

145 FERC ¶ 61,227  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

ISO New England Inc.

Docket No. ER14-90-000

ORDER ACCEPTING PROPOSED BUDGETS AND TARIFF REVISIONS

(Issued December 19, 2013)

1. On October 15, 2013, pursuant to section 205 of the Federal Power Act (FPA)<sup>1</sup> and ISO New England Inc.'s (ISO-NE) Transmission, Markets and Services Tariff (Tariff), ISO-NE submitted: (1) its proposed capital budget for calendar year 2014 (2014 Capital Budget); and (2) its proposed administrative budget for calendar year 2014 (2014 Administrative Budget), including revisions to section IV.A of its Tariff<sup>2</sup> reflecting its 2014 Administrative Budget (Tariff Revisions). As set forth below, the Commission accepts ISO-NE's 2014 Capital Budget, 2014 Administrative Budget and Tariff Revisions to become effective January 1, 2014, as requested.

**I. Background**

2. ISO-NE states that, unlike previous years, it is submitting the 2014 Capital Budget and the 2014 Administrative Budget together in one FPA section 205 filing, in accordance with the terms of a settlement agreement that was executed earlier this year by ISO-NE and a number of New England state agencies that had protested ISO-NE's 2013 budgets (Settlement Agreement).<sup>3</sup>

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<sup>1</sup> 16 U.S.C. § 824d (2012).

<sup>2</sup> ISO New England Inc., ISO New England Inc. Transmission, Markets and Services Tariff, [Section IV.A, Section IV.A Recovery of ISO Administrative Expenses, 13.0.0.](#)

<sup>3</sup> ISO-NE states that the New England state agencies that protested ISO-NE's 2013 budgets included the Connecticut Public Utilities Regulatory Authority, the Connecticut, Maine, and New Hampshire consumer advocates, the Rhode Island and Connecticut Attorneys General and the Rhode Island Division of Public Utilities and Carriers. *See*

(continued...)

3. ISO-NE also states that this year, in accordance with the Settlement Agreement, ISO-NE implemented the new process for reviewing budgets with the New England state agencies. This new process required ISO-NE to make budget presentations to the state agencies in June and August. It also provided for the state agencies to submit questions to ISO-NE regarding the budgets and to submit written comments for inclusion in ISO-NE's budget filing with the Commission. The Settlement Agreement also included timelines for ISO-NE's responses to both questions and written comments.<sup>4</sup>

4. ISO-NE states that the New England Power Pool (NEPOOL) Participants Committee, at its October 4, 2013 meeting, supported, by a favorable vote of 86.28 percent, the 2014 Capital Budget and the 2014 Administrative Budget. ISO-NE further states that its Board of Directors approved these budgets on October 11, 2013.<sup>5</sup>

**A. 2014 Capital Budget**

5. ISO-NE proposes a 2014 Capital Budget of \$28 million, which represents a \$1.3 million decrease from the 2013 budget of \$29.3 million.<sup>6</sup> ISO-NE states that the primary deliverable for a majority of the 2014 Capital Budget is application software and requisite hardware needed to maintain and improve bulk-power system reliability or wholesale electric markets. ISO-NE states that the other capital projects are driven by the need for increased reliability and information, including automation of manual business processes to improve ISO-NE's efficiency, and compliance with regulatory requirements imposed

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Exhibit 10 of ISO-NE's October 15, 2013 filing (October 15 Filing) for a copy of the Settlement Agreement.

<sup>4</sup> October 15 Filing at 4.

<sup>5</sup> *Id.* at 5-6.

