

141 FERC ¶ 61,072
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
Cheryl A. LaFleur, and Tony T. Clark.

ISO New England Inc.

Docket No. ER12-1914-001

ORDER REJECTING COMPLIANCE FILING

(Issued October 26, 2012)

1. This order rejects ISO New England Inc.'s (ISO-NE) August 30, 2012 compliance filing, submitted pursuant to the Commission's order issued in this proceeding on July 31, 2012 (July Order).¹ ISO-NE must submit a new compliance filing in accordance with the July Order and our further guidance below.

I. Background

2. As detailed in the July Order, ISO-NE operates the Forward Capacity Market (FCM), under which resources offer their capacity into the Forward Capacity Auction (FCA) each year. Existing resources that clear the FCA receive capacity obligations, under which they commit to supply capacity, and receive capacity payments, for a one-year Capacity Commitment Period three years in advance. Existing capacity resources are included in the FCA unless they choose to exit the capacity market by submitting a form of de-list bid or a Non-Price Retirement Request. ISO-NE reviews all de-list bids and Non-Price Retirement Requests for reliability impacts pursuant to section III.13.2.5.2.5 of its Transmission, Markets and Services Tariff (Tariff) and can reject certain of those bids if it determines the relevant resource is needed for reliability reasons.

3. On June 1, 2012, pursuant to section 205 of the Federal Power Act (FPA),² ISO-NE and the New England Power Pool Participants Committee (NEPOOL) submitted proposed changes to ISO-NE's Open Access Transmission Tariff (OATT).³ The

¹ *ISO New England Inc.*, 140 FERC ¶ 61,088 (2012).

² 16 U.S.C. § 824d (2006).

³ The OATT is Section II of the Tariff.

proposed changes included, among other things,⁴ a new subsection 4.1(c) to Attachment K, concerning Needs Assessments.⁵ ISO-NE and NEPOOL stated that the purpose of new subsection 4.1(c) was to clarify how resources that have submitted de-list bids and Non-Price Retirement Requests—but are needed for reliability—are treated in the regional system planning process. Proposed subsection 4.1(c) itself consisted of four subsections, including, most relevant here, subsection 4.1(c)(iv), which provided that, “prior to the start of each new capacity qualification period,” ISO-NE will present the Reliability Committee with the status of any prior rejected de-list bids or Non-Price Retirement Requests being studied in the regional system planning process.

4. In the July Order, the Commission accepted the proposed changes, subject to ISO-NE expressly defining in its Tariff the meaning of the phrase “prior to the start of each new capacity qualification period,” as used in proposed section 4.1(c)(iv). The Commission explained:

In rendering our determination herein, we [rely on ISO-NE and NEPOOL’s statements in the record to] interpret the referenced period, which [according to ISO-NE and NEPOOL] most recently began on January 3, 2012,⁶ as referring to the “show of interest (start)” date included in the “Master Forward Capacity Market Schedule” outlined in the FCM Manual.⁷ However, because “the start of each new capacity qualification period” is not specifically defined in ISO-NE’s Tariff, we accept the proposed Tariff Revisions subject to the condition that ISO-NE submit, within 30 days of

⁴ ISO-NE also proposed changes to Market Rule 1, relevant to timing the release and discussion of bidding information with the Reliability Committee.

⁵ ISO-NE, in coordination with the Participating Transmission Owners and the Planning Advisory Committee, conducts regular and ongoing assessments (i.e., Needs Assessments) of the adequacy of the Pool Transmission Facilities system, as a whole or in part, to maintain the reliability of such facilities while promoting the operation of efficient wholesale electric markets in New England. Attachment K, section 4.1.

⁶ See ISO-NE’s June 1, 2012 Transmittal Letter submitting proposed Tariff revisions in Docket No. ER12-1914-000 at 12 (“As an example, the New Capacity qualification period for the next FCM Capacity Commitment Period began on January 3, 2012...”); concurrently-submitted testimony by ISO-NE witness Rourke at 14 (same).

