

125 FERC ¶ 61,098
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

ISO New England Inc.

Docket Nos. ER08-54-002
ER08-54-003
ER08-54-005

ORDER ACCEPTING COMPLIANCE FILING, SUBJECT TO
FURTHER MODIFICATION

(Issued October 27, 2008)

1. On June 6, 2008, as amended on June 17, 2008, and July 25, 2008, ISO New England Inc. (ISO-NE), the Participating Transmission Owners (PTO),¹ the PTO Administrative Committee, Cross-Sound Cable Company, LLC (Cross-Sound), the

¹ The PTOs provide service under Schedule 21 of the ISO-NE OATT. The PTOs include Bangor Hydro-Electric Company (Bangor Hydro); Town of Braintree Electric Light Department; NSTAR Electric & Gas Corp.; Central Maine Power Company (Central Maine); Central Vermont Public Service Corp. (Central Vermont PSC); Connecticut Municipal Electric Energy Cooperative; The City of Holyoke Gas and Electric Department; Florida Power & Light Company – New England Division; Green Mountain Power Corp. (Green Mountain); Massachusetts Municipal Wholesale Electric Company; New England Power Company (New England Power); New Hampshire Electric Cooperative, Inc.; Northeast Utilities Service Company (Northeast Utilities); Taunton Municipal Lighting Plant; Town of Norwood Municipal Light Department; Town of Reading Municipal Light Department; The United Illuminating Company (United Illuminating); Until Energy Systems, Inc. and Fitchburg Gas and Electric Light Company; Vermont Electric Cooperative, Inc. (Vermont Electric Cooperative); Vermont Electric Power Company, Inc.; Vermont Transco, LLC; and Vermont Public Power Supply Authority.

Schedule 20A Service Providers (SSP),² Maine Electric Power Company Inc. (Maine Electric), and the New England Power Pool (collectively, the Filing Parties) jointly submitted a filing to comply with the Commission's order issued on May 7, 2008,³ regarding the Filing Parties' Order No. 890⁴ compliance filing (June 6 compliance filing). In this order, we accept the Filing Parties' filing, subject to further modification, as discussed below.

I. Background

2. In Order No. 890, the Commission reformed the *pro forma* Open Access Transmission Tariff (OATT) to clarify and expand the obligations of transmission providers to ensure that transmission service is provided on a non-discriminatory basis. Among other things, Order No. 890 amended the *pro forma* OATT to require greater consistency and transparency in the calculation of available transfer capability (ATC), open and coordinated planning of transmission systems, and standardization of charges for generator and energy imbalance services. The Commission also revised various policies governing network resources, rollover rights, and reassignments of transmission capacity.

3. Consistent with the compliance deadlines adopted in Order No. 890, the Filing Parties submitted a compliance filing on October 11, 2007. In the May 7 Order, the Commission accepted the Filing Parties' compliance filing, subject to the Filing Parties making certain modifications regarding rollover rights, creditworthiness, clustering, unreserved use penalties, simultaneous submission window, ancillary services, and ATC

² The SSPs hold the rights to transmission capacity over the United States' portion of the 2000 megawatt high-voltage direct current transmission facilities interconnecting the transmission systems operated by ISO-NE and Hydro-Québec TransÉnergie (Phase I/II HVDC transmission facilities). The SSPs include Bangor Hydro; Boston Edison Company; Commonwealth Electric Company and Cambridge Electric Company; Central Maine; Central Vermont PSC; Green Mountain; New England Power; Northeast Utilities; United Illuminating; and Vermont Electric Cooperative.

³ *ISO New England Inc.*, 123 FERC ¶ 61,133 (2008) (May 7 Order).

⁴ *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 Fed. Reg. 12,266 (Mar. 15, 2007), FERC Stats. & Regs. ¶ 31,241, *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, 73 Fed. Reg. 39,092 (July 8, 2008), 123 FERC ¶ 61,299 (2008).

methodology.⁵ Accordingly, the Filing Parties submitted these modifications on June 6, 2008.