<sup>6</sup> *Id.* at 22, and Exhibit 6, Testimony of M. David Hameedy at 7. ISO-NE notes that it does not take any collections from market participants through its capital budget. Instead, the capital projects in the capital budget are funded through private placement financing. ISO-NE states that the only collections that it will make from market participants for 2014, including for debt service, are through the revised revenue requirements and rates in Schedules 1, 2 and 3 of the Tariff Revisions. Specifically, ISO-NE funds the capitalized portion of the interest on the debt service through the recovery of depreciation in the revenue requirements and rates in Schedules 1, 2 and 3 of the Tariff Revisions. October 15 Filing at 19, 22-23, and Exhibit 6, Testimony of M. David Hameedy at 25-26.

by the Commission.<sup>7</sup> In its transmittal letter and the supporting testimony of Mr. M. David Hameedy, Director of ISO-NE's Program Management Office, ISO-NE provides a detailed description of the scope and purpose of the specific projects, 12 of which it describes as well-defined and with charters approved by management, and the remainder of which it states are still in the planning stages or subject to further Commission action.<sup>8</sup> ISO-NE requests that the Commission accept the 2014 Capital Budget effective January 1, 2014.

**B. 2014 Administrative Budget and Tariff Revisions**

6. ISO-NE's proposed 2014 revenue requirement (2014 Revenue Requirement) for its 2014 Administrative Budget is \$171.2 million, after true-up. The 2014 Revenue Requirement is composed of several elements, including: the 2014 Core Operating Budget, which reflects the administrative costs of running ISO-NE (\$140.9 million); depreciation and amortization of regulatory assets (\$28.4 million); and a true-up for 2012 as a result of the under-collection of ISO-NE rates in 2012 (\$1.9 million).<sup>9</sup> Before incorporating the true-up for 2012, ISO-NE states that the 2014 Revenue Requirement is \$169.3 million, which is \$5.3 million more, or 3.2 percent higher, than in 2013.<sup>10</sup>

7. ISO-NE proposes to increase its Core Operating Budget by approximately \$5.3 million (3.9 percent) from 2013 levels to fund new initiatives and cost increases. ISO-NE states that the increase in the Core Operating Budget is due to a variety of factors, including: (i) external factors and compensation (\$5.9 million); (ii) funding for new market rules and operational changes (\$3.7 million); and (iii) other "measured growth" initiatives, such as the intra-day offer project,<sup>11</sup> Order No. 1000,<sup>12</sup> and heightened cyber

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<sup>7</sup> October 15 Filing at 22.

<sup>8</sup> *Id.* at 23-30, and Exhibit 6, Testimony of M. David Hameedy at 7-25.

<sup>9</sup> October 15 Filing at 6, 11.

<sup>10</sup> *Id.* at 2-3.

<sup>11</sup> The "intra-day offer project" refers to a Tariff mechanism that the Commission accepted to become effective in December 2014, which will allow market participants to submit cost-related parameters of a supply offer that may vary by hour, rather than requiring these parameters to be the same for all hours of an operating day. *See ISO New England Inc. and New England Power Pool*, 145 FERC ¶ 61,014, at P 6 (2013).

<sup>12</sup> *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323 (2011), *order*

security risks, among others (\$3.7 million). ISO-NE states that the Core Operating Budget also reflects an offset of \$8.0 million due to savings, efficiencies, non-recurring work, and discount rate adjustments to pension plan costs.<sup>13</sup>

8. ISO-NE states that depreciation and amortization costs are \$28.4 million for 2014, which represents a \$100,000 decrease from 2013.<sup>14</sup> ISO-NE explains that its depreciation rates remain unchanged from those previously accepted by the Commission.<sup>15</sup>

9. Additionally, ISO-NE states that the 2014 Revenue Requirement includes an adjustment for deviations between actual collections and expenses for calendar year 2012. ISO-NE explains that the amount of the true-up is added to (in the case of a revenue shortfall) or subtracted from (in the case of a revenue over-recovery) its total estimated budgeted amounts for the upcoming budget year. ISO-NE states that in 2012 it collected \$1.9 million less than it needed to pay its expenses. Therefore, ISO-NE has added this amount to the 2014 Revenue Requirement.<sup>16</sup>

10. ISO-NE states that the Tariff Revisions reflect the 2014 Revenue Requirement for its 2014 Administrative Budget. In particular, ISO-NE states that the Tariff Revisions include revised revenue requirements and rates for three services under its Tariff, including Scheduling Service (Schedule 1), Energy Administration Service (Schedule 2), and Reliability Administration Service (Schedule 3), through which ISO-NE recovers its 2014 Administrative Budget from market participants.

