

147 FERC ¶ 61,187
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

June 6, 2014

In Reply Refer To:
National Grid USA on behalf of
New England Power Company
Docket No. ER14-1686-000

Terry L. Schwennesen
Attorney for National Grid USA
c/o National Grid
40 Sylvan Road
Waltham, MA 02451

Dear Ms. Schwennesen:

1. This order addresses National Grid USA's (National Grid) request¹ on behalf of New England Power Company (NEP), for limited waiver of certain provisions in Attachment F to ISO New England Inc.'s (ISO-NE) open access transmission tariff (OATT).² For the reasons set forth below, the Commission grants waiver in part of certain provisions of Attachment F until January 12, 2015, effective June 8, 2014, as modified below.
2. Attachment F requires ISO-NE participating transmission owners (PTOs), including NEP, to jointly submit by July 31 of each year an annual informational filing (annual update) with the Commission, which updates the regional formula transmission rates under ISO-NE's OATT. For this purpose, each transmission owner must use its FERC Form No. 1 data from the prior calendar year (as applicable here, 2013) to calculate its respective transmission revenue requirement. The cumulative total is used to establish the regional network service, through or out service, and scheduling, system

¹ Hereinafter referred to as "Petition."

² ISO-NE, Transmission, Markets and Services Tariff, Section II, Open Access Transmission Tariff, Attach. F, Implementation Rule (Attachment F).

control, and dispatch service rates in effect from June 1 through May 31 of each year.³ At least 45 days before filing the annual update with the Commission, the PTOs must jointly post the proposed annual update on the ISO-NE's website for stakeholder review (posting requirement).

3. NEP requests a limited waiver of Attachment F. According to NEP, such a limited waiver would permit it to: (1) use estimated (rather than actual) data⁴ to support its transmission revenue requirement for the 2014 annual update that the PTOs will jointly file with the Commission by July 31, 2014 (2014 Annual Update), and (2) subsequently submit, by February 28, 2015, a corrected 2014 annual update reflecting NEP's actual 2014 transmission revenue requirement using its 2013 FERC Form No. 1 data (2014 Corrected Annual Update), as Attachment F requires.⁵ NEP explains that in a separate proceeding, National Grid sought and obtained an extension of time to September 30, 2014, to submit its 2013 FERC Form No. 1.⁶ The Commission requires utilities to submit their respective FERC Form No. 1's on April 18 each year.⁷ Accordingly, NEP does not expect its 2013 FERC Form No. 1 data to be available in time to be used as an input to the 2014 Annual Update due by July 31, 2014.

4. NEP asserts that its request satisfies relevant criteria for granting waiver.⁸ NEP states that it is acting in good faith, explaining that the delay in availability of information

³ See *id.* at 242-43.

⁴ Petition at 4. NEP states that it will determine its 2014 revenue requirement based on preliminary actual 2013 financial data if readily available and 2012 actual costs if 2013 data are not available.

⁵ *Id.* NEP's corrected, 2014 transmission revenue requirement using its actual 2013 FERC Form No. 1 data will be referred to as its "actual 2014 transmission revenue requirement."

⁶ National Grid's request for an extension of time to submit its 2013 FERC Form No. 1 was granted by delegated letter order issued March 4, 2014. *National Grid USA*, Docket No. AC14-5-000 (March 5, 2014) (delegated letter order).

⁷ 18 CFR § 141.1(b)(2)(ii)(2013).

⁸ Petition at 4 (citing *PJM Interconnection, L.L.C.*, 135 FERC ¶ 61,069, at P 8 (2011); *ISO New England Inc.*, 134 FERC ¶ 61,182, at P 8 (2011); *California Independent System Operator, Inc.*, 132 FERC ¶ 61,004, at P 10 (2010); *Hudson Transmission Partners, LLC*, 131 FERC ¶ 61,157, at P 10 (2010); *Pittsfield Generating Co., L.P.*, 130 FERC ¶ 61,182, at PP 9-10 (2010); *ISO New England Inc. - EnerNOC*,

(continued...)

is due to ongoing efforts to stabilize its single-platform accounting system. NEP argues that its waiver request is of limited scope, because it applies for only a limited period and will have the “single effect” of allowing NEP additional time to comply with Attachment F of the ISO-NE OATT.⁹ NEP states that its request will remedy a concrete problem by ultimately enabling NEP to submit its actual 2014 transmission revenue requirement, as Attachment F requires.

