

146 FERC ¶ 61,190
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. and New England Power Pool Docket No. ER14-375-000
Participants Committee

ORDER ACCEPTING IN PART AND REJECTING IN PART COMPLIANCE FILING

(Issued March 20, 2014)

1. On November 12, 2013, ISO New England Inc. (ISO-NE), New England Power Pool (NEPOOL) Participants Committee, Participating Transmission Owners (PTOs) Administrative Committee, Cross-Sound Cable Company, LLC (CSC), and Schedule 20A Service Providers (SSPs) (together, Filing Parties) submitted proposed revisions to the ISO-NE Transmission, Markets and Services Tariff (Tariff) to comply with the requirements of Order No. 764.¹ In this order, we accept in part and reject in part the Filing Parties' proposed Tariff revisions to comply with Order No. 764 and direct an additional compliance filing.

I. Background

2. On June 22, 2012, the Commission issued Order No. 764, which requires each public utility transmission provider to: (1) offer intra-hourly transmission scheduling at 15-minute intervals; and (2) incorporate provisions into the *pro forma* Large Generator Interconnection Agreement (LGIA) requiring interconnection customers whose generating facilities are variable energy resources (VER)² to provide meteorological and

¹ *Integration of Variable Energy Resources*, Order No. 764, FERC Stats. & Regs. ¶ 31,331, *order on reh'g*, Order No. 764-A, 141 FERC ¶ 61,232 (2012), *order on reh'g*, Order No. 764-B, 144 FERC ¶ 61,222 (2013).

² Order No. 764 defined a VER as a device for the production of electricity that is characterized by an energy source that: (1) is renewable; (2) cannot be stored by the

(continued...)

forced outage data to the public utility transmission provider for the purpose of power production forecasting. The Commission also provided guidance regarding the development and evaluation of proposals related to recovering the costs of regulation reserves associated with VER integration.³

3. The reforms adopted in Order No. 764 were designed to remove barriers to the integration of VERs and to ensure that the rates, terms, and conditions for Commission-jurisdictional services provided by public utility transmission providers are just and reasonable and not unduly discriminatory or preferential.⁴ Upon noting the increasing number of VERs being brought online, the Commission found that reforms were needed to ensure that transmission customers are not exposed to excessive or unduly discriminatory charges, and that public utility transmission providers have the information needed to efficiently manage reserve-related costs.

4. On December 20, 2012, the Commission issued Order No. 764-A, largely affirming the reforms adopted in Order No. 764. Among other things, Order No. 764-A extended the deadline for compliance with Order No. 764 to November 12, 2013.⁵ On September 19, 2013, the Commission issued Order No. 764-B, which granted in part and denied in part the requests for clarification and denied the requests for rehearing of the Commission's determinations in Order No. 764-A.⁶

5. The Filing Parties' compliance filing to Order No. 764 is discussed by issue below.

II. Notice of Filing and Responsive Pleadings

6. Notice of the filing was published in the *Federal Register*, 78 Fed. Reg. 70,029 (2013), with interventions, comments, and protests due on or before December 3, 2013.

facility owner or operator; and (3) has variability that is beyond the control of the facility owner or operator. Order No. 764, FERC Stats. & Regs. ¶ 31,331 at P 210.

³ *Id.* P 4.

⁴ *Id.* P 1.

⁵ Order No. 764-A, 141 FERC ¶ 61,232 at P 8.

⁶ Order No. 764-B, 144 FERC ¶ 61,222.

The New York Independent System Operator, Inc. (NYISO) and Exelon Corporation filed timely motions to intervene. No comments or protests were 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 (2013), the timely-filed motions to intervene serve to make the entities that filed them parties to this proceeding.

