

148 FERC ¶ 61,180
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Chairman;
Philip D. Moeller, Tony Clark,
and Norman C. Bay.

ISO New England Inc.

Docket No. ER14-877-000

ORDER REJECTING COMPLIANCE FILING

(Issued September 9, 2014)

1. On December 27, 2013, ISO New England (ISO-NE) submitted a filing intended to comply with the requirements of Order No. 784.¹ In its compliance filing, ISO-NE argues that its current Transmission, Markets and Services Tariff (Tariff) provisions are consistent with or superior to the *pro forma* Open Access Transmission Tariff (OATT) and requests waiver from the Area Control Error data posting requirements of Order No. 784. As discussed below, we reject ISO-NE's compliance filing and deny its requested waiver.

I. Background

2. On July 18, 2013, the Commission issued Order No. 784 to foster competition and transparency in ancillary services markets. In Order No. 784, the Commission explained that, under the then-current *pro forma* OATT, Transmission Customers considering using their own or third-party resources to self-supply Regulation Service are required to demonstrate to the public utility Transmission Provider that they have made "alternative comparable arrangements."² However, the Commission noted that the then-current *pro forma* OATT provided no information as to how such a determination would be made, and contained no express obligation on the part of the Transmission Provider to

¹ *Third-Party Provision of Ancillary Services; Accounting and Financial Reporting for New Electric Storage Technologies*, Order No. 784, 78 Fed. Reg. 46,178 (July 30, 2013), FERC Stats. & Regs. ¶ 31,349 (2013), *order on clarification*, Order No. 784-A, 146 FERC ¶ 61,114 (2014).

² Order No. 784, FERC Stats. & Regs. ¶ 31,349 at P 112.

consider the relative speed and accuracy of resources a customer might desire to use in self-supplying Regulation Service. Given this lack of clarity in the *pro forma* OATT, the Commission found that if the performance characteristics of a Transmission Provider's regulation resources differed from those of a customer's regulation resources, the Transmission Provider may under- or overstate the regulation reserve requirements and impair a Transmission Customer's ability to self-supply Regulation Service at the lowest possible cost.³ The Commission determined that certain reforms were necessary to address this potential undue discrimination in the provision of Regulation Service.⁴

3. Thus, relevant here, Order No. 784 requires that each public utility Transmission Provider add to its OATT Schedule 3 (Regulation and Frequency Response Service) a *pro forma* statement that:

The Transmission Provider will take into account the speed and accuracy of regulation resources in its determination of Regulation and Frequency Response reserve requirements, including as it reviews whether a self-supplying Transmission Customer has made alternative comparable arrangements. Upon request by the self-supplying Transmission Customer, the Transmission Provider will share with the Transmission Customer its reasoning and any related data used to make the determination of whether the Transmission Customer has made alternative comparable arrangements.⁵

4. In addition, to aid the Transmission Customer's ability to make an "apples-to-apples" comparison of regulation resources, Order No. 784 amended Part 37 of the Commission's regulations⁶ to require each public utility Transmission Provider to post historical one- and ten-minute Area Control Error data on its Open Access Same-Time Information System (OASIS).⁷

³ *Id.*

⁴ *Id.* P 111.

⁵ *Id.* at Appendix B.

⁶ 18 C.F.R. § 37.6(k) (2014).

⁷ Order No. 784, FERC Stats. & Regs. ¶ 31,349 at P 1, 116.

5. As further detailed below, in its compliance filing, ISO-NE asserts that its existing Tariff is consistent with or superior to Order No. 784's OATT requirements and that therefore it need not file Tariff language in that regard. ISO-NE also seeks waiver of the posting requirement of Area Control Error data.

II. Notice of Filing and Responsive Pleadings

6. Notice of ISO-NE's compliance filing was published in the *Federal Register*, 79 Fed. Reg. 820 (2013), with interventions, comments, and protests due on or before January 17, 2014. The New England Power Pool Participants Committee, Exelon Corporation, and Northeast Utilities Service Company filed timely motions to intervene. No comments or protests were filed.

