

123 FERC ¶ 61,133
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

ISO New England Inc.

Docket Nos. ER08-54-000
ER08-54-001

ORDER ACCEPTING COMPLIANCE FILING, AS MODIFIED

(Issued May 7, 2008)

1. On October 11, 2007, as amended on January 17, 2008, pursuant to sections 205 and 206 of the Federal Power Act (FPA),¹ ISO New England Inc. (ISO-NE), the Participating Transmission Owners (PTO), the PTO Administrative Committee, Cross-Sound Cable Company, LLC (CSC), the Schedule 20A Service Providers (SSP), Maine Electric Power Company Inc. (MEPCO), and the New England Power Pool (collectively, the Filing Parties) jointly submitted their compliance filing as required by Order No. 890.² In this order, we accept the Filing Parties' filing, as modified, as in compliance with Order No. 890.

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. Among other things, Order No. 890 amended the *pro forma* OATT to require greater

¹ 16 U.S.C. §§ 824d, 824e (2000 & Supp. V 2005). The Filing Parties indicated that the October 11, 2007 filing included changes to the ISO-NE Open Access Transmission Tariff under section 205 of the FPA, and that these section 205 changes were directly related to their Order No. 890 compliance. On November 30, 2007, the Filing Parties submitted a letter to the Commission, waiving the time limits placed on the Commission's action by section 205 of the FPA.

² *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 Fed. Reg. 12,266 (Mar. 15, 2007), FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, 73 Fed. Reg. 2984 (Jan. 16, 2008) FERC Stats. & Regs. ¶ 31,261 (2007).

consistency and transparency in the calculation of available transfer capability (ATC), open and coordinated planning of transmission systems, and standardization of charges for generator and energy imbalance services. The Commission also revised various policies governing network resources, rollover rights, and reassignments of transmission capacity.

3. The Commission established a series of compliance deadlines to implement the reforms adopted in Order No. 890. Transmission providers that have been approved as independent system operators (ISO) or regional transmission organizations (RTO) were directed to submit, within 210 days from publication of Order No. 890 in the *Federal Register* (i.e., October 11, 2007), section 206 compliance filings that contain the non-rate terms and conditions set forth in Order No. 890 or that demonstrate that their existing tariff provisions are consistent with or superior to the revised provisions of the *pro forma* OATT. The Commission also aligned the compliance filing deadlines for ISOs and RTOs and their transmission-owning members. Further, the Commission required public utility transmission owners whose transmission facilities are under the control of RTOs or ISOs to make any necessary tariff filings required to comply with Order No. 890 within 210 days after the publication of Order No. 890 in the *Federal Register* (i.e., October 11, 2007).³

II. Notice of Filing and Responsive Pleadings

4. Notice of the October 11, 2007 filing was published in the *Federal Register*, 72 Fed. Reg. 60,339 (2007), with interventions and protests due on or before November 1, 2007.

5. Timely motions to intervene were filed by BG Entities,⁴ the Long Island Power Authority and its subsidiary, LIPA, and the NRG Companies.⁵ Timely motions to intervene and comments were filed by Beacon Power Corporation (Beacon Power) and PPL EnergyPlus LLC (PPL EnergyPlus).

³ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 157, 161.

⁴ BG Entities include BG Energy Merchants, LLC; BG Dighton Power, LLC; Lake Road Generating, L.P.; and MASSPOWER.

⁵ NRG Companies include NRG Power Marketing Inc., Connecticut Jet Power LLC, Devon Power LLC, Middleton Power LLC, Montville Power LLC, Norwalk Power LLC, and Somerset Power LLC.

6. On November 16, 2007, ISO-NE filed an answer to the comments submitted by Beacon Power. On December 3, 2007, Beacon Power filed an answer to ISO-NE's answer.
7. Notice of the January 17, 2008 filing, which amended the October 11, 2007 filing, was published in the *Federal Register*, 73 Fed. Reg. 6174 (2008), with interventions and protests due on or before February 7, 2008.
8. Timely motions to intervene were filed by the Interconnection Rights Holders Management Committee, Unitil Power Corp. and Fitchburg Gas and Electric Light Company. A timely motion to intervene and protest was filed by H.Q. Energy Services, Inc. (HQ Energy Services).
9. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2007), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.
10. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2007), prohibits an answer to a protest unless otherwise ordered by the decisional authority. Accordingly, we will reject ISO-NE's and Beacon Power's answers.

III. ISO-NE

A. Compliance Filing

11. ISO-NE serves as the regional transmission organization for New England. ISO-NE operates the New England Transmission System and administers the New England Markets pursuant to its OATT and its operating agreements with the New England transmission owners. ISO-NE states that, in compliance with Order No. 890, ISO-NE has revised its OATT to incorporate, as applicable, the changes adopted in the *pro forma* OATT.

B. Discussion

12. We accept ISO-NE's compliance filing, as modified, to be effective October 11, 2007. We direct ISO-NE to file, within 30 days of the date of this order, a further compliance filing as required below.

1. Proposed Deviations from the Pro Forma OATT

13. The Commission required ISO and RTO transmission providers to submit FPA section 206 compliance filings, within 210 days after the publication of the Final Rule in

the *Federal Register*, that contain the non-rate terms and conditions set forth in the Final Rule or that demonstrate that their existing tariff provisions are consistent with or superior to the revised provisions of the *pro forma* OATT.⁶

14. ISO-NE explains that it does not offer *pro forma* OATT-type transmission service. ISO-NE states that it provides Regional Network Service (RNS) and Through or Out (TOUt) Service over the pool transmission facilities (i.e., the higher-voltage transmission facilities of the New England transmission owners). RNS does not use advance reservations, does not distinguish between “firm” and “non-firm” transmission service, and is not associated with any unauthorized use penalties. TOUt Service, ISO-NE’s form of point-to-point service, is used for transactions that go through the New England Control Area from one boundary to another or that export energy out of the New England Control Area. Like RNS, TOUt Service also does not require advance reservations or distinguish between “firm” and “non-firm” service.