II. Notice of Filing and Responsive Pleadings

4. Notice of the June 6, 2008 filing was published in the *Federal Register*, 73 Fed. Reg. 34,924 (2008), with interventions and protests due on or before July 1, 2008. On July 1, 2008, Cargill Power Markets, LLC (Cargill) filed a motion to intervene and protest. On July 16, 2008,⁶ the PTOs and the SSPs filed an answer to Cargill's protest. On July 29, 2008, Cargill filed an answer to the answer of the PTOs and the SSPs.

5. Notice of the June 17, 2008 filing was published in the *Federal Register*, 73 Fed. Reg. 52,977 (2008), with interventions and protests due on or before September 12, 2008. None was filed.

6. Notice of the July 25, 2008 filing was published in the *Federal Register*, 73 Fed. Reg. 45,754 (2008), with interventions and protests due on or before August 15, 2008. None was 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 (2008), the timely unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

8. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2008), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept the answers submitted by the PTOs, the SSPs, and Cargill because they have provided information that assisted us in our decision-making process.

⁵ Additionally, the May 7 Order directed ISO-NE to revise Market Rule 1 to permit non-generation resources to provide regulation and frequency response service. ISO-NE submitted these revisions on August 5, 2008. This compliance filing was accepted on September 15, 2008. *See ISO New England Inc.*, Docket No. ER08-54-006 (Sept. 15, 2008) (unpublished letter order).

⁶ As revised on July 17, 2008.

B. Substantive Matters

9. We accept the Filing Parties' compliance filing, as modified, to be effective October 11, 2007.⁷ We direct the Filing Parties to file, within 30 days of the date of this order, a further compliance filing as required below.

1. Rollover Rights**a. Description**

10. In Order No. 890, the Commission adopted a five-year minimum contract term in order for a customer to be eligible for a rollover right and a one-year notice period for exercising the right. The Commission determined that this rollover reform should be made effective at the time of acceptance by the Commission of a transmission provider's coordinated and regional planning process. The Commission explained that rollover reform and transmission planning are closely related, because transmission service eligible for a rollover right must be set aside for rollover customers and included in transmission planning.⁸

11. The May 7 Order noted that the PTOs included the rollover reforms in Schedule 21-Common, with a requested effective date of October 11, 2007; however, the PTOs' Attachment K, setting forth their transmission planning process, had not yet been accepted.⁹ Therefore, the May 7 Order directed the PTOs to file a revised tariff sheet that reflects the previous rollover language of Schedule 21-Common. The May 7 Order stated that the PTOs should re-file the Order No. 890 rollover reform language within 30 days after acceptance of its Attachment K.¹⁰ Additionally, because Schedule 21-Common

⁷ We also accept several tariff sheets that have different effective dates. Specifically, the SSPs request an effective date of May 7, 2008, for a tariff sheet related to the allocation of "residual" megawatts. Northeast Utilities requests a June 6, 2008, effective date for tariff sheets setting forth its unreserved use penalty in its Schedule 21 local service schedule.

⁸ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1231, 1265.

⁹ The PTOs' Attachment K was accepted, as modified and subject to further compliance filings, on May 15, 2008. *See ISO New England Inc.*, 123 FERC ¶ 61,161 (2008).

¹⁰ May 7 Order, 123 FERC ¶ 61,133 at P 50.

includes language relating to rollover rights, the May 7 Order directed the PTOs to remove any duplicative rollover rights language from their local service schedules.¹¹

12. On June 6, 2008, the PTOs proposed to remove the Order No. 890 rollover reform language from Schedule 21-Common, as well as duplicative rollover rights language from the local service schedules. Consistent with the Commission's directives that the rollover reform language established by Order No. 890 could be re-filed after the transmission provider's regional planning process was accepted, the PTOs re-filed this rollover reform language in the July 25, 2008 amendment.

b. Responsive Pleadings

13. Cargill protests the June 6 compliance filing, stating that the SSPs and the PTOs have failed to comply with the May 7 Order. Specifically, Cargill notes that the SSPs' tariff includes the Order No. 890 rollover reform language, with an effective date of October 11, 2007. Additionally, Cargill points out that, in the June 6 compliance filing, the PTOs state that they will re-file the Order No. 890 rollover reform language in the future and request an effective date of December 7, 2007. Cargill requests that the Commission order the PTOs and the SSPs to file revised tariff sheets that reflect the pre-Order No. 890 rollover language. Cargill concludes that, since the Filing Parties' Attachment K has been accepted, the PTOs and the SSPs should re-file the rollover reform language established in Order No. 890, with such rollover language becoming effective upon the date of that new filing.