III. Discussion

A. Procedural Matters

7. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2014), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

B. Substantive Matters

1. Speed and Accuracy of Regulation Resources

a. Compliance Filing

8. In its compliance filing, ISO-NE declines to add to its Tariff Schedule 3 a statement that it will take into account the speed and accuracy of regulation resources in its determination of reserve requirements for Regulation Service, as required by Order No. 784. Instead, ISO-NE asserts that the provisions of its Tariff governing ISO-NE's regulation market are consistent with or superior to the reforms directed by Order No. 784 and that it is unnecessary for ISO-NE to implement the Order No. 784 changes.⁸

9. ISO-NE argues that the Order No. 784 reforms primarily seek to help Transmission Customers who want to self-supply Regulation Service under Schedule 3 of the *pro forma* OATT and to address the potential for undue discrimination in the provision of Regulation Service for Transmission Customers who want to self-supply that service. ISO-NE contends that it neither provides Regulation Service with resources that it owns, nor provides Regulation Service at cost-based rates. ISO-NE asserts that, instead, it operates a competitive regulation market that is effective in achieving efficient

⁸ ISO-NE Compliance Filing at 3.

clearing prices to procure the least-cost Regulation Service, such that a Transmission Customer is highly unlikely to realize a financial benefit from self-supplying Regulation Service with resources that it owns or operates. ISO-NE explains that, for this reason, no market participants in ISO-NE currently exercise their option to self-supply Regulation Service.⁹

10. ISO-NE contends that although ISO-NE's Schedule 3¹⁰ includes the *pro forma* Schedule 3 language describing the basic purpose of Regulation Service, ISO-NE does not rely on Schedule 3 to provide Regulation Service, and ISO-NE's Schedule 3 does not include a "rate." ISO-NE states that its Schedule 3 instead cross-references to the ISO-NE regulation market rules for Regional Network Service¹¹ and Through or Out Service.¹² ISO-NE argues that it is therefore unnecessary to add language to Schedule 3 that merely describes what ISO-NE's Commission-approved market rules regarding Regulation Service already govern with significantly more detail.¹³

11. ISO-NE further asserts that its regulation market rules already take into account the speed and accuracy of regulation resources. First, ISO-NE contends that it audits regulation resources to assess their historical performance and ensure that they can perform adequately to provide Regulation Service. Second, ISO-NE contends that its regulation assessment software determines the optimal set of generating units required to meet the regulation requirement for a given period¹⁴ and will therefore tend to call on faster and more accurate regulation resources to ramp up and down more frequently and quickly, resulting in a larger revenue opportunity for the market participant owning such resources.¹⁵

12. Lastly, ISO-NE argues that inserting the precise new *pro forma* Schedule 3 language may create confusion. ISO-NE explains that it determines its regulation reserve requirement by a historical analysis of regulation needs in the prior month and prior year

⁹ *Id.* at 5.

¹⁰ ISO-NE, Tariff, § II.H, Schedule 3 Regulation and Frequency Response Service, 1.0.0.

¹¹ ISO-NE, Tariff, § II.H, Schedule 9 Regional Network Service, 1.0.0.

¹² ISO-NE, Tariff, § II.H, Through or Out Service - The Pool PTF Rate, 1.0.0.

¹³ ISO-NE Compliance Filing at 5.

¹⁴ ISO-NE, Tariff, § III.1 Market Operations, § III.1.10.1A(e), 19.0.0.