15. ISO-NE states that, because it does not offer *pro forma* OATT type transmission service, many of the reforms adopted in Order No. 890 are not applicable to its OATT. Accordingly, ISO-NE did not adopt reforms associated with the provision of point-to-point transmission service and network integration transmission service, the designation, termination and operation of network resources,⁷ restrictions on use of service and credits for customer-owned transmission facilities, rollover rights, modifications of receipt or delivery points, and secondary service.

16. Additionally, ISO-NE explains several deviations from the *pro forma* OATT. Specifically, ISO-NE revised its existing Schedule 4 (Energy Imbalance Service) and incorporated a new Schedule 10 (Generator Imbalance Service)⁸ to clarify that energy and generator imbalance services are not required services in the New England control area. Instead, energy- and generator-related charges are governed by the multi-settlement, locational marginal pricing-based market pursuant to the rules specified in Market Rule 1. Further, ISO-NE did not adopt the *pro forma* revisions to Schedules 2 (Reactive Supply and Voltage Support), 5 (Operating Reserves Ten-Minute Spinning Reserve Service), 6 (Operating Reserve Ten-Minute Non-Spinning Reserve Service), and 7 (Operating Reserve Thirty-Minute Operating Reserve Service) because these schedules already indicate that non-generating resources may provide these services.

⁶ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 157.

⁷ Resources within the ISO-NE control area are automatically designated as network resources.

⁸ ISO-NE already has a Schedule 9 in its OATT, which pertains to the charges for RNS.

17. In Order No. 890, the Commission recognized that some of the changes adopted in Order No. 890 may not be as relevant to ISO and RTO transmission providers as they are to non-independent transmission providers. The Commission stated that revisions to the *pro forma* OATT are not intended to upset the market designs used by existing ISOs and RTOs and that ISOs and RTOs may well have adopted practices that are already consistent or superior to the reforms adopted in Order No. 890.⁹ We recognize that ISO-NE's proposed deviations from the *pro forma* OATT reflect the market design used by ISO-NE, and we find these deviations to be consistent with or superior to the *pro forma* OATT, except as otherwise addressed below.

2. Creditworthiness

18. In Order No. 890, the Commission required transmission providers to amend their OATTs to include a new attachment that sets forth the basic credit standards the transmission provider uses to grant or deny transmission service. This attachment must specify both the qualitative and quantitative criteria that the transmission provider uses to determine the level of secured and unsecured credit required. In addition, the Commission required transmission providers to address six specific elements regarding the transmission provider's credit requirements.¹⁰

19. We have reviewed ISO-NE's filing and find that its creditworthiness procedures are incomplete. Specifically, it is not clear how non-rated municipal applicants can obtain unsecured credit.¹¹ ISO-NE should explain how financial information provided by a non-rated municipal applicant will be used to determine whether or not the applicant qualifies for unsecured credit. We direct ISO-NE to file, within 30 days of the date of this order, a further compliance filing that addresses its creditworthiness standards consistent with Order No. 890.

⁹ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 158.

¹⁰ *Id.* P 1656-61.

¹¹ ISO-NE's OATT states, "Generally each Municipal Applicant must submit to the ISO all current reports from the Rating Agencies and each report from the Rating Agencies must indicate an Investment Grade Rating for the Municipal Applicant in order for the Municipal Applicant to be considered as a candidate to be a Market Participant without furnishing additional financial assurances as described below." *See* ISO-NE, FERC Electric Tariff No. 3, Fourth Revised Sheet No. 73.

3. Clustering

20. In Order No. 890, the Commission generally did not require transmission providers to study transmission requests in a cluster, although the Commission did encourage transmission providers to cluster studies when it is reasonable to do so. The Commission also explicitly required transmission providers to consider clustering studies if customers request a cluster and the transmission provider can reasonably accommodate the request. As a result, the Commission directed transmission providers to include tariff language in their Order No. 890 compliance filings that describes how the transmission provider will process a request to cluster studies and how it will structure transmission customers' obligations when they have joined a cluster.¹²

21. ISO-NE has not responded to the Commission's directive regarding clustering.¹³ We direct ISO-NE to file, within 30 days of the date of this order, a further compliance filing that describes how it will process a request to cluster studies and how it will structure transmission customers' obligations when they have joined a cluster.¹⁴

4. Schedule 3, Regulation and Frequency Response Service

22. Beacon Power, a developer of non-generation storage technology commends ISO-NE for including in Schedule 3 the Order No. 890 revisions allowing for non-generation resources to provide ancillary services. However, Beacon Power states that Market Rule 1 restricts the provision of regulation services to generators only. Beacon Power requests that ISO-NE be ordered to make the appropriate revisions to Market Rule 1 in a timely manner and to submit detailed reports about progress being made to finalize Market Rule 1.

23. Order No. 890 modified Schedule 3 to permit regulation and frequency response service to be provided by generating units as well as other non-generation resources,¹⁵ and ISO-NE will not fully comply with Order No. 890 until non-generation resources can

¹² Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1370-71.

¹³ *Id.* P 1371.

¹⁴ We note that on April 15, 2008, ISO-NE submitted a filing to comply with the Commission's Order No. 890-A. In that filing, ISO-NE proposes revisions to its OATT regarding clustering. To the extent ISO-NE believes its April 15, 2008 compliance filing sufficiently addresses our concerns regarding clustering, ISO-NE may demonstrate this in the compliance filing we are directing in this order.