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*on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh'g and clarification*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012).

<sup>13</sup> October 15 Filing at 6-7. For a detail description of the components of the 2014 Revenue Requirement for the 2014 Administrative Budget, *see* October 15 Filing, Exhibit 3, Testimony of Robert C. Ludlow, and Exhibit 4, Testimony of Janice S. Dickstein.

<sup>14</sup> October 15 Filing at 10.

<sup>15</sup> *Id.* at 10-11. ISO-NE explains that, in 2006, the Commission examined and accepted the ISO-NE's current depreciation rates after holding a paper hearing. October 15 Filing at 10 n.26 (citing *ISO New England, Inc.*, 117 FERC ¶ 61,310, at P 18 (2006), *order on paper hearing and finding rehearing to be moot*, 119 FERC ¶ 61,178 (2007)).

<sup>16</sup> October 15 Filing at 11.

## II. Notice and Responsive Pleadings

11. Notice of ISO-NE's proposed 2014 Capital and Administrative Budgets and proposed Tariff Revisions was published in the *Federal Register*, 78 Fed. Reg. 62,610 (2013), with interventions and protests due on or before November 5, 2013. The Connecticut Public Utilities Regulatory Authority and the Connecticut Office of Consumer Counsel (collectively, the Connecticut State Agencies) filed, respectively, a notice of intervention and timely motion to intervene and, jointly, a limited protest. The NEPOOL Participants Committee<sup>17</sup> and Northeast Utilities Service Company (NUSCO)<sup>18</sup> each filed a timely motion to intervene, and the NEPOOL Participants Committee filed supportive comments. On November 18, 2013, ISO-NE filed an answer to the Connecticut State Agencies' limited protest (ISO-NE Answer).

12. The Connecticut State Agencies comment that the new process for reviewing ISO-NE's budgets with the New England state agencies had a successful launch in this year's budget cycle.<sup>19</sup> They commend ISO-NE for its responsiveness to the state agencies' concerns.<sup>20</sup>

13. However, the Connecticut State Agencies take issue with one aspect of ISO-NE's proposal, namely, adding to the 2014 Administrative Budget eight additional full-time employee (FTE) positions, including immediate funding for five of the eight positions. The Connecticut State Agencies' contend that ISO-NE's proposal does not comply with section II.A of the Settlement Agreement. They explain that section II.A of the Settlement Agreement requires that: "[i]n developing budgets and work plans going forward, ISO-NE will rely to the greatest extent possible on its current employee complement to perform all existing and proposed new projects, and shall document its

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<sup>17</sup> NEPOOL is a voluntary association with more than 430 members. The Participants act through the NEPOOL Participants Committee. NEPOOL Participants Committee Comments at 1 n.2.

<sup>18</sup> NUSCO is a subsidiary of Northeast Utilities and the agent for the Northeast Utilities Companies, which include: The Connecticut Light and Power Company, Western Massachusetts Electric Company, Public Service Company of New Hampshire, and NSTAR Electric Company.

<sup>19</sup> This new budget review process with the New England State Agencies was developed and implemented by the Settlement Agreement. *See supra* P 3.

<sup>20</sup> Connecticut State Agencies Comments at 2, 4.

efforts to do so” as set forth in the Settlement Agreement.<sup>21</sup> The Connecticut State Agencies interpret section II.A of the Settlement Agreement to require that “the current employee complement perform all existing and proposed new projects.”<sup>22</sup> They also interpret section II.A to require a presumption against the increase in the number of employees established in the Settlement Agreement.<sup>23</sup>

14. The Connecticut State Agencies state that ISO-NE has not filled the additional 26 positions authorized in its 2013 administrative budget and that, under these circumstances, ISO-NE has not demonstrated, as required by the Settlement Agreement, that it cannot meet its 2014 needs with its current employee complement of 577.5 authorized FTEs and funding for 563 FTEs. They argue that ISO-NE’s proposed increase of eight additional positions, from 577.5 FTEs to 585.5 FTEs, and funding for five additional positions, from 563 FTEs to 568 FTEs, should be postponed until the next budget cycle, when the request may be evaluated after the existing levels of employees have been implemented.<sup>24</sup>

