

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, and Joseph T. Kelliher.

New England Power Pool
and
New England Independent System Operator

Docket Nos. OA97-237-012
OA97-237-013
OA97-237-014

ORDER ACCEPTING INFORMATIONAL FILING AND CONDITIONALLY
APPROVING COSTS OF EMERGENCY SPARE EQUIPMENT IN REGIONAL
NETWORK SERVICE RATES

(Issued December 22, 2003)

1. In this order, the Commission accepts for filing the New England Power Pool's (NEPOOL) Revised Regional Network Service (RNS) Audit Report (Revised RNS Audit Report), provides guidance on emergency spare equipment costs, and allows these costs to be included in the RNS rates. The Commission's action in this order benefits customers in New England because it adds certainty and finality concerning the recovery of the transmission owners' costs incurred to provide RNS from June 1, 1997 through May 31, 2000.

Background

A. RNS Audit

2. As members of NEPOOL, transmission owners of the high voltage lines (Pool Transmission Facilities or PTF) provide regional transmission service, and scheduling, control and dispatch services pursuant to the NEPOOL Open Access Transmission Tariff (OATT) administered by ISO New England (ISO-NE). Transmission owners in New England also maintain Local Network Service (LNS or non-PTF) OATTs to recover costs of lower voltage transmission lines (below 69 kV) and radial transmission facilities (non-PTF). Rates for LNS are determined separately from PTF rates. Costs incurred for providing RNS and LNS services are combined on the transmission owners' books in their transmission plant accounts and in transmission operations and maintenance expense accounts.

3. Pursuant to a Settlement Agreement (Settlement) approved by the Commission on July 30, 1999,¹ PTF transmission charges are calculated using a formula rate for all high voltage facilities in New England. On or before July 31 of each year, NEPOOL is required to make an informational filing, which is a compilation of cost data received from transmission owners. The informational filing sets forth the Annual Transmission Revenue Requirement of the fourteen NEPOOL Participants that own PTF in the New England region, and is calculated from the prior year's FERC Form No. 1s,² or other comparable financial data.
4. Consistent with the Settlement, NEPOOL directed that a third party conduct an audit for the transmission charges in effect from June 1, 1997 through May 31, 2000. The purpose of the audit was to verify that the transmission owners are correctly accounting for PTF investment in accordance with the applicable NEPOOL rules. The results of the audit were then to be submitted to the Commission as an informational filing.
5. NEPOOL rules for determining investment in PTF changed during the three year review period. The old rules were applicable to the 1996 FERC Form 1, and the rates in effect from June 1, 1997 through May 31, 1998.
6. The new rules, which were an integral component of the Settlement and differ only slightly from the old rules, were applicable to the 1997 and 1998 FERC Form 1's and the fiscal rate years ending May 31, 1999 and May 31, 2000, respectively.
7. During the audit, the Auditor³ and certain transmission owners sought guidance from NEPOOL's Reliability Committee (NRC) concerning whether spare equipment was a PTF cost. These inquiries led to the issuance of an Interpretive Guidance Document by the NRC. The Interpretive Guidance Document indicated that the Committee could not provide a definitive answer (split 5-4) whether or not spare equipment was a PTF cost.⁴

¹See New England Power Pool, 88 FERC ¶ 61,140 (1999).

²FERC Form 1 (Annual Report of Major Electric Utilities, Licensees and Others) is filed every year by all electric FERC jurisdictional utilities. See Commission's Rules and Regulations, 18 C.F.R. Part 141.1 (2003).

³ISO-NE engaged Rhema Services, Incorporated to perform the RNS Audit.

⁴RNS Audit Report, Appendix D.2 at 1, filed April 24, 2002.

B. RNS Audit Report

8. On April 24, 2002, NEPOOL and ISO-NE jointly filed the informational filing in Docket No. OA97-237-012, which included the RNS Audit Report and supporting documents. The RNS Audit Report indicated that, in the Auditor's opinion, total RNS revenue requirements of \$821 million for years 1997 through 1999 were understated by \$8.2 million or 1 percent. The informational filing also stated that a limited number of disagreements concerning the RNS Audit Report remain unresolved, which must be resolved before a final rebilling could be performed.⁵

9. Holyoke Gas & Electric Light Department (HG&ED), Bangor Hydro Electric Company (BHEC), Fitchburg Gas & Electric Light Company (Fitchburg), Braintree Electric Light Department (BELD), Central Maine Power Company (CMPCO) and Taunton Municipal Light Plant (TMLP) challenged certain findings in the RNS Audit Report. As a result of these challenges, the NEPOOL Participants Committee (NPC), on behalf of NEPOOL and ISO-NE, requested that the Commission stay further action on the RNS Audit Report and permit the parties an opportunity to resolve their disagreements pursuant to an alternate dispute resolution (ADR) process facilitated by the Commission's Dispute Resolution Service (DRS). That DRS facilitated ADR process took place on November 25, 2002.