¹⁵ *Id.* P 888.

provide this service. We recognize ISO-NE's commitment to revise Market Rule 1 in accord with Order No. 890.¹⁶ We direct ISO-NE to make these modifications to Market Rule 1 within 90 days of the date of this order.

5. ATC Methodology

24. In Order No. 890, the Commission required a transmission provider to clearly identify which methodology it employs to calculate ATC (e.g., contract path, network ATC, or network Available Flowgate Capacity (AFC)). The transmission provider also must describe in detail the specific mathematical algorithms used to calculate firm and non-firm ATC (and AFC, if applicable) for its scheduling, operating and planning horizons.¹⁷ Further, the actual mathematical algorithms must be posted on the transmission provider's website, with the link noted in the transmission provider's Attachment C.¹⁸

25. We have reviewed ISO-NE's filing and find that ISO-NE's revised Attachment C does not provide for the identification of the methodology and the link to ISO-NE's website with the actual mathematical algorithms. Therefore, ISO-NE's filing fails to comply with Order No. 890. We direct the ISO-NE to file, within 30 days of issuance of this order, a further compliance filing that revises its Attachment C to provide the identification of the methodology, and the link to ISO-NE's website with the actual mathematical algorithms, as required in Order No. 890.

IV. PTOs, SSPs, and CSC

A. Compliance Filings

26. The PTOs¹⁹ provide local service over non-pool transmission facilities under Schedule 21 of the ISO-NE OATT. Generally, the PTOs offer both local network service

¹⁶ ISO-NE states that it has initiated review of Market Rule 1. *See* ISO-NE, Transmittal Letter at 30.

¹⁷ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at 31,401-02 (*pro forma* OATT, Attachment C); *see also id.* P 323.

¹⁸ *Id.* P 325, 328.

¹⁹ The PTOs include Bangor Hydro-Electric Company (Bangor Hydro); Town of Braintree Electric Light Department; NSTAR Electric & Gas Corp. (NSTAR); Central Maine Power Company (Central Maine); Central Vermont Public Service Corp. (Central Vermont PSC); Connecticut Municipal Electric Energy Cooperative; The City of Holyoke Gas and Electric Department; Florida Power & Light Company – New England Division (Florida Power & Light); Green Mountain Power Corp. (Green Mountain);

(continued...)

and local point-to-point service to transmission customers. The PTOs filed revisions to Schedule 21-Common, which contains all the common terms and conditions applicable to local service of all of the PTOs, and to the local service schedules, which contain terms and conditions unique to each PTO.

27. The SSPs²⁰ hold the rights to transmission capacity over the United States portion of the 2000 MW high-voltage direct current transmission facilities interconnecting the transmission systems operated by ISO-NE and Hydro-Québec TransÉnergie (Phase I/II HVDC-TF or HQ Interconnection). The SSPs make those rights available on an open-access basis to transmission customers under Schedule 20A of the ISO-NE OATT.

28. On January 17, 2008, the SSPs filed an amendment to incorporate into Schedule 20A a definition of “Submittal Window” and a description of the methodology the SSPs will use to allocate ATC among customers submitting requests within the Submittal Window.²¹

29. CSC designed, financed, constructed, and owns the Cross Sound Cable, a fully controllable, bi-directional, high-voltage, direct current transmission link between Connecticut and Long Island that is under the operational authority of ISO-NE. CSC operates the Cross Sound Cable and provides transmission service over it pursuant to Schedule 18 of the ISO-NE OATT and the Schedule 18 Implementation Rule.

Massachusetts Municipal Wholesale Electric Company; New England Power Company (New England Power); New Hampshire Electric Cooperative, Inc.; Northeast Utilities Service Company; Taunton Municipal Lighting Plant; Town of Norwood Municipal Light Department; Town of Reading Municipal Light Department; The United Illuminating Company (United Illuminating); Unutil Energy Systems, Inc. and Fitchburg Gas and Electric Light Company (Unutil and Fitchburg); Vermont Electric Cooperative, Inc. (Vermont Electric Cooperative); Vermont Electric Power Company, Inc. (Vermont Electric Power); Vermont Transco, LLC (Vermont Transco); and Vermont Public Power Supply Authority.

²⁰ The SSPs include Bangor Hydro; Boston Edison Company; Commonwealth Electric Company and Cambridge Electric Company; Central Maine; Central Vermont PSC; Green Mountain; New England Power; Northeast Utilities Service Company; United Illuminating; and Vermont Electric Cooperative.

²¹ We note that the SSPs request an October 11, 2007 effective date for the tariff sheets submitted on January 17, 2008, with the exception of the tariff sheet relating to the allocation of “residual” megawatts, which it requests becomes effective on January 17, 2008.

B. Discussion

30. We accept the PTOs', CSC's, and the SSPs' compliance filings, as modified, to be effective October 11, 2007.²² We also direct the PTOs, CSC, and the SSPs to file, within 30 days of the date of this order, a further compliance filing as required above.

1. Proposed Deviations from the *Pro Forma* OATT

31. The Commission required ISO and RTO transmission providers to submit FPA section 206 compliance filings, within 210 days after the publication of the Final Rule in the *Federal Register*, that contain the non-rate terms and conditions set forth in the Final Rule or that demonstrate that their existing tariff provisions are consistent with or superior to the revised provisions of the *pro forma* OATT.²³

32. The PTOs explain that they did not adopt changes related to conditional firm service and planning redispatch because ISO-NE, as an ISO with a real-time energy market, does not need to adopt these provisions. Additionally, the PTOs did not adopt changes regarding the designation of network resources because in ISO-NE, generating resources that participate in the New England Markets are automatically designated as network resources. Further, the PTOs did not adopt the Commission's definition of "Pre-Confirmed Application," and instead proposed a new definition, "Pre-Confirmed Request." The PTOs explain that this definition reflects the actual operation of the electric transmission system in New England and the manner in which transmission service is secured through the Open Access Same-time Information System (OASIS).