14. In their joint response to Cargill's protest, the PTOs state that they removed the Order No. 890 rollover rights language as part of the June 6 compliance filing, which had the effect of reverting the tariff sheets contained in Schedule 21-Common to the provisions in effect prior to the Order No. 890 compliance filing. The SSPs state that the May 7 Order appropriately did not direct them to make the revisions requested by Cargill. The SSPs assert that they do not have an Attachment K, or a transmission planning process, to be accepted by the Commission because they do not have the contractual rights or obligations to expand the Phase I/II HVDC transmission facilities. Further, the SSPs state that the pre-Order No. 890 Schedule 20A did not contain any rollover rights. Therefore, by reinstating the pre-Order No. 890 language, Cargill would gain nothing.

15. In its answer to the answer of the PTOs and the SSPs, Cargill disagrees that the SSPs do not need to re-file the Order No. 890 rollover reform language. Cargill states that despite their limited reliability-related planning obligations, the SSPs are involved in the Filing Parties' Attachment K planning process. Further, Cargill states that the SSPs' failure to include rollover rights in their pre-Order No. 890 Schedule 20A was an

¹¹ *Id.* P 51.

oversight and that Order No. 888¹² rollover rights should exist for transmission service relating to the Phase I/II HVDC transmission facilities prior to the implementation of Order No. 890 rollover language.

c. Commission Determination

16. We agree with Cargill that the PTOs' and the SSPs' rollover reform language can only become effective after the Commission's acceptance of Attachment K. We note that the PTOs have complied with this requirement by re-filing the rollover reform language in the July 25, 2008 amendment to their compliance filing. However, we deny the PTOs' request for a June 14, 2008 effective date for the proposed tariff sheets. Order No. 890-B clarified that transmission providers may file the revised rollover language at any point after the Commission has accepted the transmission provider's Attachment K compliance filing and that the effective date of that revised tariff language should be commensurate with the date of the filing containing the revised language.¹³ Accordingly, we will accept the PTOs' revised rollover reform language to be effective the date of the PTOs' filing of such language (i.e., July 25, 2008). We direct the PTOs to file, within 30 days of the date of this order, revised tariff sheets that reflect the July 25, 2008 effective date.

17. While the May 7 Order did not specifically direct the SSPs to re-file the rollover reform language, the SSPs will need to make similar revisions because they participate in the ISO-NE planning process,¹⁴ notwithstanding that they do not have their own

¹² *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048, *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

¹³ Order No. 890-B, 123 FERC ¶ 61,299 at P 154.

¹⁴ ISO-NE states in the transmittal letter to its Attachment K filing:

The Attachment K Compliance Filing consists of proposed revisions to the ISO Tariff to move the substance of the existing regional system planning process set forth in Section II.48 of the ISO-NE OATT into a new Attachment K that contains the regional system planning process conducted by ISO-NE, and to add a new Appendix 1 to Attachment K Local System Planning Process that contains the local system planning process ("LSP Process") performed by the PTOs in close coordination with ISO-NE.

(continued)

Attachment K planning process. Accordingly, the SSPs should re-file the rollover reform language established in Order No. 890, requesting an effective date commensurate with the date of that filing. Additionally, we note that the Commission directed additional revisions to the *pro forma* OATT rollover reform language in Order No. 890-A.¹⁵ The SSPs' compliance filing should also reflect the revisions adopted by Order No. 890-A.