15. In its answer, ISO-NE states that the Connecticut State Agencies misinterpret the “greatest extent possible” provision in section II.A of the Settlement Agreement.<sup>25</sup> ISO-NE posits that, contrary to the Connecticut State Agencies’ characterizations,<sup>26</sup> the plain language of this provision does not prohibit the addition of new positions and it does not include a presumption against hiring new employees. ISO-NE asserts that the plain

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<sup>21</sup> *Id.* at 2-3. See October 15 Filing, Exhibit 10, Settlement Agreement, Section II.A.

<sup>22</sup> Connecticut State Agencies Comments at 2.

<sup>23</sup> *Id.* at 3-4.

<sup>24</sup> *Id.* at 4-6. The Connecticut State Agencies also note that, during the ISO-NE’s August 2013 briefing with the New England state agencies, ISO-NE management and state agency representatives discussed possible future tariff modifications to reduce the frequency in which certain studies are conducted, as a means to reallocate existing employee resources to address new mandates and concerns. *Id.* at 3, 5.

<sup>25</sup> ISO-NE Answer at 3. As noted above, section II.A of the Settlement Agreement requires that: “[i]n developing budgets and work plans going forward, ISO-NE will rely to the greatest extent possible on its current employee complement to perform all existing and proposed new projects” (emphasis added).

<sup>26</sup> See *supra* P 13.

language of this provision only requires ISO-NE to rely “to the greatest extent possible” on its existing employees. ISO-NE also maintains that it has always operated prudently, and that section II.A of the Settlement Agreement merely institutionalizes ISO-NE’s existing practices. Furthermore, ISO-NE states that its interpretation of this provision is supported by simple business logic because it would be imprudent for ISO-NE to allow a limited set of stakeholders to dictate its personnel needs, particularly given the continuing demands of stakeholders and regulators for additional services. Moreover, ISO-NE explains that the Connecticut State Agencies’ interpretation of this provision would violate the fundamental principles of corporate governance, as it is the sole responsibility of management and the Board of Directors to make determinations regarding the appropriate workforce.<sup>27</sup>

16. Contrary to the Connecticut State Agencies’ assertion that ISO-NE has not justified an increase in its staffing levels, ISO-NE states that it has complied with the requirement, in section II.A of the Settlement Agreement, to rely on its existing employees “to the greatest extent possible.” ISO-NE states that, in preparing the 2014 Administrative Budget, it looked at the workload to be completed, including on-going work from 2013, non-repetitive work from 2013 to 2014, and new work for 2014. It states that each section of ISO-NE then reviewed the current resources available to complete this work. In completing what it describes as the “bottom-up” budget, ISO-NE explains that it proposes to add positions only if needed for resource purposes or it is cost beneficial to the overall 2014 Administrative Budget. ISO-NE states that two of the eight positions were added as alternatives to higher-cost options of external resources, which means, according to ISO-NE, that the savings in professional fees more than offset the costs of the new positions. ISO-NE states that the other six positions are needed for resource purposes to perform the following functions: one full-time transmission planner to facilitate compliance with the Commission’s Order No. 1000; three full-time employees to manage new energy market offer software systems and processes; an employee to handle cyber security; and an employee to assist in the implementation of the new information technology asset management program.<sup>28</sup>

17. Although ISO-NE is requesting eight additional positions in the 2014 Administrative Budget, it states that this represents only a small portion of the additional work being taken on for 2014. In addition to taking on a portion of the work related to Order No. 1000 with existing staff, the ISO-NE states that it will also undertake a number of other market rule and operational changes with existing staff. This work includes Forward Capacity Market performance incentives, verification and determination of wind

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<sup>27</sup> ISO-NE Answer at 3.

