

145 FERC ¶ 61,283  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

December 27, 2013

In Reply Refer To:  
National Grid USA,  
Massachusetts Electric Company,  
and The Narragansett Electric  
Company  
Docket No. ER14-311-000

Morgan, Lewis & Bockius LLP  
1111 Pennsylvania Avenue, N.W.  
Washington, DC 20004

Attn: George D. Billinson  
Attorney for National Grid USA

Dear Mr. Billinson:

1. On November 4, 2013, National Grid USA, Massachusetts Electric Company, and The Narragansett Electric Company (collectively, National Grid) filed a request for a limited, one-time waiver of the capacity qualification deadlines in ISO New England Inc.'s (ISO-NE) Transmission, Markets and Services Tariff (Tariff). The waiver would permit consideration of supplemental data that National Grid submitted to the ISO-NE Internal Market Monitor (IMM) regarding two of National Grid's Combined Heat and Power (CHP) facilities that have been qualified for participation in ISO-NE's Eighth Forward Capacity Auction (FCA 8). As discussed below, the Commission grants the requested waiver.

2. All resources seeking to submit offers in the Forward Capacity Auction at prices below the relevant Offer Review Trigger Price must provide documentation justifying that price as competitive in light of the resource's costs for review by the IMM.<sup>1</sup> If a resource wishes to provide this documentation after the capacity qualification deadline, it must seek a waiver of that deadline. National Grid states that this request for such a limited waiver relates to two projects involving CHP facilities, one in Rhode Island and one in Massachusetts. National Grid explains that it sought to qualify these projects in

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<sup>1</sup> ISO-NE, Transmission, Markets and Services Tariff, § III.13.1.1.2.2.3(a) (21.0.0).

FCA 8 and to submit offers in the Forward Capacity Market (FCM) at prices that are below the relevant Offer Review Trigger Price.<sup>2</sup>

3. National Grid states that it submitted supporting data to the IMM for review, and that the IMM subsequently requested further information regarding National Grid's application. National Grid further states that it provided what it believed to be responsive supplemental information to the IMM. National Grid explains that the IMM, however, concluded that the information was not sufficient to enable the IMM to calculate an independent estimate of the facilities' capacity price. National Grid states that, accordingly, the IMM determined that the New Resource Offer Floor Price for the projects should be set to the applicable Offer Review Trigger Price of \$15.819/kW-month.

4. National Grid states that it continued to work with the IMM to resolve the issue and submitted supplemental data to the IMM that it believes would justify a New Resource Offer Floor price that is below the Offer Review Trigger Price. National Grid explains that it was, however, unable to submit this supplemental data prior to the capacity qualification deadlines for FCA 8. National Grid therefore requests a limited, one-time waiver of the capacity deadlines in ISO-NE's Tariff, Market Rule 1, sections III.13.1.1.2, III.13.1.1.2.8, III.13.1.9, and III.13.1.10 to permit consideration of the supplemental data submitted to the IMM in support of its position that these resources should be qualified for a New Resource Offer Floor Price below the applicable Offer Review Trigger Price.<sup>3</sup>

5. In support of its request, National Grid contends that its request for waiver is consistent with prior situations in which the Commission has granted a waiver. National Grid asserts that it has acted in good faith throughout the qualification process, and notes that it has cooperated with the IMM to provide the information necessary to enable the IMM to calculate "an independent estimate of the [ ] resource's capacity price," and believed in good faith that it had provided adequate information to enable the IMM to do so. National Grid asserts that the waiver is a one-time event that is limited in scope. National Grid asserts that the waiver would remedy a concrete problem by permitting the IMM to consider the supplemental data submitted by National Grid to calculate revised New Resource Offer Floor Prices for National Grid's resources. In addition, National Grid asserts that granting the waiver request will have no undesirable effects, nor will it delay FCA 8.<sup>4</sup>

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<sup>2</sup> Petition at 2-3.

<sup>3</sup> *Id.* at 3-4.

<sup>4</sup> *Id.* at 4-6.

6. Notice of National Grid's filing was published in the *Federal Register*, 78 Fed. Reg. 68,431 (2013), with interventions and protests due on or before November 25, 2013. The New England Power Pool Participants Committee filed a motion to intervene. ISO-NE filed a motion to intervene and comments explaining that it does not oppose National Grid's waiver request. ISO-NE believes National Grid's errors were inadvertent and made in good faith.

7. The Commission has granted one-time waivers of tariff provisions in situations where: (1) the underlying error was made in good faith; (2) the waiver is of limited scope; (3) granting waiver would remedy a concrete problem; and (4) the waiver does not have undesirable consequences, such as harming third parties.<sup>5</sup>

8. We find that National Grid has demonstrated good cause to grant the request for waiver of the capacity qualification deadlines because National Grid's requested waiver satisfies the aforementioned conditions. First, we find that National Grid acted in good faith in seeking to work with and supply the IMM with the appropriate information to justify its requested New Resource Offer Floor Price. Second, the requested waiver is a one-time waiver, and is limited in scope. Third, the waiver will remedy a concrete problem because the additional information supplied would assist the IMM in appropriately calculating New Resource Offer Floor Prices for National Grid's resources. Fourth, we find that granting the requested waiver will not lead to undesirable consequences. Further, ISO-NE does not oppose the request.<sup>6</sup>

9. Accordingly, we grant National Grid's request for a limited, one-time waiver of the capacity qualification deadlines in ISO-NE's Tariff, Market Rule 1, sections III.13.1.1.2, III.13.1.1.2.8, III.13.1.9, and III.13.1.10 to permit consideration of supplemental data submitted to the IMM regarding National Grid's CHP facilities that have been qualified for participation in FCA 8. The Commission notes that this waiver is limited to the specific and unique facts presented here and does not constitute established

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<sup>5</sup> See, e.g., *ISO New England Inc.*, 142 FERC ¶ 61,051, at P 20 (2013); *N.Y. Indep. Sys. Operator, Inc.*, 144 FERC ¶ 61,147, at P 8 (2013); *ISO New England, Inc.*, 134 FERC ¶ 61,182, at P 8 (2011).

<sup>6</sup> See ISO-NE Comments at 1, 3.

precedent that would allow market participants to avoid these or other terms and conditions set forth in the Tariff.

By the direction of the Commission.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.