B. Substantive Matters

1. Intra-Hour Scheduling

8. In Order No. 764, the Commission amended the *pro forma* Open Access Transmission Tariff (OATT) to provide all transmission customers the option of using more frequent transmission scheduling within each operating hour, at 15-minute intervals.⁷ The Commission found transmission customers' inability to adjust their transmission schedules within the hour to reflect changes in generation output can cause charges for Schedule 9 generator imbalance service to be unjust and unreasonable or unduly discriminatory. Thus, this reform was designed to allow transmission customers the flexibility to adjust their transmission schedules, in advance of real-time, to reflect the variability of output in generation, more accurate power production forecasts, and other changes in load profiles and system conditions.⁸ It was also designed to allow public utility transmission providers, over time, to use fewer reserves to maintain overall system balance.⁹ Finally, the Commission implemented this reform to ensure that charges for generator imbalance service under Schedule 9 of the *pro forma* OATT and for other ancillary services through which reserve-related costs are recovered are just and reasonable and are not unduly discriminatory.

9. In Order No. 764 in response to concerns regarding the cost of implementing intra-hour scheduling and possibly required changes in settlement procedures, the Commission stated that to the extent a public utility transmission provider believes that aligning the imbalance settlement with the intra-hour scheduling interval or implementing

⁷ Order No. 764, FERC Stats. & Regs. ¶ 31,331 at P 91.

⁸ *Id.* P 92.

⁹ *Id.* P 95.

sub-hourly dispatch will result in more efficient operations, provide appropriate price signals to customers, or address other potential issues, it may seek any authorizations necessary from the Commission to do so under section 205 of the FPA. Such a proposal could be submitted contemporaneously with the compliance filing in response to Order No. 764.¹⁰ In addition, in response to requests for regional variation in scheduling protocols, the Commission acknowledged that future market enhancements in addition to existing 30-minute scheduling practices and other tools might yield equivalent or greater benefits to transmission customers and public utility transmission providers when reducing the scheduling interval from 30 to 15 minutes and thus could be consistent with or superior to Order No. 764's intra-hour scheduling requirements. Thus, the Commission affirmed the ability of a public utility transmission provider to submit alternative proposals that are consistent with or superior to the intra-hour scheduling requirements. Specifically, the Commission required that a public utility transmission provider demonstrate on compliance how its proposal provides equivalent or greater opportunities for transmission customers to mitigate Schedule 9 generator imbalance charges, and for the public utility transmission provider to lower its reserve-related costs, compared to market practices already in place within the region.¹¹

a. Compliance Filing

10. ISO-NE states that it offers two services over the regional transmission system, Regional Network Service¹² and Through or Out Service,¹³ that differ from the transmission service described in the *pro forma* OATT. Specifically, ISO-NE states that these services do not require either a physical reservation or transmission scheduling

¹⁰ *Id.* P 105.

¹¹ *Id.* PP 106-107.

¹² Regional Network Service is defined in the Tariff as “the transmission service over the [Pool Transmission Facilities] described in Part II.B of the OATT, including such service which is used with respect to Network Resources or Regional Network Load that is not physically interconnected with the [Pool Transmission Facilities].” Tariff § I.2.

¹³ Through or Out Service is defined in the Tariff as “Point-To-Point Service over the [Pool Transmission Facilities] provided by the ISO with respect to a transaction that goes through the New England Control Area...or with respect to a transaction which originates at a point on the [Pool Transmission Facilities] and flows over the [Pool Transmission Facilities] prior to passing out of the New England Control Area....” Tariff § I.2.

before using Pool Transmission Facilities.¹⁴ Instead, ISO-NE automatically arranges transmission service, in accordance with a least-cost security constrained dispatch solution, in the amounts necessary to accommodate a customer's energy purchases or sales. ISO-NE asserts that, as a result, no imbalances exist between a generator's output and its use of the ISO-NE transmission system, and there are no transmission schedules from which a generator could have an imbalance or be assessed an imbalance charge. ISO-NE states that, although the Tariff includes a perfunctory schedule on generator imbalance charges, ISO-NE does not provide generator imbalance service and does not impose any generator imbalance charges.