<sup>28</sup> *Id.* at 4.

models for operational studies, integration of photovoltaic and other variable resources, fuel tracking, revisions to the regulation market pursuant to the Commission's Order No. 755,<sup>29</sup> divisional accounting, coordinated transaction scheduling with the New York ISO, and a number of changes in system operations to implement new standards issued by the North American Electric Reliability Corporation and Northeast Power Coordinating Council. ISO-NE states that all of this work, which amounts to \$3,700,000, or the full time equivalent of approximately 25 positions, will utilize existing resources. Rather than increasing the requested headcount by another 25 positions on top of the eight requested, ISO-NE states that it is able to cover this new work by redirecting the work of existing employees.<sup>30</sup>

18. In response to the Connecticut State Agencies contention that ISO-NE has not absorbed the additional staffing levels authorized by last year's budget, ISO-NE clarifies that it has hired 23 of the 26 positions budgeted for 2013, with the remaining three in active recruitment.<sup>31</sup> ISO-NE states that, while there would be advantages to slowing the pace of work and the hiring of new employees, the work for which the new employees are required, including the intra-day offer project, Order No. 1000, and heightened cyber security risks, among others, cannot wait.<sup>32</sup> Therefore, ISO-NE contends that there should be no delay in hiring the additional staff.<sup>33</sup>

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<sup>29</sup> *Frequency Regulation Compensation in the Organized Wholesale Power Markets*, Order No. 755, FERC Stats. & Regs. ¶ 31,324 (2011) (cross-referenced at 137 FERC ¶ 61,064 (2011)), *reh'g denied*, Order No. 755-A, 138 FERC ¶ 61,123 (2012).

<sup>30</sup> ISO-NE Answer at 5 (describing ISO-NE's 2014 work, including various market rule and operational changes, which will be completed by its existing employees).

<sup>31</sup> *Id.* at 6.

<sup>32</sup> *Id.*

<sup>33</sup> In response to the Connecticut State Agencies' general assertion that they have discussed with ISO-NE various tariff changes that would free up personnel to work on other matters, ISO-NE states that, to its knowledge, the only potential change raised during the budget process was the Connecticut State Agencies' suggestion that the Regional System Plan become a biennial, rather than an annual, exercise. As ISO-NE previously stated to the Connecticut State Agencies, such a change would require a stakeholder process and the Commission's approval, and the Connecticut State Agencies are welcome to initiate that process. *Id.* at 7. *See supra* note 24. ISO-NE states that, even if the stakeholder process began tomorrow to initiate this change, resources would not be freed up in time to take on the workload for which the new headcount is intended

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### **III. Discussion**

#### **A. Procedural Matters**

19. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2013), the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

20. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2013), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept the ISO-NE Answer because it has provided information that assisted us in our decision-making process.

#### **B. Commission Determination**

21. The Commission will accept ISO-NE's proposed 2014 Capital Budget, 2014 Administrative Budget and Tariff Revisions to become effective January 1, 2014, as requested. As discussed below, we find that ISO-NE has adequately supported the costs in its 2014 Capital Budget and 2014 Administrative Budget and associated Tariff Revisions as just and reasonable.

22. With respect to the proposed 2014 Capital Budget, we find that ISO-NE has adequately supported the inclusion and related costs of each project listed in the 2014 Capital Budget. The budget was developed by ISO-NE's Chief Executive Officer, the Chief Financial and Compliance Officer, members of ISO-NE Board of Directors, other officers, and certain key managers, and the costs, purpose and need for each project are discussed not only in the 2014 Capital Budget itself, but also in the supporting testimony of Mr. M. David Hameedy, Director of ISO-NE's Program Management Office.<sup>34</sup> In addition, we note that ISO-NE's 2014 Capital Budget was reviewed by both the NEPOOL Budget and Finance Subcommittee and NEPOOL Participants Committee. The 2014 Capital Budget was supported, with a favorable vote of 86.28 percent, by NEPOOL Participants Committee stakeholders and approved by ISO-NE's independent Board of Directors.<sup>35</sup>

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and there is no assurance that the newly-available personnel would have the skills to perform the emerging work. ISO-NE Answer at 7.

