

132 FERC ¶ 61,208
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
John R. Norris, and Cheryl A. LaFleur.

ISO New England Inc.

Docket No. ER10-1749-000

ORDER GRANTING REQUEST FOR WAIVERS

(Issued September 7, 2010)

1. On July 9, 2010, ISO New England Inc. (ISO-NE) filed a request for waiver of certain business practice standards adopted by the Commission in Order No. 676-E.¹ Subsequently, on July 20, 2010, ISO-NE filed a corrected version of its request, which included two standards inadvertently omitted from the July 9, 2010 filing. In this order, the Commission grants the requested waivers, as discussed below.

I. Background

2. In 2006, the Commission issued Order No. 676² to incorporate by reference certain standards promulgated by the Wholesale Electric Quadrant (WEQ) of the North American Energy Standards Board (NAESB). In that order, the Commission directed public utilities to comply with these standards and incorporate them into their open access transmission tariffs (OATT). The standards established a set of business practice standards and communications protocols (Standards WEQ-001, -002, and -003) for the electric industry that replace the Commission's existing Open Access Same-Time

¹ *Standards for Business Practices and Communication Protocols for Public Utilities*, Order No. 676-E, FERC Stats. & Regs. ¶ 31,299 (2009).

² *Standards for Business Practices and Communication Protocols for Public Utilities*, Order No. 676, FERC Stats. & Regs. ¶ 31,216, *order denying reh'g*, Order No. 676-A, 116 FERC ¶ 61,255 (2006), Order No. 676-B, FERC Stats. & Regs. ¶ 31,246 (2007), Order No. 676-C, FERC Stats. & Regs. ¶ 31,274 (2008), *order on clarification and reh'g*, Order No. 676-D, 124 FERC ¶ 61,317 (2008), Order No. 676-E, FERC Stats. & Regs. ¶ 31,299.

Information Systems (OASIS) standards, and also included business practices to complement reliability standards of the North American Electric Reliability Council (NERC) (Standards WEQ-004, -005, -006 and -007).

3. As an alternative to complying with the standards, Order No. 676 provided public utilities the option of applying for a waiver of the standards, in whole or in part. Further, Order No. 676 stated that utilities, including ISOs and RTOs, that have existing waivers of certain OASIS standards may reapply for such waivers using simplified procedures. These procedures require an applicant to identify the specific standard(s) from which it is seeking waiver and provide the caption, date, and docket number of the proceeding in which it received its waiver. In addition, an applicant must certify that the circumstances warranting its waiver(s) have not changed.³

4. Shortly after the issuance of Order No. 676, ISO-NE filed its original request for a limited waiver of the standards with respect to its regional network service and through or out service. On November 16, 2006, the Commission granted ISO-NE's request for waiver, finding that the ISO's "business model and regional transmission services differ from the business model and transmission services described in the *pro forma* OATT, on which the WEQ standards are generally based," and also finding that the request was reasonable.⁴

5. On July 21, 2008, the Commission amended its regulations to incorporate the NAESB WEQ Version 001 standards in Order No. 676-C.⁵ ISO-NE requested a limited waiver of the WEQ Version 001 standards that address matters relating to point-to-point service and the new standards for invoking Transmission Loading Relief (TLR) Procedures. ISO-NE explained that the circumstances that justified granting ISO-NE a waiver of certain business practice standards established in Order No. 676 continued to apply. On November 20, 2008, the Commission granted ISO-NE's request for limited waivers.⁶

6. In 2009, the Commission issued Order No. 676-E,⁷ incorporating by reference the latest version (Version 002.1) of certain standards adopted by NAESB's WEQ. Order

³ Order No. 676, FERC Stats. & Regs. ¶ 31,216 at P 79.

⁴ *ISO New England Inc.*, 117 FERC ¶ 61,195 (2006) (November 16, 2006 Order).

⁵ Order No. 676-C, FERC Stats. & Regs. ¶ 31,274.

⁶ *ISO New England Inc.*, 125 FERC ¶ 61,201 (2008) (November 20, 2008 Order).

⁷ Order No. 676-E, FERC Stats. & Regs. ¶ 31,299.

No. 676-E provides that “when the Commission adopts new requirements, it is incumbent on a public utility that wishes to maintain an existing waiver to mak[e] a showing to the Commission that, based on the particular facts at issue, the waiver should continue. The determination of whether a waiver from a prior requirement should apply to a revised requirement is one that needs to be made on a case-by-case basis.”⁸

II. Filing

7. In this filing, ISO-NE requests a limited waiver for specific new and/or revised WEQ Version 002.1 standards incorporated by reference into the Commission’s regulations in Order No. 676-E with respect to offering of regional network service and through or out service. ISO-NE states that these standards are inapplicable to ISO-NE due to the nature of the transmission services that it provides, which differ from the transmission services described in the Commission’s *pro forma* OATT (i.e., point-to-point service and network integration transmission service).