11. ISO-NE states that while it imposes certain charges for deviations between day-ahead energy offers and real-time energy output, these are distinguishable from Schedule 9 generator imbalance charges because, unlike generator imbalance charges, charges for deviations between a day-ahead offer and real-time output are not related to charges for ancillary services provided as part of transmission service. Furthermore, ISO-NE states that VERs can avoid these deviation charges altogether because VERs are exempt from having to submit offers in the day-ahead market under current ISO-NE rules. ISO-NE states that if a VER owner does not submit and clear an offer to sell energy in the day-ahead market, it will be credited for all energy delivered in real-time at the real-time locational marginal price.

12. With respect to intertie transactions, ISO-NE asserts that the existing Tariff is consistent with or superior to Order No. 764's intra-hourly scheduling requirements because ISO-NE utilizes a purely financial, and not physical, approach to scheduling transactions over its external interfaces and, thus, does not impose Schedule 9 generator imbalance charges. ISO-NE explains that instead of a market participant making a physical reservation for transmission service, the participant submits an external transaction offer into the real-time energy market, and, if the offer is accepted, ISO-NE automatically arranges transmission service over Pool Transmission Facilities in the amounts necessary to accommodate the transaction. In addition, ISO-NE states that external transactions are treated as "pool-to-pool," meaning that the amount of energy that is scheduled to flow across an external interface is not tied to the output of any specific generating resource, VER or otherwise. Instead, external transactions are backed by ISO-NE's and NYISO's dispatch of pool-wide generation.

¹⁴ Pool Transmission Facilities are defined in the Tariff as "transmission facilities owned by Participating Transmission Owners over which the ISO shall exercise Operating Authority in accordance with the terms set forth in the Transmission Owner's Agreement, rated 69 kV or above required to allow energy from significant power sources to move freely on the New England Transmission System." Tariff § II.49.

13. With respect to reserve-related costs, ISO-NE states that Order No. 764's expectation that more frequent scheduling can reduce reserve requirements may hold true for physical-based transmission service under the *pro forma* OATT, but that expectation does not apply in ISO-NE's markets. ISO-NE states that Order No. 764 posits that intra-hourly scheduling will allow a VER using point-to-point transmission service to submit transmission reservations that more precisely track its output, and that this increased precision will allow the source balancing authority to hold fewer reserves to manage imbalances within the hour. However, ISO-NE asserts that it does not provide point-to-point transmission service and does not require generating resources to physically schedule transmission service. Therefore, ISO-NE states that instead of maintaining operating reserves to manage imbalances within the hour, ISO-NE maintains enough operating reserves to cover its first-largest contingency and half of its second-largest contingency on the New England power system in real-time. ISO-NE argues that because intra-hourly scheduling will not affect the size of the two largest contingencies, intra-hourly scheduling will neither reduce the amount of operating reserves ISO-NE must hold, nor the costs incurred to maintain these operating reserves.

14. ISO-NE also asserts that its current transmission construct is consistent with or superior to the requirement in Order No. 764 because ISO-NE does not impose on generators the cost of system operating reserves or regulation service. Rather, ISO-NE states that those costs are allocated to load obligations, per ISO-NE's market rules.

15. Additionally, ISO-NE argues that implementing 20-minute scheduling notification for external transactions would adversely impact ISO-NE's implementation of Coordinated Transaction Scheduling (CTS) on the NYISO interface.¹⁵ ISO-NE explains that implementation of CTS, scheduled to go into effect in 2015, will improve economic utilization of ISO-NE's primary and most actively-traded external interfaces with NYISO and ensure that ISO-NE's market-based approach continues to be consistent with or superior to the 15-minute scheduling requirement of Order No. 764. Pursuant to Tariff revisions accepted in the CTS Order, market participants will be able to submit and adjust external transaction offers in 15-minute increments up to 75 minutes before the start of the period for which they are offered.¹⁶ ISO-NE states that permitting market participants to submit or adjust these offers up to 20 minutes before the start of the period for which they are offered would interfere with CTS. ISO-NE explains that, in order for the interchange schedule to be economically optimized, data from the ISO-NE and NYISO markets must be evaluated by both ISOs' dispatch systems, a sequential process

¹⁵ *ISO New England Inc.*, 139 FERC ¶ 61,047 (2012) (CTS Order) (accepting Tariff amendments to create CTS, subject to a compliance filing).