10. On December 27, 2002, NPC and ISO-NE reported that as a result of the DRS-facilitated ADR process, the parties had agreed upon and were implementing a framework for possibly resolving all issues concerning the RNS Audit Report. NPC also reported that the parties' follow-up activities would be completed by the end of March 2003, at which time NPC and ISO-NE would file a Revised RNS Audit Report. The Revised RNS Audit Report would reflect the outcome of the settlement effort.

C. Revised RNS Audit Report

11. NPC and ISO-NE jointly submitted a Revised RNS Audit Report on April 7, 2003, as supplemented on April 17, 2003 to update the original RNS Audit Report.⁶ NPC and ISO-

⁵For a more complete description of the disagreements see the Transmittal Letter accompanying the April 23, 2002 filing in Docket No. OA97-237-012.

⁶The initial (April 24, 2002) RNS Audit Report filing was docketed as Docket No. OA97-237-012. Subsequently, the Commission assigned the April 7, 2003 Revised RNS Audit Report informational filing with the sub-docket -013, and the April 17, 2003

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NE advised that as a result of the DRS process, HG&ED, BELD, TMLP and Fitchburg resubmitted documentation to the auditor, who then concluded that no changes should be made to the finding concerning Fitchburg, but that some adjustments should be made to the revenue requirements of HG&ED, BELD and TMLP. This resulted in an additional adjustment of \$309,464 to the NEPOOL RNS revenue requirement bringing the understatement to \$8.5 million. The Revised RNS Audit Report filing also states that the DRS-facilitated ADR process led to the resolution of issues raised by BHEC, HG&ED and CMPCO. The Revised RNS Audit Report transmittal letter states that Fitchburg, BELD and TMLP still had unresolved issues regarding the RNS Audit Report which required Commission resolution. However, BELD and TMLP did not file a protest to the Revised RNS Audit Report filing.

12. Notice of NPC and ISO-NE's joint filing of the original RNS Audit Report was published in the Federal Register, 67 Fed. Reg. 30,678 (2002), with motions to intervene and protests due on or before May 24, 2002.

13. Timely motions to intervene were filed by the Massachusetts Municipal Wholesale Electric Company (MMWEC) National Grid USA (National Grid), Northeast Utilities Service Companies (NUSCO) and NSTAR Electric and Gas Corporation. Motions to intervene and protest were filed by BHEC, CMPCO, Fitchburg and a joint protest filed by BELD and TMLP. On May 30, 2002, United Illuminating Company (UI) filed a motion for leave to intervene out of time. On June 10, 2002, MMWEC, National Grid, NPC and UI filed answers.

14. Notices of NPC and ISO-NE's joint filing of the Revised RNS Audit Report and amendment thereto, were published in the Federal Register 68 Fed. Reg. 10,224 and 13,291 (2003) on April 30, 2003, with motions to intervene and protests due on or before May 9, 2003. A timely protest was filed by Fitchburg.

Discussion

A. Procedural Matters

15. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, the timely, unopposed motions to intervene serve to make Intervenors parties to this proceeding.⁷ We will grant UI's motion to intervene out of time given its interests in the

supplemental filing as sub-docket -014.

⁷18 C.F.R. § 385.214 (2003).

proceeding and the lack of undue prejudice or delay. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, prohibits an answer to a protest [and/or answer] unless otherwise ordered by the decisional authority. We are not persuaded to accept MMWEC, National Grid and UI's answers and will, therefore, reject their answers.

B. Protests

16. BELD and TMLP protest the Revised RNS Audit Report because they contend that the Auditor calculated PTF and non-PTF plant in the same manner as was done for all other transmission owners, rather than provide them with added flexibility of interpretation in establishing municipal transmission owners PTF revenue requirements as was the claimed intent of the Settlement (confirmed by the Interpretive Guidance Document). They assert that it was not the intent of the Settling Parties to preclude municipals from recovering their PTF-related costs consistent with the intent and principles of Attachment F of the PTF rules. According to BELD and TMLP, since municipals do not file FERC Form 1s, may not utilize the FERC's system of accounts to the same extent as investor owned transmission operators, or even keep accounting records in as much detail or length of time, references to FERC Form 1 and specific FERC accounts for purposes of determining various components of the PTF formula should not be read literally in applying the implementation rule to them.