8. ISO-NE also seeks waiver of the revised WEQ-008 standards relating to the procedures for invoking TLRs, which ISO-NE states it does not use and for which it has previously received a Commission waiver. ISO-NE states that specific rules in its OATT, as accepted by the Commission, govern how the ISO must curtail transmission schedules.

9. ISO-NE states that the waivers requested here are consistent with the waivers that the Commission granted ISO-NE with respect to Order Nos. 676⁹ and 676-C,¹⁰ and the Commission’s order accepting ISO-NE’s compliance filing in response to Order No. 890.¹¹

⁸ *Id.* P 107.

⁹ November 16, 2006 Order, 117 FERC ¶ 61,195.

¹⁰ November 20, 2008 Order, 125 FERC ¶ 61,201.

¹¹ *ISO New England Inc.*, 123 FERC ¶ 61,133 (2008). *See 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), *order on reh’g*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

III. Notice of Filing

10. Notice of ISO-NE's request for limited waivers was published in the *Federal Register*, 75 Fed. Reg. 41,843 (2010), with comments, interventions and protests due on or before July 30, 2010. Notice of ISO-NE's corrected version of the request for limited waivers was published in the *Federal Register*, 75 Fed. Reg. 44,783 (2010), with comments, interventions, and protests due on or before August 10, 2010. No interventions, protests, or comments were filed.

IV. Discussion

11. In support of its current request, ISO-NE states that the new or revised WEQ standards at issue are "inapplicable to the ISO due to the nature of transmission service it provides, which differs from the services described in the Commission's *pro forma* OATT," on which the standards are generally based. For example, the regional network service¹² and through or out service¹³ ISO-NE provides differ from those services provided in the *pro forma* OATT because they do not require advance reservations by transmission customers, are not offered for specific time periods, and do not have firm versus non-firm service characteristics.

A. Request for Waivers Associated with Waivers Previously Granted by the Commission in November 16, 2006 Order.

12. With regards to waivers previously granted in the Commission's November 16, 2006 Order,¹⁴ ISO-NE requests waiver of Version 002.1 Standards 001-2, including 001- 2.1 through 001-2.1.14 and including 2.10 through 2.14;¹⁵ Standards 001-4, including 001-4 through 001-4.27; and Standards 001-9, including 001-9 through 001-9.8.1. ISO-NE states that because these standards define the potential periods of

¹² See ISO New England Inc., FERC Electric Tariff No. 3, Open Access Transmission Tariff, Section II.B. – Regional Network Service.

¹³ See ISO New England Inc. FERC Electric Tariff No. 3, Open Access Transmission Tariff, Section II.C. – Through or Out Service.

¹⁴ November 16, 2006 Order, 117 FERC ¶ 61,195 at P 14.

¹⁵ ISO-NE states that it has filed a minor correction request with NAESB regarding the possible mis-numbering of Standards 001-2.10 through 001-2.14, which ISO-NE asserts should be numbered 001-2.1.10 through 001-2.1.14. Should the numbering of these standards be revised, the waivers granted in this section would remain valid.

service for point-to-point service, they are not applicable to ISO-NE, because it does not offer *pro forma* point-to-point Service under its OATT.

13. ISO-NE explains that Standards 001-4 provide additional detail on how a transmission provider should conduct advance reservations and price negotiations through its OASIS. ISO-NE states that those standards are inapplicable because the ISO eliminated advance reservations for regional transmission services from its OATT. ISO-NE also requests waiver of the revisions to the existing standards as well as the new subsection added under Standards 001-4 (001-4 through 001-4.27) because they are equally inapplicable to regional network service and through or out service offered under the ISO-NE OATT. ISO-NE explains that in place of those procedures, regional network service is received and paid for under a formula rate on the basis of a network customer's "monthly regional network load" and through or out service is received and paid for under a formula rate on the basis of a market participant's external transactions that are offered and scheduled in the real-time energy market.

14. ISO-NE further states that because its OATT does not include internal point-to-point service or advance reservations within regional transmission services, standards dealing with redirects on a firm basis (001-9 through 001-9.8.1) as revised in Version 002.1, also are inapplicable, because they describe the rights a transmission customer has to request modifications to points of receipts and/or points of delivery as part of its point-to-point service advance reservations. ISO-NE explains that under its OATT, transmission customers are able to modify the points of receipt and/or points of delivery associated with regional transmission service when they submit energy transactions into the ISO's real-time energy markets. Because these standards are not applicable to ISO-NE's OATT, we grant the waiver requested described above.