¹⁶ Tariff § III.1.10.7.A(b).

that requires approximately 15 minutes for each system, or roughly 30 minutes total. ISO-NE is concerned that if external transaction offers could be made or modified only 20 minutes prior to execution, they may arrive after the CTS optimization process is underway and could prevent the systems from reaching a dispatch solution by the time of execution.

16. The SSPs¹⁷ and CSC¹⁸ (together, HVDC Owners) state that the approaches in Schedule 20A and Schedule 18, respectively, are consistent with or superior to Order No. 764's 15-minute scheduling requirement. The HVDC Owners state that no generators are interconnected to the Phase I/II HVDC transmission facility or the Cross Sound Cable (together, HVDC Lines), therefore a generator cannot utilize the line to schedule delivery to another control area or to a load within the transmission provider's control area. They state that generators can utilize the line to import or export system power by obtaining transmission service under Schedule 20A or Schedule 18, respectively, but that dispatch of their respective transmission facilities is conducted pursuant to the Tariff in the same manner as over ISO-NE's other external interfaces.¹⁹

17. The HVDC Owners conclude that the adoption of 15-minute scheduling for transmission service on their transmission facilities would not serve the objectives of Order No. 764, as neither the HVDC Owners nor ISO-NE provide for energy imbalance

¹⁷ SSPs state that they are transmission providers that hold the rights to the transmission capacity over the Phase I/II HVDC transmission facility that interconnects the transmission systems operated by ISO-NE and HQTE (the transmission division of Hydro-Québec). The SSPs may make those rights available on an open-access basis to transmission customers under Schedule 20A of the Tariff. The SSPs state that ISO-NE exercises operational control of the line. ISO-NE Transmittal at 32-33.

¹⁸ CSC states that it is a wholly-owned indirect subsidiary of Brookfield Asset Management, Inc. and is the sole owner of the Cross Sound Cable, a nominal 330 MW bi-directional HVDC transmission system that flows power between the ISO-NE and NYISO systems. CSC states that it provides merchant transmission facility service over the line pursuant to Schedule 18 of the Tariff and in coordination with NYISO. CSC states that ISO-NE maintains operational control of the line, and all of the Cross Sound Cable's firm transmission capacity is subscribed on a long-term basis to the Long Island Power Authority pursuant to a Commission-approved allocation process. CSC states that rights holders may release the rights on a monthly, weekly, daily, or hourly basis on a non-firm basis, and CSC then administers the release of these point-to-point transmission rights pursuant to Schedule 18. ISO-NE Transmittal at 34-35.

¹⁹ ISO-NE Transmittal at n.84, 89.

penalties in the Tariff. CSC states that its transmission service scheme results in no need to offer 15-minute scheduling for VERs and that VERs are treated the same as non-variable resources in accessing the non-firm point-to-point rights on the line.

18. The PTOs²⁰ state that they have not adopted 15-minute scheduling in Schedule 21 because the Commission stated in Order No. 764 that the implementation of 15-minute transmission scheduling will only apply to intertie transactions in organized wholesale energy markets and intertie transactions are not possible under Schedule 21 service. The PTOs state that the non-Pool Transmission Facilities on which they offer service are radial in nature for service within the New England Control Area and thus do not provide transmission across external ties to another control area.

b. Commission Determination

19. We find that ISO-NE's existing construct for transmission scheduling of intertie transactions over Pool Transmission Facilities is consistent with the intra-hourly scheduling requirements of Order No. 764. The purpose of Order No. 764's intra-hour scheduling requirement is to provide VERs the ability to avoid unjust and unreasonable or unduly discriminatory imbalance charges and to allow public utility transmission providers to use fewer reserves to maintain overall system balance.²¹ For Regional Transmission Organization and Independent System Operator regions, the Commission explained in Order No. 764 that "the implementation of 15-minute transmission scheduling will only apply to intertie transactions."²² Under the current Tariff, ISO-NE treats intertie transactions as pool-backed financial transactions that do not require physical transmission reservations and do not tie any transaction to the output of any single generator. Under this purely financial approach to intertie transactions, VERs are not exposed to imbalance charges for such transactions. Further, as ISO-NE explains, because intra-hour scheduling of VERs' intertie transactions would not reduce the size of the system contingencies for which ISO-NE maintains its operating reserves, intra-hour scheduling would not reduce the costs associated with maintaining those reserves. Thus, we conclude that ISO-NE's current Tariff, as it pertains to the Pool Transmission Facilities, is consistent with Order No. 764's intra-hour scheduling requirements. We therefore accept this aspect of the Filing Parties' compliance filing.