<sup>34</sup> October 15 Filing, Exhibit 6, Testimony of M. David Hameedy.

<sup>35</sup> October 15 Filing at 5-6. In taking this action, we note that no adverse comments were filed concerning the 2014 Capital Budget.

23. With respect to the proposed 2014 Administrative Budget, we find that ISO-NE has adequately supported the administrative costs included in its 2014 Revenue Requirement for the 2014 Administrative Budget. ISO-NE's filing details how ISO-NE developed the new proposed rates in the Tariff Revisions, allocating its administrative costs among its three core Schedules 1, 2, and 3 of the Tariff. Its filing also includes testimony from its Vice President and Chief Financial and Compliance Officer, and its Vice President of Human Resources, detailing the process for calculating, both generally and for 2014, ISO-NE's Core Operating Budget, depreciation and amortization of regulatory assets, and any true-ups. ISO-NE's 2014 Revenue Requirement underwent an extensive stakeholder process, including a new budget review process with the New England state agencies. In addition, we note that ISO-NE's 2014 Administrative Budget was reviewed by both the NEPOOL Budget and Finance Subcommittee and NEPOOL Participants Committee. The 2014 Administrative Budget also was supported, with a favorable vote of 86.28 percent, by NEPOOL Participants Committee stakeholders and approved by ISO-NE's independent Board of Directors.

24. We decline the Connecticut State Agencies' request that the Commission postpone consideration of ISO-NE's request to add eight additional FTE positions, including funding for five of the eight positions, until it can be evaluated in the next budget year. We find that ISO-NE has demonstrated that it has complied with the requirement, in section II.A of the Settlement Agreement, to rely to the greatest extent possible on its current employee complement to perform all existing and proposed new projects. Specifically, ISO-NE explained that, in preparing the 2014 Administrative Budget, it implemented a comprehensive and bottom-up approach in which it looked at the workload to be completed, including on-going work, non-repetitive work from 2013 to 2014, and new work for 2014, and then it reviewed the current resources available to complete this work. ISO-NE further explained that it proposed to add positions only if the position was needed for resource purposes or was cost beneficial to the overall budget. Consistent with the requirement in section II.A of the Settlement Agreement, we note that ISO-NE redirected the work of existing employees to cover a large portion of the additional 2014 work, which amounted to \$3.7 million, or the equivalent of 25 employees.<sup>36</sup> ISO-NE proposed eight additional FTE positions to cover the remaining

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<sup>36</sup> ISO-NE Answer at 5. ISO-NE states that it will use existing resources to undertake a number of market rule and operational changes, including: a portion of the Commission's Order No. 1000 work, Forward Capacity Market performance incentives, verification and determination of wind models for operational studies, integration of photovoltaic and other variable resources, fuel tracking, revisions to the regulation market pursuant to the Commission's Order No. 755, divisional accounting, coordinated transaction scheduling with the New York Independent System Operator, Inc., and a number of changes in system operations to implement new standards issued by the North

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portion of the 2014 work. ISO-NE explained that two of the eight positions paid for themselves through cost savings because ISO-NE would pay less for the internal resources as compared to higher-cost external resources.<sup>37</sup> ISO-NE stated that six additional employees are required to meet increased demands presented by the intra-day offer project, Order No. 1000, and heightened cyber security risks, among others.<sup>38</sup> Based on this evidence, we find that ISO-NE has adequately supported and justified these additional positions, and we agree with ISO-NE that the hiring of these additional personnel, who will perform important and time-sensitive work involving reliability and market efficiency matters, should not be delayed.

The Commission orders:

ISO-NE's proposed 2014 Capital Budget, 2014 Administrative Budget and related Tariff Revisions are hereby accepted for filing, effective January 1, 2014, as requested, as discussed in the body of this order.

By the Commission.

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Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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American Electric Reliability Corporation and Northeast Power Coordinating Council.  
*Id.*

<sup>37</sup> *Id.* at 4.

<sup>38</sup> *Id.* at 4, 6.