5. NEP asserts that its request will have no adverse consequences on ISO-NE, ISO-NE’s OATT, PTOs, or transmission customers taking transmission service under ISO-NE’s regional network service and through or out service transmission rates. Specifically, NEP maintains that “granting the waiver as requested will ensure that transmission customers are held harmless from the delay because transmission customer bills will be re-calculated and re-billed on corrected rates in accordance with the terms of the ISO-NE OATT.”¹⁰ NEP states that allowing it to initially use an estimated transmission revenue requirement will ensure relative stability to transmission customers’ costs. According to NEP, the estimated transmission revenue requirement will “closely approximate” the results that it will derive from its 2013 FERC Form No. 1.¹¹

6. Further, NEP contends that transmission customers will be held harmless because (1) their transmission service bills for service rendered on and after June 1, 2014 will ultimately reflect the correct amount billed in accordance with ISO-NE’s OATT, including interest, and (2) National Grid’s shareholders, not customers will bear the cost of the re-calculation. Moreover, NEP argues that granting the requested waiver represents neither an increase nor a decrease to ISO-NE, the other PTOs, or transmission customers and, once re-billed, will fully reflect the charges mandated by Attachment F of the ISO-NE OATT. Finally, NEP maintains that granting its request will not affect the rights of interested parties to contest the accuracy of the information underlying its 2014 Corrected Annual Update.¹²

122 FERC ¶ 61,297, at PP 12-15 (2008); *Central Vermont Public Service Corp.*, 121 FERC ¶61,225 (2007); *Waterbury Generation LLC*, 120 FERC ¶ 61,007, at PP 31-34 (2007); *Acushnet Co.*, 122 FERC ¶ 61,045 (2008).

⁹ *Id.* at 5.

¹⁰ *Id.* at 2.

¹¹ *Id.* at 6.

¹² *Id.* at 7.

7. Notice of National Grid's filing was published in the *Federal Register*, 79 Fed. Reg. 21,913 (2014), with interventions and protests due on or before April 29, 2014. None was filed.

8. Although not expressly stated as such, the Petition entails the following waiver requests: (1) permission to use an estimated transmission revenue requirement for the 2014 Annual Update that will be filed by the PTOs on or before July 31, 2014, and for purposes of meeting the June 16, 2014, posting requirement; and (2) permission to file on or by February 28, 2015, on behalf of all PTOs,¹³ a 2014 Corrected Annual Update reflecting NEP's actual 2014 transmission revenue requirement. As further discussed below, the Commission will allow NEP to use an estimated transmission revenue requirement for the 2014 Annual Update to be filed with the Commission by July 31, 2014, and for purposes of meeting the June 16, 2014 posting requirement. However, the Commission will not allow NEP until February 18, 2015, to file its 2014 Corrected Annual Update, and will instead allow NEP until January 12, 2015, to submit its 2014 Corrected Annual Update, as discussed below. Further, we will allow NEP to submit on behalf of all PTOs a corrected 2014 Annual Update that incorporates NEP's actual 2014 transmission revenue requirement. In addition, we will require NEP to post the proposed, corrected 2014 Annual Update on ISO-NE's website for 45 days prior to filing it with the Commission.¹⁴

9. The Commission has previously granted limited waiver from ISO-NE's tariff provisions where: (i) the applicant has been unable to comply with the tariff provision at

¹³ Attachment F provides that "[t]he PTOs shall make an annual informational filing on or before July 31 of each year showing the [pool transmission facilities rate] in effect for the period beginning June 1 of that year through May 31 of the subsequent year. . . . If there are any corrections made to the information reflected in the informational filing after it has been submitted, the PTOs will file corrections to the informational filing." Attachment F at 243. Indeed, all prior annual updates, including any corrections thereto submitted on behalf of individual transmission owners, have been filed directly by the Participating Transmission Owners Administrative Committee. Because it is not clear that NEP is otherwise authorized to make a filing on behalf of all PTOs, we view NEP's Petition as also seeking waiver of the requirement that annual updates be filed jointly by the PTOs.