18. We disagree that the PTOs and the SSPs need to file language reflecting the one-year rollover right contained in the pre-Order No. 890 *pro forma* OATT. Because of the nature of the service provided by the PTOs and the SSPs, many provisions of the *pro forma* OATT are not applicable to them. Of significance here, the PTOs' and the SSPs' pre-Order No. 890 OATTs were approved without any rollover language. The PTOs and the SSPs nonetheless included the Order No. 890 rollover reforms in their compliance filings, and we find it acceptable that the PTOs and the SSPs include such language after the Commission's acceptance of the Filing Parties' Attachment K. However, for the period prior to the Commission's acceptance of Attachment K, we find that it is appropriate for the PTOs and the SSPs to continue to use their Commission-approved *pro forma* OATTs, which did not include language reflecting a one year rollover right.

2. Creditworthiness

a. Description

19. In Order No. 890, the Commission required transmission providers to amend their OATTs to include a new attachment that sets forth the basic credit standards the transmission provider uses to grant or deny transmission service. This attachment must specify both the qualitative and quantitative criteria that the transmission provider uses to

[CSC], *the SSPs*, and [Maine Electric] *also join this filing to explain their role, responsibilities and obligations in the ISO-NE regional system planning process pursuant to the ISO [OATT] or applicable transmission operating agreements.*

ISO-NE Transmittal Letter, Docket No. OA08-58-000, at 3 (filed Dec. 7, 2007) (footnote omitted; emphasis added).

¹⁵ We note that, in their Order No. 890-A compliance filing submitted in Docket No. ER08-832-000, the SSPs proposed revisions to section 2.4 of Schedule 20A, to be consistent with the modified rollover reform language adopted in Order No. 890-A. In an order being issued concurrently with this order under Docket No. ER08-832-000, *et al.*, the Commission is rejecting, without prejudice, the SSPs' revisions to section 2.4, because the proposed effective date of April 15, 2008, is inconsistent with the requirements of Order No. 890.

determine the level of secured and unsecured credit required. In addition, the Commission required transmission providers to address six specific elements regarding the transmission provider's credit requirements.¹⁶

20. The May 7 Order determined that ISO-NE did not clearly explain how non-rated municipal applicants can obtain unsecured credit.¹⁷ Additionally, the May 7 Order found that the PTOs', the SSPs', and Cross-Sound's creditworthiness procedures were incomplete because their Attachment Ls directed customers to the transmission provider's Open Access Same-time Information System (i.e., OASIS) or website for specific credit review criteria. The May 7 Order determined that Attachment L must contain such specific credit review criteria.¹⁸

21. Consistent with the May 7 Order, ISO-NE has revised its OATT (1) to explain how the financial information provided by non-rated municipal market participants is used by ISO-NE to prepare a financial viability report; and (2) to clarify that a non-rated municipal market participant can get unsecured credit by obtaining an investment grade rating. Additionally, the PTOs, the SSPs, and Cross-Sound submitted revisions to their Attachment Ls to address the six specific creditworthiness elements discussed in Order No. 890. As suggested by the May 7 Order, the PTOs and the SSPs individually submitted creditworthiness procedures to their respective service schedules.

b. Commission Determination

22. We accept the proposed creditworthiness procedures submitted by ISO-NE, the PTOs, the SSPs, and Cross-Sound, subject to the following modifications. ISO-NE states that a non-rated municipal market participant can get unsecured credit by obtaining an investment grade rating. We find that ISO-NE has not included any qualitative factors in its criteria to qualify for unsecured credit. The Commission has previously determined that transmission providers and independent system operators/regional transmission organizations

should not automatically determine that an applicant is not creditworthy if it does not have a credit rating or that credit rating is below investment grade. For example, although municipalities and cooperatives may not be rated, they may still have strong credit for transmission service due to the nature of their business and their ability to charge their customer base for

¹⁶ *Id.* P 1656-61.

¹⁷ May 7 Order, 123 FERC ¶ 61,133 at P 19.

¹⁸ *Id.* P 37.

service. Similarly, stand-alone merchants may not have a strong balance sheet but may have strong credit for transmission service if they have a contract commitment with a creditworthy purchaser for the output of their unit that is dependent upon transmission to perform under the contract.^[19]

Further, we note that ISO-NE allows unrated non-municipal market participants to obtain unsecured credit if (1) the non-municipal market participant has been a market participant in ISO-NE for at least the immediately preceding 12 months; (2) the market participant has not defaulted on any of its obligations under the OATT during such 12-month period; and (3) the market participant maintains a certain Current Ratio, Debt-to-Capitalization Ratio, and Earnings Before Interest, Taxes, Depreciation, and Amortization (EBITDA)-to-Interest Expense Ratio.²⁰ Likewise, ISO-NE should allow unrated municipal market participants to get unsecured credit without obtaining an investment grade rating.