⁷ See http://www.iso-ne.com/rules_proceeds/isone_mnls/m_20_forward_capacity_market_revision_8_06_01_12.doc

the date of this order, revised Tariff sheets that expressly reflect our understanding of this term.⁸

II. ISO-NE's Filing

5. On August 30, 2012, ISO-NE submitted its compliance filing to the July Order. ISO-NE states that because it used the term "New Capacity Qualification Deadline" as a defined term in a similar provision added to III.13.2.5.2.5(g) of Market Rule 1 as part of the June 1, 2012 filing, it "is proposing to comply with the Commission's order by revising Attachment K to utilize that same defined term."⁹

III. Notice of Filing

6. Notice of ISO-NE's filing was published in the *Federal Register*, 77 Fed. Reg. 56,832 (2012), with interventions and protests due on or before September 20, 2012. None was filed.

IV. Discussion

7. We find that ISO-NE's proposed use of the term "New Capacity Qualification Deadline" could be applied in a manner inconsistent with ISO-NE's previous statements in its June 1, 2012 filing and is at odds with the Commission's findings in the July Order. Accordingly, we will reject ISO-NE's proposed compliance filing and require it to submit a new compliance filing in accordance with the July Order and our further guidance here.

8. In its June 1, 2012 filing, ISO-NE stated that one of the purposes of the Tariff revisions was to provide clarity regarding the treatment of certain resources in the regional system planning process, and the Commission found that the proposed Attachment K revisions help achieve that goal. While faced with protestors' concerns about the timing of reviews regarding the status of certain de-list bids rejected for reliability reasons, the Commission noted that the proposed Tariff revisions require ISO-NE to: make information available to, and engage in dialogue with, the Reliability Committee; continue to provide information to stakeholders and the Commission both before and after each FCM auction; and engage in extensive analysis of resources, alternatives to meet identified needs, and the timing of proposed transmission projects; all of which, the Commission stated, should effectively provide information to stakeholders regarding Needs Assessments and evaluation of alternatives to address reliability needs.¹⁰

⁸ *ISO New England Inc.*, 140 FERC ¶ 61,088 at P 32.

⁹ ISO-NE's August 30, 2012 Transmittal Letter at 2.

¹⁰ *See, e.g.*, Attachment K, Section 1 Overview (explains how Needs Assessments

9. The Commission also based its finding, in part, on ISO-NE and NEPOOL's statements in the record indicating that proposed subsection 4.1(c)(iv) required ISO-NE to present the Reliability Committee with the status of certain rejected de-list bids or Non-Price Retirement Requests by a deadline certain: a date coinciding with the "show of interest (start)" date included in the "Master Forward Capacity Market Schedule" outlined in the FCM Manual. This is because proposed subsection 4.1(c)(iv) referenced the deadline using the term "new capacity qualification period," which ISO-NE explained began on January 3, 2012 for the 2016-2017 Capacity Commitment Period, a date that correlated with the "show of interest (start)" date for the relevant FCA.

10. ISO-NE now states that it is "proposing" to comply with the Commission's order by revising Attachment K to utilize the defined term "New Capacity Qualification Deadline." However, the New Capacity Qualification Deadline can occur four or more months after the "show of interest (start)" date, and, therefore, might not afford the same level or length of review contemplated in the July Order. Accordingly, we find that ISO-NE's proposed compliance filing does not comport with the directive and discussion in the July Order and we will, therefore, reject it. Within 30 days of the date of this order, ISO-NE must submit revised Tariff sheets that expressly define "new capacity qualification period" (or any alternate term) with reference to a date that correlates with the "show of interest (start)" date.

are part of the preparation of ISO-NE's Regional System Plan (RSP)); Section 2.2 Role of Planning Advisory Committee (PAC) (requires that the PAC identify and prioritize requests for Economic Studies, and provide input and feedback, including the criteria and assumptions for such studies); Section 3.1 Description of RSP (requires RSP to describe for a five-to ten-year horizon, the needs for resources over this period and how such resources are expected to be provided); Section 3.5 Market Responses in RSP (requires the RSP to account for market responses and any critical time constraints for addressing such needs identified in a RSP or Needs Assessment; states that market responses determined to be sufficient to alleviate a particular need, and that ISO-NE determines are achievable within the required time period, will be reflected in the next RSP and/or in a new or updated Needs Assessment); Section 3.6 The RSP Project List (states that a proposed regulated transmission solution should have significant analysis supporting a determination that it would likely meet the need identified by the ISO in a Needs Assessment or the RSP).

The Commission orders:

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

(B) 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)

Nathaniel J. Davis, Sr.,
Deputy Secretary.