

143 FERC ¶ 61,184
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

May 30, 2013

In Reply Refer To:
New England Power Company
Docket No. ER13-1263-000

Terry L. Schwennesen
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c/o National Grid
40 Sylvan Road
Waltham, MA 02451

Dear Ms. Schwennesen:

1. This order addresses New England Power Company's (NEP) April 11, 2013 request for limited waiver of certain provisions in Attachment F to ISO New England Inc.'s (ISO-NE) open access transmission tariff (OATT).¹ The Commission grants the requested waiver, as modified below.

2. As relevant here, Attachment F requires ISO-NE participating transmission owners (PTOs), including NEP, to jointly submit by July 31 of each year an annual informational filing (annual update) with the Commission, which updates the regional formula transmission rates under ISO-NE's OATT. For this purpose, each transmission owner must use its FERC Form No. 1 data from the prior calendar year (as applicable here, 2012) to calculate its respective transmission revenue requirement. The cumulative total is used to establish the regional network service, through or out service, and scheduling, system control, and dispatch service rates in effect from June 1 through May 31 of each year.² At least 45 days before filing the annual update with the Commission, the PTOs must jointly post the proposed annual update on the ISO-NE website for stakeholder review (posting requirement).

¹ ISO-NE, Transmission, Markets and Services Tariff, Section II, Open Access Transmission Tariff, Attach. F, Implementation Rule (Attachment F).

² *See id.* at 242-43.

3. NEP requests a limited waiver of Attachment F. According to NEP, such a limited waiver would permit it to: (1) use estimated (rather than actual) data to support its transmission revenue requirement for the 2013 annual update that the PTOs will jointly file with the Commission by July 31, 2013, and (2) subsequently submit, by September 19, 2013 a corrected 2013 annual update reflecting NEP's actual 2013 transmission revenue requirement using its 2012 FERC Form No. 1 data, as Attachment F requires.³ NEP explains that in a separate proceeding, it sought an extension of time to August 30, 2013, to submit its 2012 FERC Form No. 1.⁴ Accordingly, NEP does not expect its 2012 FERC Form No. 1 data to be available in time to be used as an input to the 2013 annual update due by July 31, 2013.

4. NEP asserts that its request satisfies relevant criteria for granting waiver.⁵ NEP states that it is acting in good faith, explaining that the delay in availability of information is due to a recently implemented conversion to a single-platform accounting system. NEP argues that its waiver request is of limited scope, because it applies for only a limited period (during calendar year 2013, not subsequent years), and will have the limited, "single effect" of allowing NEP additional time to comply with Attachment F of the ISO-NE OATT.⁶ NEP states that its request will remedy a concrete problem by ultimately enabling NEP to submit its actual 2013 transmission revenue requirement, as Attachment F requires.

5. NEP asserts that its request will have no adverse consequences on ISO-NE, ISO-NE's OATT, PTOs, or transmission customers taking transmission service under ISO-NE's regional network service and through or out service transmission rates. NEP argues that "granting the waiver as requested will ensure that transmission customers are held harmless from the delay because transmission customer bills will

³ NEP April 11, 2013 Filing at 4 (Petition). NEP's corrected, 2013 transmission revenue requirement using its actual 2012 FERC Form No. 1 data will be referred to as its "actual 2013 transmission revenue requirement."

⁴ That waiver request was granted by delegated letter order issued April 18, 2013. *See Delegated Letter Order*, Docket No. AC13-75-000 (Apr. 18, 2013).

⁵ Petition at 4 (citing *ISO New England Inc.*, 134 FERC ¶ 61,182, at P 8 (2011); *Pittsfield Generating Co., L.P.*, 130 FERC ¶ 61,182, at PP 9-10 (2010); *Acushnet Co.*, 122 FERC ¶ 61,045 (2008); *Central Vermont Pub. Serv. Corp.*, 121 FERC ¶ 61,225 (2007); *Waterbury Generation, LLC*, 120 FERC ¶ 61,007, at PP 31-34 (2007)).

⁶ *Id.*

be re-calculated and re-billed on corrected rates in accordance with the terms of the ISO-NE OATT.”⁷ NEP states that allowing it to initially use an estimated transmission revenue requirement will ensure relative stability to transmission customers’ costs. According to NEP, the estimated transmission revenue requirement will “closely approximate” the results that it will derive from its 2012 FERC Form No. 1.⁸

6. NEP asserts that allowing submission of the corrected 2013 annual update (reflecting NEP’s actual 2013 transmission revenue requirement) on or by September 19, 2013, will allow sufficient time for ISO-NE to re-bill its customers within ISO-NE’s normal re-billing protocol. NEP argues that ISO-NE already incorporates that re-billing protocol into its normal billing process and thus will not incur any additional expenses to re-bill customers for service rendered.⁹ In any case, according to NEP, granting its request will not affect the rights of interested parties to contest the accuracy of the information underlying its corrected 2013 annual update.¹⁰

7. Notice of NEP’s filing was published in the *Federal Register*, 78 Fed. Reg. 23,243 (2013), with interventions and protests due on or before April 22, 2013. None was filed.

8. Although not expressly stated as such, NEP’s Petition entails several waiver requests: (1) permission to use an estimated transmission revenue requirement for the 2013 annual update that will be filed by the PTOs on or before July 31, 2013, and for purposes of meeting the June 16, 2013 posting requirement; (2) permission to file on or by September 19, 2013, and on behalf of all PTOs,¹¹ a corrected 2013 annual

⁷ *Id.* at 2.