²⁰ The PTOs state that that they provide Local Network Service and Local Point-to-Point Service over non-Pool Transmission Facilities to transmission customers under Schedule 21 of the Tariff, but that ISO-NE has operational control over all such facilities.

²¹ See Order No. 764, FERC Stats. & Regs. ¶ 31,331 at P 22.

²² *Id.* P 113.

20. We also find that the existing construct for transmission scheduling of intertie transactions over the HVDC Lines is consistent with the intra-hourly scheduling requirements of Order No. 764. While a VER must have an advance physical reservation under Schedule 20A²³ or Schedule 18²⁴ as a prerequisite to executing an intertie transaction over the HVDC Lines, the intertie transaction itself is no different from an intertie transaction over Pool Transmission Facilities, i.e., it is a purely financial transaction.²⁵ As a result, VERs do not face generator imbalance charges as a result of their intertie transactions on the HVDC Lines. Accordingly, we accept the Filing Parties' compliance filing with respect to intra-hour scheduling over the HVDC Lines.

21. Lastly, we find that the transmission service the PTOs offer under Schedule 21 of the Tariff is also consistent with Order No. 764's intra-hour scheduling requirements. As the Filing Parties explain, under Schedule 21 the PTOs offer only Local Network Service and Local Point-to-Point Service over non-Pool Transmission Facilities, and intertie transactions are not possible under these services.²⁶ Therefore, we agree with the Filing Parties that intra-hour scheduling under Schedule 21 is not necessary to meet the objectives of Order No. 764, and we accept the Filing Parties' compliance filing with respect to PTOs' intra-hour scheduling under Schedule 21.

2. Data Reporting to Support Power Production Forecasting

22. In Order No. 764, the Commission amended the *pro forma* LGIA to require new interconnection customers, whose generating facilities are VERs, to provide meteorological and forced outage data to the public utility transmission provider with which the customer is interconnected.²⁷ Such data would only be required where it is necessary for that public utility transmission provider to develop and deploy power production forecasting. This reform was designed to facilitate public utility transmission providers' use of power production forecasts, which the Commission found can provide public utility transmission providers with advanced knowledge of system conditions needed to manage the variability of VER generation through the unit commitment and dispatch process, rather than through the deployment of more costly reserve service, such

²³ Tariff § II Schedule 20A, 2.1(f).

²⁴ Tariff § II Schedule 18 at 3.1(c), 4.1(c).

²⁵ Tariff § II Schedule 20A, 2.1(f); Tariff § II Schedule 18, 3.1(f).

²⁶ See Tariff § II Schedule 21 Common at I.1(b), I.2(b), II.1.

²⁷ Order No. 764, FERC Stats. & Regs. ¶ 31,331 at P 3.

as regulation reserves. In requiring this change to the *pro forma* LGIA, the Commission specified that reporting requirements for meteorological and forced outage data would be set forth in Appendix C, Interconnection details of an LGIA, as they may change from time to time.²⁸ The Commission declined to modify existing LGIAs or to require changes to the *pro forma* OATT,²⁹ upon finding that such changes would, in effect, impose the data reporting requirements on existing interconnection customers, including small generator interconnection customers, retroactively.³⁰

23. In Order No. 764, the Commission stated that the flexibility of providing meteorological and forced outage data requirements in business practices or market rules is not a superior alternative in implementing the reforms of Order No. 764.³¹ Rather, the Commission addressed public utility transmission providers' need for flexibility by requiring the reporting requirement to be set forth in Appendix C of the LGIA. Appreciating that public utility transmission providers in some regions have already implemented meteorological or forced outage data requirements in their business practices and market rules, the Commission allowed public utility transmission providers to demonstrate on compliance how continued use of such practices is consistent with or superior to the requirements of Order No. 764.³²

a. Compliance Filing

24. ISO-NE proposes to revise the *pro forma* LGIA contained in Schedule 22 of the Tariff to add a new Article 8.4, setting forth the reporting requirement. ISO-NE states that the language adopted in the new article closely tracks that included in Order No. 764, with a few deviations that it argues meet the independent entity variation standard set forth in Order No. 2003.