33. The SSPs explain that many provisions of the *pro forma* OATT are not applicable to Schedule 20A. For example, modifications to ancillary services do not apply because such services are provided by ISO-NE. Further, the SSPs did not adopt Order No. 890 modifications regarding network integration transmission service because the HQ Interconnection is a high voltage, direct current controllable facility and, as such, does not allow for network service. While the SSPs hold the rights to transmission capacity over the HQ Interconnection, they are not the asset owners and have no legal ability to effect upgrades to the HQ Interconnection to accommodate point-to-point transmission service requests; HQ Energy Services (U.S.) Inc. owns this asset. Therefore, the SSPs did not adopt *pro forma* OATT provisions related to transmission upgrades (i.e., provisions related to studies, construction, conditional curtailment, system conditions and

²² Additionally, we accept the SSPs' tariff sheet relating to the allocation of "residual" megawatts to become effective on January 17, 2008, as requested.

²³ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 157.

planning redispatch). Additionally, like the PTOs, the SSPs added a definition for “Pre-Confirmed Request” to reflect the actual operation of the electric transmission system in New England.

34. CSC explains that because it does not have an obligation to build, does not have captive customers or native load (network or otherwise), and does not have a stand-alone OATT, many of the directives in Order No. 890 cannot be directly applied to CSC. Specifically, CSC did not adopt changes related to system impact studies, network resources, and transmission planning.

35. In Order No. 890, the Commission recognized that some of the changes adopted in Order No. 890 may not be as relevant to ISO and RTO transmission providers as they are to non-independent transmission providers. The Commission stated that revisions to the *pro forma* OATT are not intended to upset the market designs used by existing ISOs and RTOs, and that ISOs and RTOs may well have adopted practices that are already consistent or superior to the reforms adopted in Order No. 890.²⁴ We recognize that the PTOs’, CSC’s, and the SSPs’ proposed deviations from the *pro forma* OATT reflect the market design used by the PTOs, CSC, and the SSPs, and we find these deviations to be consistent with or superior to the *pro forma* OATT, except as otherwise addressed below.

2. Creditworthiness

36. In Order No. 890, the Commission required transmission providers to amend their OATTs to include a new attachment that sets forth the basic credit standards the transmission provider uses to grant or deny transmission service. This attachment must specify both the qualitative and quantitative criteria that the transmission provider uses to determine the level of secured and unsecured credit required. In addition, the Commission required transmission providers to address six specific elements regarding the transmission provider’s credit requirements.²⁵

37. We have reviewed the PTOs’, the SSPs’, and CSC’s filings and find that their creditworthiness procedures are incomplete. Specifically, their Attachment Ls state that specific credit review criteria can be found in a creditworthiness guide or in business practices posted on the transmission provider’s OASIS or website. While Order No. 890 allowed transmission providers to post on OASIS detailed information, such as the algorithms used by the transmission provider to determine credit scores, Attachment L must address the six elements required by Order No. 890 in sufficient detail, as well as specify the qualitative and quantitative criteria that will be used. The PTOs, the SSPs,

²⁴ *Id.* P 158.

²⁵ *Id.* P 1656-61.

and CSC should revise their Attachment Ls to include the specific credit review criteria, instead of referring customers to creditworthiness guides or business practices. We direct the PTOs, the SSPs, and CSC to file, within 30 days of the date of this order, a further compliance filing that addresses their creditworthiness standards consistent with Order No. 890. To the extent each PTO or SSP uses different criteria, the PTOs and the SSPs may want to file individual creditworthiness procedures.

3. Unreserved Use Penalties

38. In Order No. 890, the Commission determined that transmission customers would be subject to unreserved use penalties in any circumstance where the transmission customer uses transmission service that it has not reserved and the transmission provider has a Commission-approved unreserved use penalty rate explicitly stated in its OATT.²⁶ In addition, the Commission stated that the unreserved use penalty rate may not be greater than twice the firm point-to-point rate for the period of unreserved use and that the transmission customer must face a penalty in excess of the firm point-to-point transmission service charge it avoids through unreserved use of transmission service or the transmission customer will have no incentive to reserve the appropriate amount of service.²⁷

39. It appears that many of the PTOs and CSC base the unreserved use penalty on the non-firm point-to-point rate in certain instances,²⁸ which, inconsistent with Order No. 890, fails to ensure that the transmission customer faces an unreserved use penalty that exceeds the firm point-to-point transmission service charge. Furthermore, it is unclear how a PTO or CSC would apply its proposed unreserved use penalty in the event a customer is taking both firm and non-firm point-to-point service at the same points of receipt and delivery, i.e., would the PTO or CSC apply the firm or non-firm based unreserved use penalty. Therefore, we find that the PTOs and CSC must file, within 30 days of the date of this order, a further compliance filing to base the unreserved use penalty for any unauthorized use on the firm point-to-point rate.

²⁶ *Id.* P 834, 848.

²⁷ *Id.* P 848.

²⁸ For example, section 13.7 of Schedule 21 – Bangor Hydro states that in the event a transmission customer exceeds its firm reserved capacity at any point of receipt or point of delivery, the transmission customer shall pay up to 200 percent of the firm point-to-point service charge. Section 14.5 of Schedule 21 – Bangor Hydro states that in the event a transmission customer exceeds its non-firm capacity reservation, the transmission customer shall pay up to 200 percent of the non-firm point-to-point transmission service charge.