¹⁴ NEP's Petition does not address whether, or for how long, it would post the 2014 Corrected Annual Update on ISO-NE's website for purposes of stakeholder review before filing with the Commission, which is part of the process envisioned by Attachment F.

issue in good faith; (ii) the waiver is of limited scope; (iii) a concrete problem will be remedied by granting the requested waiver; and (iv) the waiver does not have undesirable consequences, such as harming third parties.¹⁵ NEP's waiver request satisfies those criteria.

10. NEP's inability to submit its actual 2013 transmission revenue requirement in a timely fashion is due to its ongoing efforts to reform its accounting system. NEP has already been granted an extension of time through September 30, 2014, to file its 2013 FERC Form No. 1, the underlying data that is relevant here. The granting of that waiver was based on the fact that despite commitments to stabilize the new accounting system, NEP is not able to ensure the soundness of its financial data derived from said system.¹⁶ Likewise, this request for limited waiver is based on NEP's inability to submit sound financial information at this time. Thus, we find the waiver request to be a good faith effort to resolve this circumstance.

11. Further, NEP seeks a waiver of only certain Attachment F requirements, and thus, we find the waiver to be limited in scope. Though we find NEP's waiver request to be limited in scope, we also find that NEP's request for waiver until February 18, 2015 to be unsupported. Because the Commission requires utilities to submit their FERC Form No. 1 data on April 18 each year, the PTOs have approximately three and a half months (i.e. 105 days from the date the FERC Form 1 must be submitted) to submit their annual informational filing on or before July 31, as required by Attachment F. As discussed previously, the Commission granted NEP an extension until September 30, 2014 to submit its FERC Form No. 1. Using the same timeframe as currently permitted under Attachment F, the Commission will grant NEP until January 12, 2015 (i.e. 105 days from September 30, 2014) to submit its 2014 Corrected Annual Update. Should NEP seek additional waiver requests in the future, it must provide sufficient information to support the length of time it is seeking waiver.

¹⁵ See, e.g., *Southwest Power Pool, Inc.*, 146 FERC ¶ 61,110, at P 10 (2014); *PJM Interconnection, L.L.C.*, 144 FERC ¶ 61,060, at P 12 (2013); *New York Independent System Operator, Inc.*, 144 FERC ¶ 61,108, at P 14 (2012); *PJM Interconnection, L.L.C.*, 137 FERC ¶ 61,184, at P 13 (2011); *ISO New England Inc.*, 134 FERC ¶ 61,182, at P 8 (2011); *California Independent System Operator Corp.*, 132 FERC ¶ 61,1004, at P 10 (2010).

¹⁶ See *National Grid USA*, Docket No. AC14-5-000 (March 5, 2014) (delegated letter order).

12. We also find that allowing NEP to use estimated data for the 2014 Annual Update that the PTOs will jointly file with the Commission by July 31, 2014, and for purposes of satisfying the June 16, 2014 posting deadline, followed by NEP's filing actual information, will remedy a concrete problem. Doing so will give stakeholders a sense of the regional network service, through or out service, and scheduling, system control, and dispatch service rates that will be in effect in 2014 and 2015, in the timely manner provided for by Attachment F.

13. In order to ensure that the waiver does not harm third parties, however, ISO-NE stakeholders should be able to review the information underlying the 2014 Corrected Annual Update, including NEP's actual 2014 transmission revenue requirement, before it is filed with the Commission. NEP's Petition fails to provide for or address stakeholder review of the 2014 Corrected Annual Update, as Attachment F requires, and we see no reason to circumvent that opportunity. Therefore, in order to maintain Attachment F's provisions for stakeholder review, we will require NEP to post the proposed, 2014 Corrected Annual Update reflecting its actual 2014 transmission revenue requirement on ISO-NE's website for no less than 45 days prior to filing the 2014 Corrected Annual Update with the Commission. As a practical matter, if NEP submits its 2014 Corrected Annual Update on January 12, 2015, NEP must post its 2014 Corrected Annual Update on the ISO-NE's website no later than November 29, 2014 (i.e. 45 days from January 12, 2015).

14. National Grid's request on behalf of NEP for limited waiver of Attachment F of ISO-NE's OATT, effective June 8, 2014, is granted in part, as discussed in the body of this order.

15. NEP must post the proposed, 2014 Corrected Annual Update that reflects its actual 2014 transmission revenue requirement on ISO-NE's website for no less than 45 days, as discussed in the body of this letter order.

16. NEP must file the 2014 Corrected Annual Update with the Commission no later than January 12, 2015, as discussed in the body of this order.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.