¹⁵ ISO-NE Compliance Filing at 6.

before using its regulation market to procure the optimal set of resources to meet that requirement. However, ISO-NE notes that the new *pro forma* Schedule 3 language states that the Transmission Provider will take into account the speed and accuracy of regulation resources “in its determination of Regulation and Frequency Response reserve requirements”¹⁶ ISO-NE argues that inserting the new *pro forma* Schedule 3 language into ISO-NE’s Schedule 3 may create confusion because, while ISO-NE takes into account speed and accuracy in selecting the resources to meet the regulation reserve requirement, speed and accuracy are not the sole factors in first determining the regulation reserve requirement itself.¹⁷

b. Commission Determination

13. We find that ISO-NE has failed to demonstrate that the existing Tariff is consistent with or superior to the reforms directed by Order No. 784. The first sentence of the new *pro forma* Schedule 3 language required by Order No. 784 reads as follows: “The Transmission Provider will take into account the speed and accuracy of regulation resources in its *determination of Regulation and Frequency Response reserve requirements*, including as it reviews *whether a self-supplying Transmission Customer has made alternative comparable arrangements*.”¹⁸ This language thus pertains to the Transmission Provider’s determination of both the system-wide regulation reserve requirement that must be purchased from the Transmission Provider (or, as relevant here, from a regulation market) and the alternative requirement applicable to any individual self-supplying Transmission Customer. We address ISO-NE’s arguments pertaining to each of these two aspects below.

14. With respect to self-supplying Transmission Customers, ISO-NE argues that because it operates an effective, competitive regulation market in which no market participants currently opt to self-supply Regulation Service, it is therefore unnecessary to insert the new *pro forma* Schedule 3 language into the Tariff. However, while no market participants currently choose to self-supply Regulation Service, they are nonetheless permitted to do so and may well choose to do so in the future. In that eventuality, a market participant requesting to self-supply deserves the same protection against discrimination as any other Transmission Customer. For that reason, we disagree that it is unnecessary for ISO-NE to insert the new *pro forma* Schedule 3 language into its Tariff.

¹⁶ *Id.* at 7 (citing Order No. 784, FERC Stats. & Regs. ¶ 31,349 at Appendix B).

¹⁷ *Id.* at 8.

¹⁸ Order No. 784, FERC Stats. & Regs. ¶ 31,349 at Appendix B (emphasis added).

15. With respect to ISO-NE's determination of the system-wide regulation reserve requirement that must be met through its regulation market, we disagree with ISO-NE's argument that inserting the new *pro forma* Schedule 3 language may create confusion. First, as ISO-NE explains, ISO-NE determines its regulation reserve requirement by a historical analysis that includes consideration of Control Performance Standard-1 (CPS-1)¹⁹ and Control Performance Standard-2 (CPS-2)²⁰ scores based on the prior month. ISO-NE states that this historical review allows the regulation requirements to vary with changing system conditions in order to meet ISO-NE's CPS-1 and CPS-2 requirements and to be based on the historical performance of regulation resources.²¹ Given this consideration of the historical performance of regulation resources, we do not agree that inclusion of the new *pro forma* Schedule 3 language would create confusion. The historical performance of regulation resources certainly includes their speed and accuracy, so ISO-NE's stated practice is not at odds with the new *pro forma* Schedule 3 language. Second, the new *pro forma* Schedule 3 language is neither at odds with nor limits ISO-NE's ability to take into account several factors, in addition to speed and accuracy, in determining the regulation reserve requirement itself. While the *pro forma* language requires that the speed and accuracy of resources be taken into account, those are not the only factors a Transmission Provider may consider. We are therefore not persuaded that inclusion of the new *pro forma* Schedule 3 language in the Tariff will introduce confusion. Accordingly, we reject ISO-NE's compliance filing and direct ISO-NE to submit a compliance filing within 30 days of the date of this order to insert the new *pro forma* Schedule 3 language regarding consideration of the speed and accuracy of resources into Schedule 3 of the Tariff.

¹⁹ ISO-NE's System Operating Procedures state the following: "[CPS-1] is a statistical measure of [Area Control Error] variability and its relationship to frequency error, providing a measure of the [Reliability Coordinator Area]/[Balancing Authority Area] performance. The measure is intended to provide the [Reliability Coordinator Area]/[Balancing Authority Area] with a frequency-sensitive evaluation of how well the respective [Reliability Coordinator Area]/[Balancing Authority Area] met its demand requirements." ISO-NE, System Operating Procedures – Real-Time Markets, SOP-RTMTKS.0170.0020, Manage Resource and Demand Balancing at 3.

