

151 FERC ¶ 61,161
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

NSTAR Electric Company

Docket No. ER15-1383-000

ORDER ACCEPTING TRANSFER AGREEMENT

(Issued May 20, 2015)

1. In this order, we accept a proposed Agreement between NSTAR Electric Company (NSTAR) and H.Q. Energy Services (U.S.) Inc. (HQUS) for the Transfer of Use Rights on the Phase I/II HVDC Transmission Facilities (NSTAR-HQUS Transfer Agreement), effective May 26, 2015, as requested. Under the Transfer Agreement, NSTAR will transfer transmission capacity Use Rights currently held by Connecticut Municipal Electric Energy Cooperative (CMEEC) to HQUS.¹

I. Background

2. The HQ Interconnection (also known as the Phase I/II High Voltage Direct Current Transmission Facilities) was constructed in the 1980s to interconnect the electric systems in New England with the electric systems of Hydro Québec, and has a combined nominal transfer capability of 2,000 megawatts (MW).² The use of the HQ Interconnection is governed, in part, by support agreements between the four entities that own it (Asset Owners)³ and various public utilities and non-jurisdictional utilities known

¹ The Use Rights are rights to use a portion of the transfer capability on the Phase I and Phase II high-voltage, direct-current transmission facilities (HQ Interconnection). Transmittal at 1.

² *NSTAR Electric Company*, 125 FERC ¶ 61,371 (2008).

³ The four Asset Owners are: the New England Hydro-Transmission Electric Company, Inc.; the New England Hydro-Transmission Corporation; the New England Electric Transmission Corporation; and the Vermont Electric Transmission Company.

as Interconnection Rights Holders. Under the Support Agreements, the Interconnection Rights Holders received capacity rights over the HQ Interconnection and agreed to pay, in return, their allocable share of the amortized costs of the HQ Interconnection. Each Interconnection Rights Holder has an entitlement percentage of the HQ Interconnection's nominal 2,000 MW that corresponds to its financial support obligations.

3. NSTAR is a transmission owner and member of ISO New England, Inc. (ISO-NE) that provides transmission service over its share of the HQ Interconnection pursuant to the terms and conditions set forth in Schedule 20A, which governs point-to-point service over the Phase I/II HVDC Transmission Facilities, of the ISO-NE Open Access Transmission Tariff (OATT). NSTAR and HQUS are currently parties to a separate transfer agreement to which NSTAR has reassigned its own apportioned Use Rights over the HQ Interconnection to HQUS for three years.⁴ NSTAR states that a transfer agreement is one mechanism outlined in the Restated Use Agreement⁵ for an HQ Interconnection sponsoring entity, such as NSTAR, to transfer its Use Rights to another party.⁶

II. Proposed Transfer Agreement

4. NSTAR submitted the NSTAR-HQUS Transfer Agreement on March 26, 2015. NSTAR states that its participation in the NSTAR-HQUS Transfer Agreement is intended to facilitate the transfer of Use Rights on the Phase I/II High Voltage Direct Current Transmission Facilities that are currently held by another entity, CMEEC. According to NSTAR, CMEEC's Use Rights currently consist of approximately 16 MW of the capacity on the HQ Interconnection from Québec to New England and 10 MW of the capacity on the HQ Interconnection from New England to Québec.

5. NSTAR states that CMEEC, like NSTAR, is a sponsoring Interconnection Rights Holder⁷ under the Support Agreement and the Restated Use Agreement, and therefore

⁴ NSTAR Electric Company, NSTAR Electric Company Rate Schedules and Agreements, Rate Schedule No. 262, HQUS Transfer Agreement, 0.0.0. *See NSTAR Electric Co.*, Docket No. ER15-260-000 (Dec. 11, 2014) (delegated letter order).

⁵ Transmittal at 1. Under the Restated Use Agreement, NSTAR and other entities have rights to use a portion of the transfer capability on the Phase I/II HVDC Transmission Facilities.

⁶ *Id.* at 2.

⁷ Interconnection Rights Holders are the entities that pay for and hold exclusive Use Rights to the transfer capability of the Phase I/II HVDC Transmission Facilities, as granted under the Support Agreements and as further provided for under the Restated Use (continued...)

retains the contractual right to transfer its Use Rights to another party, in this case, HQUS.⁸ However, NSTAR adds that, unlike NSTAR, CMEEC does not have a mechanism to effectuate such a transfer because CMEEC is not subject to the Commission's jurisdiction and, thus, does not have a requirement to offer its capacity pursuant to an OATT or to maintain an Open Access Same Time Information System (OASIS).⁹

6. NSTAR states that it is obligated under the ISO-NE OATT to offer, through Schedule 20A and its OASIS page, the Use Rights of any Interconnection Rights Holders that do not have a Schedule 20A, subject to mutually agreeable contractual agreements.¹⁰ NSTAR further states that CMEEC and NSTAR have entered into an agreement that provides the terms and conditions under which (i) CMEEC will transfer its Use Rights to NSTAR and, in turn, (ii) NSTAR will transfer CMEEC's Use Rights to HQUS for a period of three years.¹¹ NSTAR states that the proposed NSTAR-HQUS Transfer Agreement provides details concerning compensation and the negotiated price between NSTAR and HQUS for NSTAR's role in facilitating the transfer of CMEEC's Use Rights.¹²

7. NSTAR explains that once transferred, HQUS may use or market and sell these Use Rights at its sole discretion, so long as it does so consistent with the Restated Use Agreement and/or in compliance with the ISO-NE OATT and OASIS posting requirements, respectively.¹³ NSTAR states that CMEEC's Interconnection Rights Holders management committee voting rights, financial obligations, and all other rights

Agreement, either: (i) directly, by virtue of being parties to the Support Agreements; or (ii) indirectly, through a Transfer Agreement.