40. Additionally, we find that many of the PTOs and CSC have not modified their unreserved use penalty language to indicate that (1) unreserved use penalties must be based on the period of unreserved use; (2) the unreserved use penalty for a single hour of unreserved use is to be based on the rate for daily firm point-to-point transmission service; and (3) more than one assessment for a given duration (e.g., daily) results in an increase of the penalty period to the next longest duration (e.g., weekly). Accordingly, we direct each PTO and CSC to file, within 30 days of the date of this order, a further compliance filing to reflect the requirements for unreserved use penalties as set forth in Order No. 890 or to otherwise revise its OATT to remove the unreserved use penalty language.²⁹

41. Further, consistent with Order No. 890, the SSPs have revised section 6.3 of Schedule 20A to specify the rate a transmission customer will be charged if the transmission customer uses transmission service that it has not reserved. However, it appears that Schedule 20A already included a penalty for unreserved use of transmission service.³⁰ It is confusing for Schedule 20A to include multiple penalty provisions. Therefore, we direct the SSPs to file, within 30 days of the date of this order, a further compliance filing that either removes the previously existing penalty language or explains why it is necessary to retain this language in light of the revisions to section 6.3 that reflect the Order No. 890 modifications.

4. Clustering

42. In Order No. 890, the Commission generally did not require transmission providers to study transmission requests in a cluster, although the Commission did

²⁹ Additionally, we note that certain PTOs' local service schedules do not contain an unreserved use penalty rate and, as a result, those PTOs may not charge transmission customers for unreserved use penalties.

³⁰ Section 6.3 of Schedule 20A already states that "[i]n the event that a Transmission Customer's scheduled Real-Time transactions over the Phase I/II HVDC-TF exceeds the Reserved Capacity and exceeds the Combined Percentage Interest of a given Schedule 20A Service Provider, the Transmission Customer shall be charged 200 percent of the charge for the applicable excess Phase I/II HVDC-TV Service." Additionally, section 2.1(e)(iv) of Schedule 20A states that "[i]n the event that the use by a Transmission Customer (including use associated with secondary sales of Phase I/II HVDC-TF Service by that Transmission Customer) exceeds that Transmission Customer's Reserved Capacity, but not the Schedule 20A Service Provider's Combined Percentage Interest, over the Phase I/II HVDC-TF at any Point of Receipt or Point of Delivery in any hour, it shall pay 200% of the otherwise applicable Phase I/II HVDC-TF Service Charge to the Schedule 20A Service Provider for each Kilowatt of the excess."

encourage transmission providers to cluster studies when it is reasonable to do so. The Commission also explicitly required transmission providers to consider clustering studies if the customers had requested a cluster and the transmission provider could reasonably accommodate the request. As a result, the Commission directed transmission providers to include tariff language in their Order No. 890 compliance filings that describes how the transmission provider will process a request to cluster studies and how it will structure transmission customers' obligations when they have joined a cluster.³¹

43. Schedule 21-Common indicates that if a request for firm local point-to-point service impacts only non-pool transmission facilities, the PTO shall determine whether a system impact study is necessary to accommodate the requested service.³² With the exception of Central Vermont PSC, the PTOs have not responded to the Commission's directive regarding clustering.³³ We direct each PTO to file, within 30 days of the date of this order, a further compliance filing that describes how it will process a request to cluster studies and how it will structure transmission customers' obligations when they have joined a cluster.³⁴

5. Simultaneous Submission Window

44. In Order No. 890, the Commission decided to retain its first-come, first-served policy regarding transmission service requests. However, the Commission required those transmission providers who set a "no earlier than" time limit for transmission service requests to treat all such requests that were received within a specified period of time or "window" as having been received simultaneously. Although the Commission left it to the transmission providers to propose the amount of time the window would be open, the Commission stated that the window should be open for at least five minutes unless the transmission provider presents a compelling rationale for a shorter window. The Commission also required each transmission provider that is required to, or decides to,

³¹ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1370-71.

³² Schedule 21-Common at (II)(7)(a).

³³ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1371.

³⁴ We note that on April 15, 2008, the PTOs submitted a filing to comply with the Commission's Order No. 890-A. In that filing, the PTOs propose revisions to Schedule 21 regarding clustering. To the extent the PTOs believe their April 15, 2008 compliance filing sufficiently addresses our concerns regarding clustering, the PTOs may demonstrate this in the compliance filing we are directing in this order.

deem all requests submitted within a specified period as having been submitted simultaneously to propose a method for allocating transmission capacity if sufficient capacity is not available to meet all requests submitted within that time period.³⁵

45. The SSPs propose a methodology that, when there is insufficient transfer capability among customers making service requests within the submittal window, provides for *pro rata* allocation among requests for the same level of service. However, the SSPs note that one unanticipated situation has come to light. Specifically, if an SSP's total available megawatts cannot be divided evenly among customers, there are "residual" megawatts left over. The SSPs propose to allocate "one such residual megawatt to each service request, starting with the last service request queued" in the five-minute submittal window "until all residual megawatts have been allocated."³⁶

46. HQ Energy Services protests how the SSP proposes to deal with any "residual" megawatts. HQ Energy Services argues that SSPs' proposal would create an incentive for parties to submit their transmission requests as close to the end of a five-minute window as possible, and that it makes more sense to allocate these limited megawatts to the earliest customers in the five-minute window.