17. Fitchburg also disagrees with the Revised RNS Audit Report. Specifically, Fitchburg believes that its Flagg Pond emergency spare transformers should be classified as PTF plant. According to Fitchburg, its allocation of PTF costs was based on a reasonable interpretation of the existing rules. Fitchburg contends that the PTF rule (B.2), which requires that PTF equipment must be operated in parallel paths to carry

network flows under normal conditions, relates only to the configuration of the transmission system rather than to emergency spare parts.⁸

⁸Section B.2 of the PTF rules states:

In cases where a line terminal is used in conjunction with both PTF and non-PTF lines and/or facilities, it will be considered a PTF facility providing the terminal facility is at 69 kV or above and carries any power flow at 69 kV or above through parallel paths within the interconnected network under normal

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18. Fitchburg maintains that its PTF allocation is consistent with Commission cost causation principles, which requires that cost responsibility match, as closely as practicable, the cost of providing the service. According to Fitchburg, under Commission precedent, transformers are considered “emergency” spare parts, and are properly accounted for in Account 101, Electric Plant in service.⁹ According to Fitchburg, to be classified as an “emergency” spare, the part must: (1) be critical to plant operation; (2) be associated with specific plant; and (3) not be subject to normal periodic replacement.

19. Fitchburg contends that unlike other spare equipment which could be used interchangeably, the emergency spare transformers were purchased for, and can only be used at, the Flagg Pond substation. During the time in question, the Flagg Pond substation and its associated transmission lines were classified as PTF. Therefore, the emergency spare transformers provided capability solely to PTF customers using the Flagg Pond substation. Allocating these costs to non-PTF customers would violate the well-established cost causation principle.¹⁰

20. In addition, Fitchburg advises that this rule (B.2) was a change in the PTF rules beginning in 1997, and protests the alleged retroactive application by the Auditor to 1996 data. The issues concerning the application of the PTF rules to BELD and TMLP’s plant as well as the treatment of Fitchburg’s spare transformers remain unresolved following the Revised RNS Audit Report. Therefore, we will accept the proposed Revised RNS Audit Report for filing and will summarily decide the remaining issues.

1. BELD and TMLP

21. We have reviewed the RNS Audit Reports and BELD and TMLP’s joint protests and understand that because BELD and TMLP do not maintain their accounting records in the same detail as investor utilities, they should be afforded some flexibility in the kinds of

operation. PTF equipment is any element of the transmission system in those parallel paths. Any equipment not in these parallel paths is non-PTF.

⁹Fitchburg’s Protest at 7 & n.18; citing New England Power Co., 9 FERC ¶ 63,056 (1979). See also Interpretation No. 50 issued by the National Association of Regulatory Utility Commissioners (NARUC).

¹⁰Fitchburg’s Protest at 8.

documentation required to support their claimed PTF plant determinations. Nevertheless, they were reasonably required to provide sufficient comparable financial data to support their claimed PTF plant, but failed to do so to the extent required to satisfy the Auditor. BELD and TMLP were given another opportunity to supply the information after the issuance of the initial RNS Audit Report and pursuant to the DRS process. As noted above, BELD and TMLP were able to provide some additional support for their PTF plant allocations which led to the Auditor to modify his findings. The Commission concludes therefore, that BELD and TMLP were afforded the added flexibility of interpretation by the Auditor. Based on the information in the record before us, and the PTF rules that were in effect during the relevant period, we conclude that the Auditor's allocations between PTF and non-PTF for BELD and TMLP were reasonable. Therefore, we will accept the Auditor's Revised RNS Audit Report finding with respect to BELD and TMLP.

2. Fitchburg

22. The Commission agrees with Fitchburg that our cost causation principle requires that rates should as closely as practicable reflect the costs to serve each class of customers.¹¹ According to Fitchburg, the transformers and the lines leading to the in-service transformers were listed in the PTF Catalog as PTF eligible during the relevant time period. Logic dictates that if the in-service transformers were included as PTF plant, then the spare transformers, which can only be used at Flagg Pond substation, should also be included as PTF plant and included in rates to PTF customers. Allocating these costs to non-PTF customers would violate our well-established principle that rates should reflect costs incurred in serving each class of customer. Based on this principle and in the absence of any PTF rule specifically addressing spare parts, we find that the costs of the Flagg Pond spare transformers should be included in PTF plant. NEPOOL is directed to include Fitchburg's spare transformers in PTF plant, and adjust Fitchburg's revenue requirements accordingly.

The Commission orders:

(A) NEPOOL and ISO-NE's jointly submitted informational filings are hereby accepted for filing

¹¹See, e.g., Public Service Co. of N.H. v. FERC, 600 F.2d 944, 959 (D.C. Cir), cert. denied, 444 U.S. 990 (1979). This principle includes the concept that "rates should produce revenues from each class of customers which match, as closely as practicable, the costs to serve each class or individual customer." Alabama Electric Coop., Inc., v. FERC, 684F.2d 27(D.C.Cir. 1982) (citation omitted, emphasis in original).

(B) Fitchburg's protest is hereby granted, as explained in the body of this order.

(C) NEPOOL and ISO-NE are hereby directed to file an informational report reflecting the determinations contained herein within 30 days of the issuance of this order.

By the Commission.

(S E A L)

Linda Mitry,
Acting Secretary.