25. ISO-NE proposes to use alternative terminology in its Article 8.4 for the terms "Variable Energy Resource" and "Transmission Provider." ISO-NE proposes to continue

²⁸ *Id.* P 193.

²⁹ *Id.* P 195.

³⁰ *Id.* P 196.

³¹ *Id.* P 194.

³² *Id.*

using the terms “Intermittent Power Resource”³³ and “System Operator,”³⁴ respectively, to keep the terminology consistent throughout the LGIA and asserts that the terminology is consistent with the independent entity variation standard.

26. ISO-NE also proposes a deviation from the *pro forma* Article 8.4 to cross-reference to the ISO-NE Operating Documents (Operating Documents) for the specific meteorological and forced outage data that VERs are required to report to ISO-NE. ISO-NE states that it has already developed detailed reporting requirements through its stakeholder process and that the information meets the substantive requirements of Order No. 764.³⁵ ISO-NE states that required meteorological data are specified in the Wind Plant Operators Guide within ISO-NE’s Operating Procedure No. 14, and the required forced outage data are specified in the same Wind Plant Operators Guide as well as in Operating Procedure No. 5. ISO-NE states that it does not currently conduct power production forecasting for solar resources and therefore does not require solar resources to provide meteorological and forced outage data.

27. ISO-NE states that its LGIA already contains numerous cross-references to the Operating Documents, including for both Article 8 (Communications) and Article 9 (Operations), and that maintaining this approach is consistent with the independent entity variation standard. ISO-NE also states that it cannot unilaterally change the reporting requirements in its Operating Documents, but must instead vet proposed changes through the stakeholder process pursuant to the NEPOOL Participants Agreement and the Transmission Owners Agreement. ISO-NE explains that while the NEPOOL Participants Agreement and the Transmission Owners Agreement each provide a limited exception that allows ISO-NE to unilaterally propose modifications to its Operating Documents,

³³ Intermittent Power Resources are defined as “wind, solar, run of river hydro and other renewable resources that do not have control over their net power output.” Tariff § III.13.1.2.2.2. By comparison, the *pro forma* OATT defines “Variable Energy Resource” as a device for the production of electricity that is characterized by an energy source that: (1) is renewable; (2) cannot be stored by the facility owner or operator; and (3) has variability that is beyond the control of the facility owner or operator. Order No. 764, FERC Stats. & Regs. ¶ 31,331 at P 210.

³⁴ System Operator is defined as “ISO New England Inc. or a successor organization.” Tariff § I.2.

³⁵ ISO-NE states that the information wind resources are required to report includes the minimum information required by Order No. 764: temperature, wind speed, wind direction, and atmospheric pressure. ISO-NE Transmittal at 24.

ISO-NE states that such circumstances are not likely to arise for interconnection customer data submission requirements.³⁶

28. Noting that the Wind Operators Guide is 26 pages long, ISO-NE further argues that it would be administratively cumbersome to include the specific reporting requirements in Appendix C of the LGIA due to their “length, level of detail, and their integrated nature with other important types of data to be reported.”³⁷ Lastly, ISO-NE states that its proposed cross-referencing was unanimously approved in the stakeholder process.

b. Commission Determination

29. We accept in part and reject in part ISO-NE’s proposal to comply with the data reporting requirements of Order No. 764.