47. We agree with HQ Energy Services that allocating residual megawatts to the earliest customers in the five-minute window is a more reasonable approach. The purpose of the simultaneous submission window is to ensure that transmission customers who are less sophisticated and have fewer financial resources have equal access to transmission service.³⁷ However, the Commission's general policy is to award transmission on a first come, first served basis. Therefore, we direct the SSPs to file, within 30 days of the date of this order, a further compliance filing that makes the tariff changes suggested by HQ Energy Services, as discussed above.

48. Additionally, Order No. 890 required that transmission service requests subject to simultaneous submission windows should not be publicly available until the window has closed, in order to prevent competitors from requesting the same service simply to disrupt the transmission service procurement process.³⁸ The Commission takes note that, as indicated in a filing submitted by Cargill Power Markets, LLC on December 28, 2007 in

³⁵ *Id.* P 1418-22.

³⁶ January 17, 2008 Transmittal Letter at 10; *see also id.*, Attachment 1, Original Sheet No. 904C.

³⁷ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1419.

³⁸ *Id.* P 1421.

Docket No. EL08-29-000, the software modifications to implement masking of service requests have not been completed by the SSPs.³⁹ We are mindful of software developments that may be necessary to fully comply with Order No. 890; nevertheless, the masking requirement for simultaneously submitted service requests is important to realize the objectives of Order No. 890. Therefore, the SSPs are directed to implement masking of simultaneously submitted bids within 90 days of the date of this order. We also direct the SSPs to notify the Commission when these software modifications have been made.

6. Rollover Rights Effective Date

49. In Order No. 890, the Commission adopted a five-year minimum contract term in order for a customer to be eligible for a rollover right and a one-year notice period for exercising the right. The Commission determined that this rollover reform should be made effective at the time of acceptance by the Commission of a transmission provider's coordinated and regional planning process. The Commission explained that rollover reform and transmission planning are closely related, because transmission service eligible for a rollover right must be set aside for rollover customers and included in transmission planning.⁴⁰

50. The PTOs have included the rollover reforms in revised tariff sheets to Schedule 21-Common, with a requested effective date of October 11, 2007. However, the PTOs' Attachment K, setting forth their transmission planning process, which was filed on December 7, 2007, in Docket No. OA08-58-000, has not yet been accepted by the Commission. This is contrary to Order No. 890's requirement that rollover reforms are not to become effective until after a transmission provider's Attachment K is accepted. Therefore, we direct the PTOs to file, within 30 days of the date of this order, a revised tariff sheet that reflects the previous rollover language of Schedule 21-Common. The PTOs should re-file the rollover reform language established in Order No. 890 within 30 days after acceptance of its Attachment K, requesting an effective date commensurate with the date of that filing.

51. Additionally, we note that several of the PTOs deleted language regarding reservation priority for existing firm service customers (i.e., rollover rights) from their local service schedules, indicating that Schedule 21-Common includes this provision.

³⁹ Cargill objected to the fact that the bids were unmasked. *See* Cargill, December 28, 2007 Complaint at 13. On January 17, 2008, the SSPs submitted an answer indicating that the bids were unmasked because of a software problem. *See* SSP, Answer at 17.

⁴⁰ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1231, 1265.

Because Schedule 21-Common includes language relating to rollover rights, such language need not be duplicated in individual service schedules. Moreover, it is confusing for some of the PTOs to have this language, while other PTOs do not. Therefore, we direct each PTO that has not already done so to delete language regarding reservation priority for existing firm service customers from its local service schedule.

7. Ancillary Services

52. In Order No. 890, the Commission modified Schedules 2, 3, 4, 5, 6, and 9 of the *pro forma* OATT to indicate that these ancillary services may be provided by generating units as well as other non-generation resources, such as demand resources.⁴¹ We recognize that many of the individual PTOs do not provide these ancillary services; instead, customers must obtain such ancillary services from ISO-NE. However, some of the PTOs do include Schedules 2, 3, 4, 5, and 6 in their local service schedules. It is confusing for the local service schedules to include these schedules, but not to include the Order No. 890 revisions. Therefore, we direct the PTOs to file, within 30 days of the date of this order, a further compliance filing that either reflects the modifications to Schedules 2, 3, 4, 5, and 6, as well as the new Schedule 9, or, if the PTO does not provide these services, removes these schedules.

8. ATC Methodology

53. In Order No. 890, the Commission required a transmission provider to clearly identify which methodology it employs to calculate ATC (e.g., contract path, network ATC, or network AFC). The transmission provider also must describe in detail the specific mathematical algorithms used to calculate firm and non-firm ATC (and AFC, if applicable) for its scheduling, operating and planning horizons.⁴² Further, the actual mathematical algorithms must be posted on the transmission provider's website, with the link noted in the transmission provider's Attachment C.⁴³

54. We have reviewed each transmission provider's compliance filing and find that a number of the PTOs' revised Attachment Cs⁴⁴ do not provide for the identification of the

⁴¹ *Id.* P 888.

⁴² *Id.* at 31,401-02 (*pro forma* OATT, Attachment C); *see also id.* P 323.

⁴³ *Id.*

⁴⁴ Each individual PTO provided its respective ATC methodology as part of its respective Schedule 21 local service schedule. Because other attachments to the individual PTO's Schedule 21 local service schedule may have already been designated as Attachment C, the ATC methodology attachments may or may not be designated as

(continued...)

methodology and the link to the PTOs' websites with the actual mathematical algorithms.⁴⁵ Additionally, several PTOs' revised Attachment Cs do not provide a description of the specific mathematical algorithms as required.⁴⁶ Therefore, these PTOs' filings fail to comply with Order No. 890. We direct the PTOs to file, within 30 days of issuance of this order, a further compliance filing that revises their Attachment Cs to provide the identification of the methodology, description of the specific mathematical algorithms as required, and the link to the PTOs' websites with the actual mathematical algorithms, as applicable, as required in Order No. 890.