B. Request for Waivers Associated with Waivers Previously Granted by the Commission in the November 20, 2008 Order

15. With regards to waivers previously granted in the Commission's November 20, 2008 Order,¹⁶ ISO-NE requests waiver of the revisions made in NAESB's Version 002.1 under Standards 001-11 (including 001-11 through 001-11.7.1) governing resales for point-to-point service, and new (but related) Standards 001-20 (including 001-20 through 001-20.3) on rollover rights for point-to-point service and Standards 001-21 (including 001-21 through 001-21.5.5) relating to the provision of conditional firm service. Similar to those the standards discussed above, Standards 001-11, 001-20 and 001-21 relate specifically to *pro forma* point-to-point service, which ISO-NE does not provide. Because ISO-NE does not provide the transmission service addressed by these standards

¹⁶ November 20, 2008 Order, 125 FERC ¶ 61,201 at P 12-14.

ISO-NE's waiver request for the new sets of standards under 001-20 and 001-21 is granted.

16. ISO-NE also states that the same rationale applies for waiver of new standards relating to the provision of conditional firm service (001-21 through 001-21.5.5), which was part of the conditional firm service option that would be available to transmission customers seeking long-term *pro forma* point-to-point service – a service not offered by ISO-NE within the regional transmission services – in accordance with Order No. 890. ISO-NE further explains that regional transmission services are not offered on a long-term/short-term basis like *pro forma* point-to-point service, and do not share the firm/non-firm characteristics of *pro forma* point-to-point service. Therefore, it is appropriate for the Commission to waive these standards with respect to regional transmission services.

C. Request for Waivers of New Standards Governing ATC-Related Requirements for *Pro Forma* OATT Service Not Provided by the ISO

17. ISO-NE states that NAESB's Version 002.1 incorporates new standards related to the calculation of firm and non-firm available transfer capability (ATC); particularly Standards 001-18 (including 001-18 through 001-18.2) and Standards 001-D, which set forth new postback requirements in ATC due to a change in status of transmission reservation or unscheduled firm transmission service, and Standards 001-19 (including 001-19 through 001-19.1.2), which specify new requirements associated with the treatment of grandfathered agreements in the calculation of ATC.

18. Because ISO-NE's regional transmission services are not based on advance physical transmission reservations, ISO-NE requests waiver of the new NAESB standards establishing postback conditions and requirements to be accounted for in the calculation of ATC. ISO-NE explains that it utilizes bid-based locational markets and financial rights to address transmission congestion, rather than the first-come, first-served physical rights, advance reservations, and point-to-point transmission service model set forth in the *pro forma* OATT. Consequently, the change in status in transmission service reservations contemplated in these standards (e.g., release of unscheduled service, annulment of a transmission reservation, and redirect of transmission service) are not consistent with ISO-NE's business model and regional transmission services, and the requested waiver is granted.

19. ISO-NE states that because there are no grandfathered agreements under its OATT that need to be recognized within the existing transmission commitments (ETC) component of the ATC calculation, ISO-NE also requests a waiver of NAESB's Version 002.1 new standards governing the treatment of grandfathered agreements in the calculation of ATC – Standards 001-19 (including 001-19 through 001-19.1.2). ISO-NE further explains that the ETC component of the ATC equation accounts for all elements

that reduce the amount of ATC that is available, and since its regional transmission services do not require advance physical reservations; it does not have grandfathered agreements in the ISO-NE OATT that would reduce the amount of ATC available to others. Therefore, the Commission grants the ISO-NE's request for waiver of these new standards.

20. ISO-NE requests a waiver of the new standards governing capacity benefit margin (CBM) (Standards 001-22 through 001-22.2). ISO-NE states that the implementation of the New England market design eliminated the need to withhold transmission capability from the market in the form of CBM.¹⁷ Because these new sets of requirements are inapplicable to ISO-NE's approach to capacity planning requirements, the Commission grants the requested waiver of the Version 002.1 CBM standards.

D. Request for Waiver of the Version 002.1 TLR Standards

21. ISO-NE also requests a waiver of the revised NAESB Version 002.1 standards (008-0.1 through 008-3.11.2.8) governing TLRs. ISO-NE states that it does not initiate TLR requests or use TLR-like procedures to initiate curtailments. The revised standards pertain to the commercial-related aspects of the TLR curtailment process, particularly those impacts associated with the initiation of a TLR. The Commission previously granted ISO-NE's request for waiver of WEQ-008-1 standards because it does not initiate or use these types of procedures to initiate curtailments.¹⁸ ISO-NE states that the circumstances supporting the Commission's determination in the November 20, 2008 Order have not changed. Because ISO-NE does not initiate the type of procedures addressed by these standards, the Commission grants its request for a waiver of the Version 002.1 standards governing TLRs.

¹⁷ The CBM standards dictate the mechanism by which Load Serving Entities can request the use of CBM in support of energy imports in the load's balancing authority area, and the posting requirements for transmission providers for scheduled use of CBM and curtailments of those schedules.

¹⁸ See November 20, 2008 Order, 125 FERC ¶ 61,201 at P 14.

The Commission orders:

ISO-NE's request for limited waivers is hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.