23. Additionally, Central Maine, in the creditworthiness procedures in both its Schedule 20A and Schedule 21 local service schedules, states that it may “at its sole discretion, conduct a credit review at any time.” Central Maine must provide specific criteria as to when it will reevaluate a customer’s creditworthiness which would protect the customer from constant “ratcheting up” of its financial assurances.²¹

24. We direct the Filing Parties to file, within 30 days of the date of issuance of this order, a further compliance filing that addresses their creditworthiness standards consistent with Order No. 890.

3. Clustering

a. Description

25. In Order No. 890, the Commission generally did not require transmission providers to study transmission requests in a cluster, although the Commission did encourage transmission providers to cluster studies when it is reasonable to do so. The Commission also explicitly required transmission providers to consider clustering studies if customers request a cluster and the transmission provider can reasonably accommodate

¹⁹ *Policy Statement on Electric Creditworthiness*, 109 FERC ¶ 61,186, at P 14 (2004).

²⁰ *See* ISO-NE, FERC Electric Tariff, Vol. No. 3, Fourth Revised Sheet No. 55 & Original Sheet No. 55A.

²¹ *Entergy Services, Inc.*, 106 FERC ¶ 61,039, at P 14 (2004).

the request. As a result, the Commission directed transmission providers to include tariff language in their Order No. 890 compliance filings that describes how the transmission provider will process a request to cluster studies and how it will structure transmission customers' obligations when they have joined a cluster.²²

26. The May 7 Order found that ISO-NE and the PTOs (with the exception of Central Vermont PSC) had not responded to the Commission's directive regarding clustering. The May 7 Order directed ISO-NE and the PTOs to file further compliance filings to address how they will process requests to cluster studies and how they will structure transmission customers' obligations when they have joined a cluster.²³

27. Subsequently, ISO-NE submitted revisions to its OATT to provide that ISO-NE may consider, on its own initiative or at the request of customers, a request to study specific Regional Network Service requests in a cluster. However, ISO-NE did not revise its OATT to provide for clustering of Through and Out Service-related studies, as it rarely conducts studies for this type of transmission service. Further, ISO-NE states that, should customers request that studies be clustered, section II.34.2 of its OATT provides that ISO-NE may consider customers' requests for similar studies in a single study. Additionally, the PTOs submitted revisions to describe how they will process a request to cluster studies and how they will structure transmission customers' obligations when they have joined a cluster.

b. Commission Determination

28. We accept the proposed clustering provisions submitted by ISO-NE and the PTOs, subject to the following modifications. We require ISO-NE to remove the proposed language in section II.19.6(c)(ii) of its OATT, which states that performance of a cluster study will be the "extenuating circumstance that excuses a failure to complete the study within 60 days." The proposed language allows ISO-NE the discretion to determine when a necessary study period will be deemed "an extenuating circumstance" to avoid following the 60-day study period requirement and subsequent late penalties. If ISO-NE believes that a cluster study prevented it from meeting its OATT requirements to process transmission studies in a timely matter, ISO-NE may raise that issue in a notification filing with the Commission, which will be reviewed on a case-by-case basis.²⁴

²² Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1370-71.

²³ May 7 Order, 123 FERC ¶ 61,133 at P 21, 43.

²⁴ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1343.

29. Additionally, while the PTOs have generally addressed how they will process a request to cluster studies and how they will structure transmission customers' obligations when they have joined a cluster, the PTOs' proposal lacks important details. For example, the PTOs state that the costs of a clustered study shall be pro-rated among eligible customers on an agreed upon basis. We find this language vague and direct the PTOs to describe the basis by which costs of a clustered study will be pro-rated among customers. Further, the PTOs have not indicated whether a transmission customer may opt out of a cluster and request an individual study. Nor is it clear whether the costs of the study will be reallocated among remaining customers if a customer opts out of a cluster study.