9. Process Flow Diagram

55. In Order No. 890, the Commission required a transmission provider to include a process flow diagram in its Attachment C that illustrates the various steps through which ATC/AFC is calculated.⁴⁷

56. We have reviewed each transmission provider's compliance filing and find that a number of the PTOs' revised Attachment Cs do not contain a process flow diagram.⁴⁸ Therefore, these PTOs fail to comply with Order No. 890. We direct the PTOs to file, within 30 days of issuance of this order, a further compliance filing that revises their Attachment Cs to provide the process flow diagram, as required in Order No. 890.⁴⁹

Attachment C. However, for ease of reference, we will refer to these attachments as "Attachment C" in this order.

⁴⁵ These PTOs are Bangor Hydro, Central Maine, Central Vermont PSC, Green Mountain, NSTAR, Northeast Utilities, United Illuminating, Unitil and Fitchburg, Vermont Electric Cooperative, Vermont Electric Power, and Vermont Transco.

⁴⁶ These PTOs are Central Vermont PSC, Green Mountain, and Vermont Electric Cooperative.

⁴⁷ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at 31,401-02 (*pro forma* OATT, Attachment C); *see also id.* P 323.

⁴⁸ These PTOs are Bangor Hydro, Central Maine, Central Vermont PSC, Green Mountain, NSTAR, Northeast Utilities, United Illuminating, Unitil and Fitchburg, Vermont Electric Cooperative, Vermont Electric Power, and Vermont Transco.

⁴⁹ We note that on April 15, 2008, the PTOs submitted a filing to comply with the Commission's Order No. 890-A. In that filing, the PTOs state that each PTO has provided, as necessary, its respective ATC flow diagram. To the extent the PTOs believe their April 15, 2008 compliance filing sufficiently addresses our concerns regarding the

(continued...)

10. Detailed Explanation of the ATC Components⁵⁰

a. Existing Transmission Commitments

57. In Order No. 890, the Commission required a transmission provider to explain: (i) its definition of ETC; (ii) the calculation methodology used to determine the transmission capacity to be set aside for native load (including network load) and non-OATT customers (including, if applicable, an explanation of assumptions on the selection of generators that are modeled in service) for both the operating and planning horizons; (iii) how point-to-point transmission service requests are incorporated; (iv) how rollover rights are accounted for; and (v) its processes for ensuring that non-firm capacity is released properly (e.g., when real-time schedules replace the associated transmission service requests in its real-time calculations).⁵¹

58. We have reviewed each transmission provider's compliance filing and find that several of the PTOs' revised Attachment Cs do not provide a clear definition for ETC and do not explain the calculation methodology used to determine the transmission capacity set aside for native load.⁵² Further, these PTOs have provided neither a clear description of how rollover rights are accounted for in the calculation of ETC nor a clear explanation of the processes for ensuring that non-firm capacity is released properly. Additionally, a number of PTOs do not provide a clear explanation of how point-to-point transmission service requests are incorporated in ATC calculation.⁵³ Likewise, we find that the SSPs' revised Attachment C does not provide a clear description of how rollover rights are accounted for. Therefore, the PTOs and the SSPs fail to comply with Order No. 890. We direct the PTOs and the SSPs to file, within 30 days of issuance of this order, a further

process flow diagram, the PTOs may demonstrate this in the compliance filing we are directing in this order.

⁵⁰ The ATC components are total transfer capability (TTC), existing transmission commitments (ETC), capacity benefit margin (CBM), and transmission reserve margin (TRM).

⁵¹ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at 31,401-02 (*pro forma* OATT, Attachment C).

⁵² These PTOs are Central Vermont PSC, Green Mountain, and Vermont Electric Cooperative.

⁵³ These PTOs are Bangor Hydro, Central Maine, Central Vermont PSC, Green Mountain, NSTAR, United Illuminating, Unitil and Fitchburg, and Vermont Electric Cooperative.

compliance filing that revises their Attachment Cs to provide an explanation of the ETC calculation methodology, a clear explanation of how point-to-point transmission service requests are incorporated, a clear description of how rollover rights are accounted for in the calculation of ETC, and an explanation on the processes for ensuring that non-firm capacity is released properly, as applicable.

b. Transmission Reserve Margin

59. In Order No. 890, the Commission required a transmission provider to explain: (i) its definition of TRM; (ii) its TRM calculation methodology (e.g., its assumption on load forecast errors, forecast errors in system topology or distribution factors and loop flow sources) for both the operating and planning horizons; (iii) the databases used in its TRM assessments; and (iv) the conditions under which the transmission provider uses TRM. If the transmission provider does not use TRM, it must so state.⁵⁴

60. We have reviewed each transmission provider's compliance filing and find that a number of PTOs⁵⁵ and the SSPs' revised Attachment Cs do not provide a clear definition for TRM and do not present a detailed explanation of the TRM calculation methodology. The PTOs and the SSPs fail to provide a list of assumptions and databases used to calculate TRM. The PTOs and the SSPs also do not provide a list of conditions under which TRM is used. Therefore, the PTOs and the SSPs fail to comply with Order No. 890. We direct the PTOs and the SSPs to file, within 30 days of issuance of this order, a further compliance filing that revises their Attachment Cs to provide the missing explanations regarding the TRM-related requirements, as stated above.

c. Capacity Benefit Margin

61. In Order No. 890, the Commission required a transmission provider to provide a specific and self-contained narrative description detailing its CBM practice for both the operating and planning horizons. The narrative must include: (i) the identification of the entity that performs the resource adequacy analysis for CBM determination; (ii) the methodology used to perform generation reliability assessments (e.g., probabilistic or

⁵⁴ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at 31,401-02 (*pro forma* OATT, Attachment C).