⁸ Transmittal at 2. The Support Agreements are the means by which the Asset Owners recover their costs associated with the HQ Interconnection from sponsoring Interconnection Rights Holders.

⁹ *Id.*

¹⁰ *Id.* ISO-NE, FERC Electric Tariffs, Schedule 20A, Common, Section 1.2.

¹¹ NSTAR Electric Company, NSTAR Electric Company Rate Schedules and Agreements, Rate Schedule No. 280, NSTAR-HQUS Transfer Agreement (CMEEC Use Rights), 0.0.0.

¹² Transmittal at 3.

¹³ *Id.*

and responsibilities provided for in the Support Agreements and the Restated Use Agreement that are not directly related to the Use Rights and the exercise thereof by HQUS are not transferred to HQUS.¹⁴ NSTAR also states that the proposed NSTAR-HQUS Transfer Agreement further provides that HQUS is responsible for compensating CMEEC directly for any costs associated with the transfer of CMEEC's Use Rights, including a negotiated rate for the Use Rights themselves, as well as any payments from ISO-NE for HQ Interconnection Capability Credits (HQICC) due to CMEEC. Under these arrangements, NSTAR will receive the HQICC payment from ISO-NE as part of the transfer of CMEEC's Use Rights and then forward them to HQUS for distribution back to CMEEC.¹⁵

III. Notice and Responsive Pleadings

8. Notice of NSTAR's filing was published in the *Federal Register*, 80 Fed. Reg. 17,740 (2015), with interventions and protests due on or before April 16, 2015. CMEEC filed a timely motion to intervene and a request for waiver of the Commission's 60-day prior notice requirement¹⁶ to allow the NSTAR-HQUS Transfer Agreement to become effective March 26, 2015.

9. CMEEC contends that allowing the NSTAR-HQUS Transfer Agreement to take effect on March 26, 2015 would maximize the capacity of the HQ Interconnection by transferring under-utilized capacity to HQUS who will either fully utilize the capacity or make available any under-utilized capacity to third parties through posting on OASIS.¹⁷ CMEEC states that it has conferred with NSTAR and HQUS, and they have no objection to the grant of the requested waiver.

IV. Discussion

A. Procedural Matters

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2014), CMEEC's timely, unopposed motion to intervene serves to make it a party to this proceeding.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *See* 16 U.S.C. § 824d(d)(2012); 18 C.F.R. § 35.11 (2014).

¹⁷ CMEEC at 3.

B. Commission Determination

11. The Commission accepts the proposed NSTAR-HQUS Transfer Agreement, effective May 26, 2015, as discussed below.

12. The proposed NSTAR-HQUS Transfer Agreement seeks to transfer CMEEC's Use Rights to HQUS for a period of three years. With the exception of the compensation arrangement, the terms and conditions of the proposed NSTAR-HQUS Transfer Agreement are similar to those found in transfer agreements between NSTAR and HQUS that the Commission has previously approved, and which are consistent with Order No. 890,¹⁸ OASIS posting requirements, and ISO-NE notification provisions consistent with the Restated Use Agreement.¹⁹

13. We are not persuaded by CMEEC's argument that the NSTAR-HQUS Transfer Agreement should be made effective as of March 26, 2015. Although CMEEC states that NSTAR and HQUS have no objection to the grant of the requested waiver, NSTAR, as the applicant, is charged with proposing the specific effective date in this case.²⁰ In addition, we find that implementing the NSTAR-HQUS Transfer Agreement on May 26, 2015, as proposed in the filing, ensures that all customers have sufficient notice of the effective date. Accordingly, we reject CMEEC's request for waiver of the Commission's 60-day prior notice requirement.

¹⁸ *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 Fed. Reg. 12,266 (Mar. 15, 2007), FERC Stats. & Regs. ¶ 31,241 (2007), *order on reh'g*, Order No. 890-A, 73 Fed. Reg. 2984 (Jan. 16, 2008), FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228 (2009), *order on clarification*, Order No.890-D, 129 FERC ¶ 61,126 (2009).

¹⁹ See *NSTAR Electric Co.*, 125 FERC ¶ 61,371 (2008). *NSTAR Electric Co.*, Docket No. ER14-244-000 (Dec. 12, 2013) (delegated letter order); *NSTAR Electric Co.*, Docket No. ER15-260-000 (Dec. 11, 2014) (delegated letter order).

²⁰ 16 U.S.C. § 824d (2012); Designation of Electric Rate Schedule Sheets, Order No. 614, FERC Stats. & Regs., Regulations Preambles July 1996-December 2000 ¶ 31,096, at 31,506 (2000) ("It is the utilities' responsibility to propose an effective date when they file tariff sheets with the Commission.")

The Commission orders:

The proposed NSTAR-HQUS Transfer Agreement is hereby accepted, effective May 26, 2015, as requested, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.