30. Therefore, we direct the Filing Parties to file, within 30 days of the date of issuance of this order, a further compliance filing that addresses clustering consistent with Order No. 890.

4. Unreserved Use Penalties

a. Description

31. In Order No. 890, the Commission determined that transmission customers would be subject to unreserved use penalties in any circumstance where the transmission customer uses transmission service that it has not reserved and the transmission provider has a Commission-approved unreserved use penalty rate explicitly stated in its OATT.²⁵ In addition, the Commission stated that the unreserved use penalty rate may not be greater than twice the firm point-to-point rate for the period of unreserved use and that the transmission customer must face a penalty in excess of the firm point-to-point transmission service charge it avoids through unreserved use of transmission service or the transmission customer will have no incentive to reserve the appropriate amount of service.²⁶

32. The May 7 Order directed the PTOs, the SSPs, and Cross-Sound to make various changes to the unreserved use penalty language in their tariffs consistent with Order No. 890. Specifically, unreserved use penalty language must indicate that: (1) unreserved use penalties must be based on the period of unreserved use; (2) the unreserved use penalty for a single hour of unreserved use is to be based on the rate for daily firm point-to-point transmission service; and (3) more than one assessment for a given duration (e.g., daily) results in an increase of the penalty period to the next longest duration (e.g., weekly). On

²⁵ *Id.* P 834, 848.

²⁶ *Id.* P 848.

June 6, 2008, the PTOs, the SSPs, and Cross-Sound submitted a compliance filing to revise their tariffs accordingly.

b. Commission Determination

33. We have reviewed the revised unreserved use penalty language submitted by the PTOs, the SSPs, and Cross-Sound, and find it consistent with our directives in Order No. 890. Accordingly, we accept the revised unreserved use penalty language.

5. Simultaneous Submission Window

a. Description

34. In Order No. 890, the Commission decided to retain its first-come, first-served policy regarding transmission service requests. However, the Commission required those transmission providers who set a “no earlier than” time limit for transmission service requests to treat all such requests that were received within a specified period of time or “window” as having been received simultaneously. Although the Commission allowed the transmission providers to propose the window, the Commission stated that the window should be open for at least five minutes unless the transmission provider presents a compelling rationale for a shorter window. The Commission also required each transmission provider that is required (or that decides) to deem all requests submitted within a specified period as having been submitted simultaneously to propose a method for allocating transmission capacity if sufficient capacity is not available to meet all requests submitted within that time period.²⁷

35. The May 7 Order noted that the SSPs will allocate capacity *pro rata* among requests for the same level of service. Additionally, if an SSP’s total available megawatts cannot be divided evenly among customers, the SSP proposed to allocate any residual megawatts to each service request, starting with the last service request queued in the five-minute submittal window until all residual megawatts have been allocated. The Commission directed the SSPs to revise their tariff to allocate these limited megawatts to the earliest customers in the five-minute queue, stating that the Commission’s general policy is to award transmission on a first come, first served basis.²⁸ Additionally, the May 7 Order noted that the SSPs did not complete certain software modifications necessary to mask transmission service requests until the five-minute window has closed.

²⁷ *Id.* P 1418-22.

²⁸ May 7 Order, 123 FERC ¶ 61,133 at P 47.

The May 7 Order directed the SSPs to implement these software modifications within 90 days, and to notify the Commission when the software modifications have been made.²⁹

36. Accordingly, on June 6, 2008, the SSPs submitted revisions to their tariff to state that residual megawatts will be allocated to the first valid service request in the submittal window. Additionally, on August 26, 2008, the SSPs notified the Commission that the software modifications necessary to mask transmission service requests have been completed.

b. Commission Determination

37. The SSPs have revised their simultaneous submission language, consistent with the Commission's directives in the May 7 Order. Accordingly, we accept the revised simultaneous submission language.

