. We find that Braintree's status as both the Interconnection Customer and Interconnection Transmission Owner, in combination with Braintree's status as a non-public utility, necessitates the proposed non-conforming language. Therefore, the Commission hereby accepts the Interconnection Agreement with an effective date of December 1, 2008.
9. Finally, we find that pursuant to 18 C.F.R. § 381.108(b), Braintree is exempt as a municipality from payment of the fee otherwise applicable to a petition for declaratory order. We thus grant Braintree's petition for exemption from the filing fee.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

⁴ See, e.g., *El Paso Electric Co.*, 110 FERC ¶ 61,163, at P 4 (2005).

⁵ See *PJM Interconnection, L.L.C.*, 111 FERC ¶ 61,098, at P 8, n.11 (2005).