30. We accept ISO-NE’s proposal to use alternative terminology in Article 8.4 of its LGIA for the terms “Variable Energy Resource” and “Transmission Provider” because the use of ISO-NE’s alternative terms, “Intermittent Power Resource” and “System Operator,” meets the independent entity variation standard. First, we find that the Tariff definition of “Intermittent Power Resource” is consistent with the definition of “Variable Energy Resource” in the *pro forma* OATT because “Intermittent Power Resources” encompass all “Variable Energy Resources.” Second, we agree that ISO-NE’s proposal to use “System Operator” is appropriate in this context because ISO-NE is the entity that conducts power production forecasting in the New England Control Area. The existing

³⁶ ISO-NE states that the NEPOOL Participants Agreement allows for an exception when there are “exigent circumstances,” which require ISO-NE to determine in good faith (1) that circumstances exist that would substantially and adversely affect system reliability, security, or the competitiveness or efficiency of the New England markets; and (2) that the normal stakeholder process would not allow for timely redress. ISO-NE Transmittal at 27-28 (citing ISO-NE, ISO New England Inc. Agreements and Contracts, § 11, § 11 - Changes (0.0.0), § 11.1). Similarly, ISO-NE states that the Transmission Owners Agreement provides for an exception “when the ISO does not have sufficient time to undertake such coordination or consultation due to emergent and unanticipated circumstances.” ISO-NE Transmittal at 27 (citing ISO-NE, ISO New England Inc. Agreements and Contracts, Transmission Operating Agreement (3.0.0), § 3.02(d)).

³⁷ ISO-NE Transmittal at 28.

Tariff definition of “Transmission Provider” includes CSC, the SSPs, and the PTOs, in addition to ISO-NE.³⁸

31. However, we reject ISO-NE’s proposal to place the details of the meteorological and forced outage data reporting requirements in its Operating Documents, rather than in Appendix C of the LGIA. In Order No. 764-A, the Commission explained that “it would be unfair to allow public utility transmission providers to unilaterally impose unexpected costs associated with data reporting provisions on existing interconnection customers without being required to make at least some showing that specific data sought by the transmission provider (and associated costs) are just and reasonable.”³⁹

32. While ISO-NE argues that it must seek stakeholder input and hold a stakeholder vote prior to changing the Operating Documents (except in “exigent” or “emergent and unanticipated” circumstances),⁴⁰ the stakeholder process is purely advisory; ISO-NE has discretion in how it weighs stakeholder input and in deciding whether and how to change the Operating Documents.⁴¹ Thus, while we are satisfied that the specific VERs data reporting requirements in ISO-NE’s Operating Documents currently satisfy the substantive reporting requirements of Order No. 764, ISO-NE may unilaterally change those reporting requirements without having to make at least some showing that the change is just and reasonable. For this reason, we find that ISO-NE’s proposal to cross-reference its Operating Documents does not satisfy the independent entity variation standard. We direct ISO-NE to submit an additional compliance filing within 30 days of the issuance of this order to place the details of VERs’ meteorological and forced outage data reporting requirements in Appendix C of the LGIA in the Tariff.

³⁸ Transmission Provider is defined as “the ISO for Regional Network Service and Through or Out Service as provided under Section II.B and II.C of the OATT; Cross-Sound Cable, LLC for Merchant Transmission Service as provided under Schedule 18 of the OATT; the Schedule 20A Service Providers for Phase I/II HVDC-TF Service as provided under Schedule 20A of the OATT; and the Participating Transmission Owners for Local Service as provided under Schedule 21 of the OATT.” Tariff § I.2.

³⁹ Order No. 764-A, 141 FERC ¶ 61,232 at P 38.

⁴⁰ ISO-NE Transmittal at 27-28.

⁴¹ ISO-NE, ISO New England Inc. Agreements and Contracts, § 11, § 11 - Changes (0.0.0), § 11.1; ISO-NE, ISO New England Inc. Agreements and Contracts, Transmission Operating Agreement (3.0.0), § 3.02(d).

The Commission orders:

(A) ISO-NE's proposed Tariff revisions are hereby accepted in part and rejected in part, with the accepted provisions effective November 13, 2013, as requested, 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)

Kimberly D. Bose,
Secretary.