

133 FERC ¶ 61,215
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. ER11-1947-000

ORDER GRANTING REQUEST FOR WAIVERS

(Issued December 16, 2010)

1. On October 1, 2010, ISO New England Inc. (ISO-NE) and the New England Power Pool Participants Committee (NEPOOL) (jointly, Filing Parties) filed revisions (October 1 Filing) to Schedule 24—Incorporation By Reference of NAESB Standards (Schedule 24) of the ISO-NE Tariff to incorporate by reference certain business practice standards adopted by the Wholesale Electric Quadrant (WEQ) of the North American Energy Standards Board (NAESB). On October 29, 2010, ISO-NE filed a request (October 29 Waiver Filing)¹ for waiver of certain business practice standards adopted by the Commission in Order No. 676-E.² Also, on October 29, 2010, the Filing Parties filed an amended, revised version (October 29 Amended Filing) of the October 1 Filing to correct an error and to allow the Commission to consider the request for waiver that was filed concurrently. Because the circumstances supporting the Commission's prior determination for granting waiver to these WEQ standards have not changed, ISO-NE's request for limited waivers is hereby granted, as discussed below.

¹ The October 29 Waiver Filing that contained the amended, revised Schedule 24 was conditionally approved subject to the outcome of this proceeding, through a Delegated Letter Order issued by the Commission in Docket No. ER11-2-001 on December 3, 2010.

² *Standards for Business Practices and Communication Protocols for Public Utilities*, Order No. 676-E, FERC Stats. & Regs. ¶ 31,299 (2009).

I. Background

2. On April 25, 2006, the Commission issued Order No. 676³, which amended the Commission's regulations under the Federal Power Act to incorporate by reference certain standards promulgated by the WEQ of 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 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. 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.⁴
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 mode 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.⁵

³ *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 (2009).

⁴ Order No. 676, FERC Stats. & Regs. ¶ 31,216 at P 79.

⁵ *ISO New England Inc.*, 117 FERC ¶ 61,195, at P 14 (2006) (November 16, 2006 Order).

5. On July 21, 2008, the Commission amended its regulations to incorporate the NAESB WEQ Version 001 standards in order No. 676-C.⁶ 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.⁷

6. On November 24, 2009, the Commission issued Order No. 676-E,⁸ incorporating by reference the latest version (Version 002.1) of certain business practice standards adopted by NAESB's WEQ. Order No. 676-E provides that "[w]hen 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."⁹

7. Following the promulgation of Order No. 676-E, on July 9, 2010, and as corrected on July 20, 2010, ISO-NE filed a request for waiver of certain Version 002.1 WEQ standards. The Commission granted the request for waivers on September 7, 2010.¹⁰

II. Filings

8. On October 1, 2010, in Docket No. ER11-2-000, the Filing Parties filed a revision to its OATT to bring it into compliance with Order Nos. 676-E and 676-F.¹¹ The compliance filing consisted of a revised Schedule 24 of the ISO-NE OATT, which included numerous exclusions proposed by the Filing Parties. Upon inspection of the filing, the Commission Staff found errors with respect to the referenced NAESB

⁶ Order No. 676-C, FERC Stats. & Regs. ¶ 31,274.

⁷ *ISO New England Inc.*, 125 FERC ¶ 61, 201 (2008) (November 20, 2008 Order).

⁸ Order No. 676-E, FERC Stats. & Regs. ¶ 31,299.

⁹ *Id.* P 107.

¹⁰ *ISO New England Inc.*, 132 FERC ¶ 61,208 (2010) (September 7, 2010 Order).

¹¹ *Standards for Business Practices and Communication Protocols for Public Utilities*, Order No. 676-F, 131 FERC ¶ 61,022 (2010).

standards¹² and the fact that certain exclusions proposed by the Filing Parties required either renewal or approval to be operative here.¹³

9. After receiving notice of the errors, on October 29, 2010, in Docket No. ER11-1947-000, ISO-NE filed a request for waiver for specific WEQ Version 002.1 standards incorporated by reference into the Commission's regulations in Order No. 676-E with respect to 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).

10. ISO-NE also seeks waiver of the 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.

11. ISO-NE states that the waivers requested here are consistent with the waivers that the Commission granted ISO-NE with respect to Order Nos. 676¹⁴ and 676-C,¹⁵ and the Commission's order accepting ISO-NE's compliance filing in response to Order No. 890.¹⁶

¹² In Schedule 24, which accompanied the October 1 Filing, ISO-NE listed NAESB standard 001-10 instead of 001-1.0.

¹³ When the Commission incorporates by reference a new version of NAESB standards, any individual standard that was previously adopted by the Commission under an earlier version, even if it remains identical under the new version, is for all purposes considered a new standard. Consequently, any waiver that was approved for a standard under an earlier version, is no longer valid after the new version is adopted by the Commission.

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

¹⁵ November 20, 2008 Order, 125 FERC ¶ 61,201.

¹⁶ *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 clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

12. As mentioned above, concurrently with the request for waiver, in Docket No. ER11-2-001, ISO-NE filed an amended compliance filing correcting its revised Schedule 24. Because of the exclusions proposed by ISO-NE in the revised Schedule 24, approval of the compliance filing in ER11-2-001 is contingent on the Commission's approval of ISO-NE's request for waiver in the instant docket.