²⁰ ISO-NE's System Operating Procedures state the following: "[CPS-2] is a statistical measure designed to limit unacceptably large net unscheduled power flows. [CPS-2] relates to a bound on the ten-minute average of [Area Control Error], providing an oversight function to limit excessive unscheduled power flows that could result from large [Area Control Errors]." *Id.*

²¹ ISO-NE Compliance Filing at 7.

2. Area Control Error Data Posting

a. Compliance Filing

16. ISO-NE requests that the Commission waive the Area Control Error data posting requirements of Order No. 784. ISO-NE argues that the Commission created those requirements to aid a Transmission Customer in comparing a Transmission Provider's regulation resources with those of the Transmission Customer itself when considering whether to self-supply Regulation Service. ISO-NE contends that none of its market participants self-supply Regulation Service and that a market participant that owns or operates a resource that can provide Regulation Service would likely be financially advantaged by offering into the regulation market instead of self-supplying.²²

17. ISO-NE argues that, in addition, Area Control Error data would provide little value to a market participant in New England that is considering self-supplying Regulation Service. ISO-NE explains that the automatic generation control set-point that a resource receives from ISO-NE to provide Regulation Service is derived from a complicated, non-linear function that includes Area Control Error data, but also includes other factors as well, including the mix of other resources that are online and providing Regulation Service simultaneously. ISO-NE argues that the complicated, non-linear relationship between Area Control Error and automatic generation control means that it is inefficient, and potentially misleading, to rely on Area Control Error data to design a resource to provide Regulation Service in New England.²³

18. Finally, ISO-NE argues that Area Control Error data will have even less value once ISO-NE implements its Order No. 755 compliance changes in 2014. ISO-NE explains that the Tariff language accepted by the Commission in compliance with Order No. 755 provides that ISO-NE will have a "regulation resource test environment that allows market participants to evaluate or demonstrate the performance of a resource without an operational history of providing regulation prior to participation in the regulation market."²⁴ ISO-NE further explains that the introduction of new resources into the regulation market in this manner will render historical Area Control Error data even less valuable for purposes of designing or comparing resources to provide Regulation Service in New England.²⁵

²² *Id.* at 10.

²³ *Id.* at 9.

²⁴ *Id.* (citing ISO-NE, Tariff, § III.14, Regulation Market, 2.0.0 § 14.9).

²⁵ *Id.*

b. Commission Determination

19. We deny ISO-NE's request to waive the new data posting requirements of Order No. 784 and direct ISO-NE to post historical one-minute and ten-minute Area Control Error data on its Open Access Same-Time Information System, consistent with the requirements of Order No. 784, within 30 days of the date of this order.

20. ISO-NE argues that posting Area Control Error data is unnecessary because no market participants in New England currently choose to self-supply Regulation Service and that posting the data would provide little value to a market participant considering self-supplying Regulation Service due to the complexity of the relationship between the Area Control Error and the automatic generation control set-point in ISO-NE. We disagree. As discussed above, simply because no market participant chooses to self-supply today does not mean that no market participant will ever choose to do so. In addition, the benefits of access to Area Control Error data, in terms of greater transparency and enhanced ability to compare resources, extend to a market participant that is merely considering self-supplying Regulation Service. A market participant that does not currently self-supply could be assessing the benefits and costs of doing so. Denying such a market participant access to the Area Control Error data limits these potential benefits.

21. As to ISO-NE's assertion that Area Control Error data would have little value to a market participant in New England that wants to self-supply, we find this rationale insufficient to justify a waiver. So long as a market participant in New England may opt to self-supply Regulation Service and access to Area Control Error data may provide some positive value to that participant, we find it appropriate for ISO-NE to post such data, consistent with the requirement of Order No. 784.

The Commission orders:

(A) ISO-NE's compliance filing is hereby rejected, as discussed in the body of this order.

(B) ISO-NE's request for waiver of the Area Control Error data posting requirement is hereby denied, as discussed in the body of this order.

(C) ISO-NE is hereby directed to submit a compliance filing within 30 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.