6. Ancillary Services

a. Description

38. In Order No. 890, the Commission modified Schedules 2, 3, 4, 5, 6, and 9 of the *pro forma* OATT to indicate that these ancillary services may be provided by generating units as well as other non-generation resources, such as demand resources.³⁰

39. The May 7 Order recognized that many of the individual PTOs do not provide these ancillary services; instead customers must obtain such ancillary services from ISO-NE. However, because some of the PTOs do include Schedules 2, 3, 4, 5, and 6 in their local service schedules, the May 7 Order directed the PTOs to either revise these schedules to reflect the modifications required by Order No. 890, or to remove them. Accordingly, in the June 6 compliance filing, the PTOs either revised their local service schedules to reflect the Order No. 890 modifications, or removed them, as applicable.

b. Commission Determination

40. The PTOs have revised their ancillary service schedules, consistent with the Commission's directives in the May 7 Order. Accordingly, we accept the PTOs' revisions to their ancillary service schedules.

²⁹ *Id.* P 48.

³⁰ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 888.

7. ATC Methodology

41. The May 7 Order directed ISO-NE, the PTOs, and the SSPs to make various changes to their Attachment Cs, which set forth the calculation of ATC. Accordingly, ISO-NE, the PTOs, and the SSPs submitted such revisions in the June 6 compliance filing. We find that the ISO-NE, the PTOs, and the SSPs have, for the most part, adequately addressed the ATC methodology requirements of Order No. 890. However, we find that several of the PTOs' Attachment Cs require further revision, as discussed below.

a. Description

42. *ATC Methodology:* In Order No. 890, the Commission required a transmission provider to clearly identify which methodology it employs to calculate ATC (e.g., contract path, network ATC, or network available firm capacity (AFC)). The transmission provider also must describe in detail the specific mathematical algorithms used to calculate firm and non-firm ATC (and AFC, if applicable) for its scheduling, operating and planning horizons.³¹ Further, the actual mathematical algorithms must be posted on the transmission provider's website, with the link noted in the transmission provider's Attachment C.³² The May 7 Order determined that ISO-NE and the PTOs should submit compliance filings to further revise their ATC methodology.

43. *Existing Transmission Commitments:* In Order No. 890, the Commission required a transmission provider to explain: (i) its definition of existing transmission commitments (ETC); (ii) the calculation methodology used to determine the transmission capacity to be set aside for native load (including network load) and non-OATT customers (including, if applicable, an explanation of assumptions on the selection of generators that are modeled in service) for both the operating and planning horizons; (iii) how point-to-point transmission service requests are incorporated; (iv) how rollover rights are accounted for; and (v) its process for ensuring that non-firm capacity is released properly (e.g., when real-time schedules replace the associated transmission service requests in its real-time calculations).³³

b. Determination

44. We find that Vermont Electric Cooperative has not identified the methodology it employs to calculate ATC. Additionally, Vermont Electric Cooperative and Central

³¹*Id.* P 1231, 1265.

³² *Id.*

³³ *Id.* at 31,401-02 (*pro forma* OATT, Attachment C).

Maine have not included in their Attachment Cs a link to their websites with the actual ATC mathematical algorithms. Further, while Vermont Transco's Attachment includes a link to a website with actual ATC mathematical algorithms, it is a link to Vermont Electric Power Company's website and not a website for Vermont Transco. Vermont Transco should provide a link to its own website with the actual mathematical algorithms posted thereon.

45. We find that Vermont Electric Cooperative has not provided a clear definition for ETC and does not explain the calculation methodology used to determine the transmission capacity set aside for native load and non-OATT customers. Further, Vermont Electric Cooperative has provided neither a clear description of how rollover rights are accounted for in the calculation of ETC nor a clear explanation of the processes for ensuring that non-firm capacity is released properly. Additionally, Vermont Electric Cooperative and Bangor Hydro have not clearly explained how point-to-point transmission service requests are incorporated in the ATC calculation.

46. Accordingly, we direct the PTOs to file, within 30 days of the date of issuance of this order, a further compliance filing that revises the PTOs' Attachment Cs, as discussed above.

The Commission orders:

(A) The Filing Parties' compliance filing is hereby accepted, as modified, as discussed in the body of this order.

(B) The Filing Parties are hereby directed to submit compliance filings, as discussed in the body of this order, within 30 days of the issuance of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.