III. Notice of Filing

13. Notice of ISO-NE's request for limited waivers was published in the *Federal Register*, 75 Fed. Reg. 70,736-37 (2010), with comments, interventions, and protests due on or before November 19, 2010. Notice of the Filing Parties' October 1 Filing was published in the *Federal Register*, 75 Fed. Reg. 63,458 (2010), with comments, interventions, and protests due on or before October 22, 2010. Notice of the Filing Parties' October 29 Filing was published in the *Federal Register*, 75 Fed. Reg. 70,733 (2010), with comments, interventions, and protests due on or before November 19, 2010. No interventions, protests, or comments were filed.

IV. Discussion

14. In support of its current request, ISO-NE states that the Version 002.1 WEQ standards at issue are "inapplicable . . . due to the nature of transmission services it provides, which differ from the transmission services described in the Commission's *pro forma* OATT (i.e., Point-To-Point Service and Net Integration Transmission Service)," on which the standards are generally based.¹⁷

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

15. With regard to waivers previously granted in the Commission's November 16, 2006 Order, ISO-NE requests waiver of Version 002.1 WEQ Standards 001-2.2 through 001-2.2.2 (Attribute Values Defining Service Class); 001-2.3 through 001-2.3.2 (Attribute Values Defining Service Types); 001-5 through 001-5.6 (Transmission Provider Requirements); 001-8 through 001-8.3.2 (Requirements for Dealing with Multiple, Identical Transmission Service Requests); and 001-10 through 001-10.8.6 (Requirements for Dealing with Redirects on a Non-firm Basis).

16. In the November 16, 2006 Order, the Commission granted waiver for these standards because, as ISO-NE stated, the regional network service and through or out service provided by ISO-NE have different service characteristics than the *pro forma*

¹⁷ ISO New England October 29, 2010 Request for Waiver at 5.

OATT transmission services. The ISO-NE arguments below were presented in the 2006 proceeding.

17. WEQ Standards 001-2.2 through 001-2.2.2 provide definitions for firm and non-firm service classes. ISO-NE stated that its regional network service and through or out service do not have firm versus non-firm service characteristics and therefore these standards are inapplicable.

18. WEQ Standards 001-2.3 through 001-2.3.2 require transmission providers to use certain definitions to describe the types of service it provides. With regard to these standards, ISO-NE asserted that they are not applicable because it does not provide Point-To-Point or Network Integration Transmission Service on a regional basis.

19. WEQ Standards 001-5 through 001-5.6 require transmission providers to designate which ancillary services that it provides are mandatory, required, or optional; and transmission customers must indicate their preferred options for provision of ancillary services. ISO-NE explained that these requirements are inapplicable because its OATT: (1) does not require advance transmission reservation requests for regional network service or through or out service; (2) already designates whether an ancillary service is mandatory, required, or optional; and (3) includes market or tariff mechanisms that allow a transmission customer to acquire or self-supply ancillary services.

20. WEQ Standards 001-8 through 001-8.3.2 control the process for dealing with multiple, identical transmission service requests. According to ISO-NE, however, these standards do not apply because its OATT does not provide transmission customers with the ability to make advance reservations for regional transmission services.

21. WEQ Standards 001-10 through 001-10.8.6 govern how a transmission customer may request an alternate point of receipt and/or point of delivery on a non-firm basis. ISO-NE stated that because it grants transmission customers the ability to modify their points of receipt and/or points of delivery when they submit energy transactions into ISO-NE'S real-time energy markets, rather than through advance reservations, these standards do not apply.

22. ISO-NE certifies that the circumstances supporting the November 16, 2006 Order granting the above described waivers are still in effect. Therefore, the Commission grants the reapplication of the waivers described above as they relate to the November 16, 2006 Order.

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

23. With regard to waivers previously granted in the Commission's November 20, 2008 Order, ISO-NE requests waiver of Version 002.1 WEQ Standards 001-10.8.7

(Requirements for Dealing with Redirects on a Non-firm Basis) and 001-12 through 001-12.5.2 (Transfers). The ISO-NE arguments below were presented in the 2008 proceeding.

24. WEQ Standard 001-10.8.7 concerns the termination of an Electronic Tag prior to its original stop time with respect to a transmission customer requesting an alternate point of receipt and/or point of delivery. ISO-NE stated that because it does not use advance reservations this standard does not apply.

25. WEQ Standards 001-12 through 001-12.5.2 preside over the transfer of Point-To-Point transmission service. ISO-NE asserted that these standards are inapplicable because it does not offer this type of service.

26. ISO-NE certifies that the circumstances supporting the November 20, 2008 Order granting the above described waivers are still in effect. Therefore, the Commission grants the reapplication of the waivers described above as they relate to the November 20, 2008 Order.

C. Request for Waivers Associated with Waivers Previously Granted by the Commission in the September 7, 2010 Order

27. ISO-NE requests waiver of Version 002.1 WEQ Standards 008-A through 008-D. Standards 008-A through 008-D are appendices sections (providing examples and applicable formula) for WEQ-008, which governs TLR in the Eastern Interconnection. The standards under WEQ-008 govern the TLR curtailment and reloading process, which is in place to mitigate overloads on transmission facilities.

28. In the September 7, 2010 Order, the Commission granted ISO-NE a waiver of Version 002.1 WEQ Standards 008-0.1 through 008-3.11.2.8. There, ISO-NE stated that it does not initiate TLR requests or use TLR-like procedures and therefore these standards are not applicable.

29. Version 002.1 Standard WEQ-008 consists of Standards 008-0.1 through 008-3.11.2.8, and also includes Standards 008-A through 008-D as appendices. The Commission grants waiver of Standards 008-A through 008-D because, as appendices, and finding that all other WEQ-008 standards have already been properly waived, these standards work to explain and clarify Standards 008-0.1 through 008-3.11.2.8.

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)

Kimberly D. Bose,
Secretary.