⁵⁵ These PTOs are Central Vermont, Green Mountain, Vermont Electric Cooperative, Vermont Electric Power, and Vermont Transco.

deterministic); (iii) an explanation whether the assessment method reflects a specific regional practice; (iv) the assumptions used in determining this assessment; and (v) the basis for the selection of paths on which CBM is set aside.⁵⁶

62. Furthermore, the Commission required a transmission provider to explain its definition of CBM and list the databases used in its CBM calculations.⁵⁷ It also must demonstrate that there is no double-counting of contingency outages when performing CBM, TTC, and TRM calculations.⁵⁸

63. Finally, the Commission required a transmission provider to explain its procedure for allowing the use of CBM during emergencies. It must explain what constitutes an emergency, identify the entities that are permitted to use CBM during emergencies, and describe the procedures which must be followed by the transmission provider's merchant function and other load-serving entities when they need to access CBM. If the transmission provider's practice is not to set aside transfer capability for CBM, it must so state.⁵⁹

64. We have reviewed each transmission provider's compliance filing and find that a number of the PTOs' revised Attachment Cs do not provide an adequate explanation of their CBM practice.⁶⁰ These PTOs' revised Attachment Cs are lacking the required information to clearly state (i) who performs the resource adequacy assessment for CBM determination, (ii) the methodology used to perform generation reliability assessments, (iii) whether or not the assessment method reflects a specific regional practice, (iv) the assumptions used in this assessment, and (v) the basis for the selection of paths on which CBM is set aside. Furthermore, these PTOs do not present a definition or a detailed explanation of the calculation methodologies for CBM, have not listed the databases used for CBM calculation, and have not demonstrated that there is no double-counting of contingency outages when performing the CBM determination. These PTOs also do not present their procedures for allowing the use of CBM during emergencies. Specifically, these PTOs do not provide a clear definition of what constitutes an emergency, do not

⁵⁶ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at 31,401-02 (*pro forma* OATT, Attachment C).

⁵⁷ *Id.*; *see also id.* P 337.

⁵⁸ *Id.* at 31,401-02 (*pro forma* OATT, Attachment C).

⁵⁹ *Id.*

⁶⁰ These PTOs are Central Vermont, Green Mountain, Vermont Electric Cooperative, Vermont Electric Power, and Vermont Transco.

provide a list of entities that are permitted to use CBM during emergencies, and do not provide the procedures that need to be followed by these PTOs' merchant functions and other load-serving entities when they need to access CBM. Therefore, these PTOs fail to comply with Order No. 890. We direct the PTOs to file, within 30 days of issuance of this order, a further compliance filing that revises their Attachment Cs to provide the missing explanations regarding the CBM-related requirements as stated above.

11. Additional Attachment C Issues

65. We note that one of the PTOs, New England Power, did not submit an Attachment C filing. We direct New England Power to file, within 30 days of issuance of this order, a further compliance filing that includes an Attachment C, as required by Order No. 890.

V. MEPCO

A. Compliance Filing

66. MEPCO currently provides point-to-point transmission service over its facilities under Schedule 20B of the ISO-NE OATT. In Docket No. ER07-1289-000, MEPCO, along with ISO-NE and the PTO Administrative Committee, submitted the MEPCO roll-in proposal, which would permit (1) the MEPCO facilities to be treated as pool transmission facilities; (2) service over the MEPCO facilities to be offered through the regional network services; and (3) MEPCO to become a PTO under the ISO-NE transmission operating agreement. Additionally, MEPCO proposed to delete Schedule 20B, and to provide service over the MEPCO facilities under Schedules 8 or 9 of the ISO-NE OATT. Therefore, MEPCO did not include revisions to Schedule 20B in the instant filing. MEPCO notes that to the extent its proposal in Docket No. ER07-1289-000 is rejected, MEPCO will submit a revised compliance filing for Schedule 20B as appropriate.

67. PPL EnergyPlus notes that the Commission has issued an order rejecting MEPCO's proposal to eliminate Schedule 20B and requiring Order No. 890 compliance with regard to customers that will continue to take service pursuant to grandfathered Schedule 20B.⁶¹ Accordingly, PPL EnergyPlus states that the Filing Parties should make the required changes to Schedule 20B, with an effective date coinciding with the pending Order No. 890 compliance filings.

B. Discussion

68. In the October 29, 2007 order, the Commission conditionally accepted the MEPCO roll-in proposal, but rejected MEPCO's proposal to eliminate Schedule 20B.

⁶¹ *ISO New England Inc.*, 121 FERC ¶ 61,067 (2007) (October 29 Order).

MEPCO and ISO-NE requested rehearing of the Commission's October 29 Order. In its request for rehearing, MEPCO and ISO-NE contend, among other things, that MEPCO should be permitted to delete Schedule 20B because under the MEPCO roll-in proposal, none of MEPCO's transmission customers will receive point-to-point service under this schedule. On February 4, 2008, the Commission issued an order in Docket No. ER07-1289 establishing settlement judge procedures to resolve issues raised in requests for rehearing.⁶² The Commission will address these issues under Docket No. ER07-1289. Therefore, we will not determine whether MEPCO must revise Schedule 20B at this time.

The Commission orders:

(A) The Filing Parties' compliance filing is hereby accepted, as modified, effective October 11, 2007, as discussed in the body of this order.

(B) The Filings Parties are hereby directed to submit compliance filings, as discussed in the body of this order within 30 days of the issuance of this order, unless otherwise directed herein.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁶² *ISO New England Inc.*, 122 FERC ¶ 61,093 (2008).