⁸ *Id.* at 6.

⁹ *Id.* at 6-7 (referencing ISO-NE, Transmission, Markets and Services Tariff § I, General Terms and Conditions, Exhibit ID, ISO-NE Billing Policy §§ 1.3, 2.5 and 2.6).

¹⁰ *Id.* at 7-8.

¹¹ Attachment F provides that “[t]he PTOs shall make an annual informational filing on or before July 31 of each year showing the [pool transmission facilities rate] in effect for the period beginning June 1 of that year through May 31 of the subsequent year. . . . If there are any corrections made to the information reflected in the informational filing after it has been submitted, the PTOs will file corrections to the informational filing.” Attachment F at 243. Indeed, all prior annual updates,

(continued...)

update reflecting NEP's actual 2013 transmission revenue requirement; and (3) waiver of the 45-day posting requirement for the corrected 2013 annual update prior to filing that update with the Commission.¹² As further discussed below, the Commission will allow NEP to use an estimated transmission revenue requirement for the 2013 annual update to be filed with Commission by July 31, 2013, and for purposes of meeting the June 16, 2013 posting requirement. We will also allow NEP to submit on behalf of all PTOs a corrected 2013 annual update that incorporates NEP's actual 2013 transmission revenue requirement. However, we will require NEP to post the proposed, corrected 2013 annual update on ISO-NE's website for 45 days prior to filing it with the Commission. Accordingly, to allow time for NEP to fulfill this directive, we will modify NEP's waiver request and require NEP to file the corrected 2013 annual update on or by October 15, 2013, rather than September 19, 2013, as NEP proposes.

9. The Commission has previously granted limited waiver from ISO-NE's tariff provisions where: (i) the applicant has been unable to comply with the tariff provision at issue in good faith; (ii) the waiver is of limited scope; (iii) a concrete problem will be remedied by granting the requested waiver; and (iv) the waiver does not have undesirable consequences, such as harming third parties.¹³ As modified below, NEP's waiver request satisfies those criteria.

10. NEP's inability to submit its actual 2013 transmission revenue requirement in a timely fashion is due to its efforts to reform its accounting system; indeed, NEP has already been granted an extension of time through August 30, 2013, to file its 2012

including any corrections thereto submitted on behalf of individual transmission owners, have been filed directly by the Participating Transmission Owners Administrative Committee. Because it is not clear that NEP is otherwise authorized to make a filing on behalf of all PTOs, we view NEP's Petition as also seeking waiver of the requirement that annual updates be filed jointly by the PTOs.

¹² NEP's Petition does not address whether, or for how long, it would post the corrected 2013 annual update on ISO-NE's website for purposes of stakeholder review before filing with the Commission, which is part of the process envisioned by Attachment F.

¹³ See *ISO New England Inc.*, 134 FERC ¶ 61,182 at P 8; *Pittsfield Generating Co., L.P.*, 130 FERC ¶ 61,182 at PP 9-10; *Acushnet Co.*, 122 FERC ¶ 61,045 at PP 14-16; *Central Vermont. Pub. Serv. Corp.*, 121 FERC ¶ 61,225 at PP 28-29; *Waterbury Generation, LLC*, 120 FERC ¶ 61,007 at PP 31-34.

FERC Form No. 1, the underlying data that is relevant here. We find this inability to submit information in a timely fashion to be in good faith. Further, NEP seeks a one-time waiver of only certain Attachment F requirements, which will apply only during calendar year 2013; thus, we find the waiver to be limited in scope. Additionally, we find that allowing NEP to use estimated data for the 2013 annual update that the PTOs will jointly file with the Commission by July 31, 2013, and for purposes of satisfying the June 16, 2013 posting deadline, followed by NEP's filing actual information, will remedy a concrete problem. Doing so will give stakeholders a sense of the regional network service, through or out service, and scheduling, system control, and dispatch service rates that will be in effect in 2013 and 2014, in the timely manner provided for by Attachment F.

11. In order to ensure that the waiver does not harm third parties, however, ISO-NE stakeholders should be able to review the information underlying the corrected 2013 annual update, including NEP's actual 2013 transmission revenue requirement, before it is filed with the Commission. NEP's Petition fails to provide for or address stakeholder review of the corrected 2013 annual update, as Attachment F requires, and we see no reason to circumvent that opportunity. Therefore, in order to maintain Attachment F's provisions for stakeholder review, we will require NEP to post the proposed, corrected 2013 annual update reflecting its actual 2013 transmission revenue requirement on ISO-NE's website for no less than 45 days prior to filing the corrected 2013 annual update with the Commission. This requirement means, as a practical matter, that NEP will not be able to file the corrected 2013 annual update by September 19, 2013, as NEP proposes, because its underlying 2012 FERC Form No. 1 data most likely will not be available until August 30, 2013. Therefore, we will instead require NEP to file the corrected 2013 annual update on or by October 15, 2013 (i.e., 45 days from August 30, 2013).

12. NEP's request to use an estimated transmission revenue requirement for inclusion in the 2013 annual update to be filed with the Commission by July 31, 2013, and for purposes of meeting the June 16, 2013 posting requirement is hereby granted, as discussed in the body of this order.

13. NEP must post the proposed, corrected 2013 annual update that reflects its actual 2013 transmission revenue requirement on ISO-NE's website for no less than 45 days, as discussed in the body of this letter order.

14. NEP must file the corrected 2013 annual update with the Commission no later than October 15, 2013, as discussed in the body of this order.

By direction of the Commission.

Kimberly D. Bose,
Secretary.