

148 FERC ¶ 61,184
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Emera Maine

Docket No. ER14-1576-000

ORDER GRANTING WAIVER

(Issued September 10, 2014)

1. On March 21, 2014, as supplemented on May 8, 2014, Emera Maine filed a request for waiver of the requirements of Order No. 784¹ to post Area Control Error data on its Open Access Same-Time Information System (OASIS). We will grant Emera Maine's request for waiver.

I. Order No. 784

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* Open Access Transmission Tariff (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." However, the Commission noted that the then-current 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 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

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) (Order No. 784).

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.²

3. The Commission determined that certain reforms were necessary to address this potential undue discrimination in the provision of Regulation Service. The reforms added, among other things, two new requirements. First, the Commission required each public utility Transmission Provider to add to its OATT 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, and will, upon the request of a self-supplying customer, share with the customer its reasoning and any related data used to make the determination of whether the customer has made "alternative comparable arrangements."³ Second, as pertinent here, to aid a Transmission Customer's ability to make an "apples-to-apples" comparison of regulation resources, the Commission amended Part 37 of its regulations to require each public utility Transmission Provider to post historical one- and ten-minute Area Control Error data on its OASIS.⁴

II. Request for Waiver

4. As described in its filing, Emera Maine, a Maine corporation, is the successor to the merger between Bangor Hydro Electric Company and Maine Public Service Company.⁵ Emera Maine owns approximately 1,249 miles of transmission lines and 6,670 miles of distribution lines that operate in two "districts" – one in northern Maine (the Maine Public District) and one in eastern and coastal Maine (the Bangor Hydro District). The transmission facilities in Emera Maine's two districts are not directly

² *Id.* P 112.

³ On February 4, 2014, Emera Maine submitted revisions to the Emera Maine *pro forma* OATT for the Maine Public District in compliance with Order No. 784. The Commission accepted Emera Maine's Filing on March 27, 2014. *Emera Maine*, Docket No. ER14-1255-000 (March 27, 2014) (delegated letter order).

⁴ Order No. 784, FERC Stats. & Regs. ¶ 31,349 at P 1, 116.

⁵ Emera Maine May 8 Supplemental Request for Waiver at 1.

interconnected.⁶ The Maine Public District is the subject of Emera Maine's waiver request.⁷

5. In the Maine Public District, Emera Maine provides transmission and distribution service to approximately 36,000 retail customers and transmission service to three wholesale customers located in a 3,600 square mile area covering Aroostook County and a small portion of Penobscot County. The Maine Public District system comprises approximately 380 miles of transmission lines and 1,819 miles of distribution lines. The vast majority of the transmission facilities in the Maine Public District are rated at or below 69 kV. The total load in the Maine Public District is approximately 125 MW, with a peak load of approximately 141 MW. Open access to transmission facilities in the Maine Public District is provided pursuant to the Emera Maine *pro forma* OATT for the Maine Public District on file with the Commission.

6. On March 21, 2014, as supplemented on May 8, 2014, Emera Maine requested waiver of Order No. 784's Area Control Error data posting requirements for the Maine Public District, contending that neither Emera Maine nor the Maine Public District is a balancing authority. Emera Maine contends that it operates fully within the balancing authority of New Brunswick Power, which according to Emera Maine, is a foreign entity not subject to the Commission's jurisdiction.

7. Emera Maine states that its electric facilities in the Maine Public District are not directly interconnected with any portion of the United States interstate transmission grid.⁸ Emera Maine contends that it is the only public utility that interconnects to the United States transmission grid only over the transmission lines of a foreign country,⁹ i.e., the Maine Public District's facilities are interconnected directly with New Brunswick Power through three limited electric connections, two 69 kV transmission lines and one 138 kV transmission line, and indirectly through Algonquin Tinker. Emera Maine states that it does not own any generating capacity in the Maine Public District.¹⁰

⁶ *Id.* at 2.

⁷ The Bangor Hydro District operates within ISO New England Inc. ("ISO-NE") and, thus is addressed by ISO-NE's Order No. 784 compliance filing in Docket No. ER14-877-000.

⁸ Emera Maine May 8 Supplemental Request for Waiver at 2.

⁹ *Id.* at 4.

¹⁰ *Id.* at 3.

8. Emera Maine contends that while it owns and operates two sets of transmission facilities, Emera Maine does not calculate the Area Control Error data and does not have access to the Area Control Error that is calculated by the applicable balancing authority, New Brunswick Power, for its Maine Public District transmission facility. Emera Maine contends that any Area Control Error data posted by Emera Maine would need to be provided by New Brunswick Power, but Emera Maine has no ability to require New Brunswick Power to provide the necessary Area Control Area data. Emera Maine further explains that it is barred by Maine state law from owning or controlling generation in the Maine Public District. Emera Maine contends that it does not provide any generation-based ancillary services under the Maine Public District OATT, including, as pertinent here, Regulation and Frequency Response Service. Emera Maine explains that such service is offered by the Northern Maine Independent System Administrator (Northern Maine ISA).¹¹

9. Emera Maine also contends that all of its Transmission Customers are either directors or alternates to the Northern Maine ISA Board. It contends that these entities have the ability to shape and manage how the Northern Maine Independent System Administrator provides these ancillary services.¹²

III. Notice and Responsive Pleadings

10. Notice of Emera Maine's March 21, 2014 filing was published in the Federal Register, *Federal Register*, 79 Fed. Reg. 18,681 (2014), with interventions and protests due on or before April 11, 2014. None was filed. Notice of Emera Maine's supplemental May 8, 2014 filing was published in the *Federal Register*, 79 Fed. Reg. 29,757 (2014), with interventions and protests due on or before May 22, 2014. None was filed.

IV. Discussion

11. Emera Maine seeks waiver of Order No. 784's Area Control Error data posting requirement. Based on the representations set forth in Emera Maine's filing, we will grant Emera Maine's request for waiver. First, Emera Maine states that all of its Transmission Customers are either directors or alternates to the Northern Maine ISA

¹¹ The Northern Maine ISA provides for the administration of the reservation, scheduling, and dispatch of the Northern Maine transmission systems, including that of Emera Maine in its Maine Public District, as well as the administration of certain Northern Maine markets, including markets for energy, ancillary, and related services. Emera Maine May 8 Supplemental Request for Waiver at 3.

¹² *Id.*

Board. Thus, these entities have greater ability to shape and manage how the Northern Maine ISA provides these ancillary services than most Transmission Customers across the industry. Accordingly, Emera Maine's Transmission Customers may have less interest in self-supply, and less need for data relevant to self-supply decisions, than other Transmission Customers across the industry. Second, Emera Maine states that any Area Control Error data posted by Emera Maine would need to be provided by New Brunswick Power, a foreign entity, and Emera Maine has no ability to require New Brunswick Power to provide such data. Thus, Emera Maine has no direct access to Area Control Error data for purposes of satisfying Order No. 784's posting requirement. Finally, Emera Maine states that it is not a balancing authority; it does not own any generating capacity in the Maine Public District; and it is generally prohibited from ownership or control of generation or generation-related assets and from selling electricity or capacity to any retail consumer of electricity. Accordingly, Emera Maine may not be in a position to discriminate against Transmission Customers, which is the concern Order No. 784's posting requirement was designed to address. However, if there is a material change in the circumstances presented in Emera Maine's filing, Emera Maine must notify the Commission within 30 days and begin posting Area Control Error data on its OASIS as required by Order No. 784.

The Commission orders:

Emera Maine's request for waiver of the Area Control Error data posting requirements of Order No. 784 is hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.