

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Competitive Transmission Development)	Docket No. AD16-18-000
Technical Conference)	
)	
)	

**POST-TECHNICAL CONFERENCE COMMENTS OF THE
NEW ENGLAND STATES COMMITTEE ON ELECTRICITY**

The New England States Committee on Electricity (“NESCOE”) appreciates the opportunity to provide these comments in response to the Federal Energy Regulatory Commission’s (“FERC” or “Commission”) August 3, 2016 Notice Inviting Post-Technical Conference Comments related to competitive transmission development (the “Notice”).¹ NESCOE submitted comments in this docket in advance of the June 27-28, 2016 technical conference (the “Technical Conference”) and participated on Panel 5 of the conference.² The Technical Conference covered a wide range of issues and provided a valuable forum to enhance understandings of Order 1000 implementation across regions. NESCOE greatly appreciates the opportunity to have participated.

Given NESCOE’s participation and earlier comments, the response here is both limited and brief, focusing on the Commission’s follow-up question regarding transmission projects exempt from competition. As explained below, NESCOE respectfully suggests that where New England is concerned, depending on the outcome of ongoing stakeholder discussions, further Commission action may be warranted regarding how time-sensitive projects fit within the Order 1000 construct, including a need to incorporate cost discipline into this class of projects whether

¹ The Commission extended the comment deadline pursuant to an August 15, 2016 notice of extension of time.

² NESCOE’s comments are available at http://nescoe.com/wp-content/uploads/2016/05/AD16-18_o1000_5-31-16.pdf and its statement is available at http://nescoe.com/wp-content/uploads/2016/07/CompTxStmt_AD16-18_28Jun2016.pdf.

through competitive dynamics or otherwise. In circumstances where competitive processes are not practical or efficient, the Commission could consider other means to achieve cost discipline for New England consumers, such as for example, eliminating a presumption of prudence for projects that fall outside certain bands.

I. COMMENTS

On May 31, 2016, NESCOE submitted comments to the Commission in this docket underscoring NESCOE's support for meaningful competition in transmission development and the integration of cost containment features.³ NESCOE also expressed a desire to hear how other regions are addressing time-sensitive projects (*i.e.*, those needed within three years or less).⁴ NESCOE stated that it was interested in learning about “how other regions are integrating competitive processes with the need for some reliability projects to be completed in the near term” and, in addition, “how projects that are sole sourced due to time-sensitive needs can be designed to control costs and encourage discipline[.]”⁵ At the same time, NESCOE acknowledged the complexities of competitive processes and the costs required to execute them and stated that it shared the Commission's interest in ensuring reliability.⁶

Early experiences in New England under Order 1000 have highlighted a number of issues regarding the selection of sole-sourced, time-sensitive projects to meet the region's reliability needs. These issues include—in contrast to projects selected pursuant to a competitive process—the absence of cost discipline mechanisms. To be sure, as NESCOE has observed in prior comments, there are a range of considerations and region-specific facts to balance in determining

³ *See generally* Comments of the New England States Committee on Electricity, Docket No. AD16-18-000 (filed May 31, 2016) (“NESCOE Comments”).

⁴ *Id.* at 9.

⁵ *Id.*

⁶ *Id.*

how to solve for reliability needs in a way that is cost-effective and efficient. Today, with the benefit of information about the practical effect of ISO-NE's approach to near-term needs, New England should be afforded an opportunity to reconsider these issues and develop, as appropriate, tariff and conforming changes to other governing documents to achieve the proper balance in New England. To the extent the Commission provides general guidance on procedures around time sensitive projects at this time, the region could seek to conform proposed tariff modifications accordingly.

As requested in the Notice, NESCOE's response below is organized consistent with the numbering in the Notice.

Questions on Panel Five: Regional Transmission Planning and Other Transmission Development Issues

...

2. Has the introduction of competition into the regional transmission planning processes led public utility transmission providers to focus more on developing local transmission facilities or other transmission facilities not subject to competitive transmission development processes?

NESCOE explained in its pre-technical conference comments that there is a potential in New England for all future reliability needs to be met solely through time-sensitive projects that are exempt from competition.⁷ Under the process ISO New England Inc. ("ISO-NE") has implemented, ISO-NE will first solve for the time-sensitive need before determining whether there are remaining system needs.⁸ Based on the results of past needs assessments, every new or re-run assessment will likely reveal a time-sensitive need, precluding the opportunity for

⁷ *Id.* at 5-6, 9.

⁸ *See id.* at 6, 9.

competition to meet that need. The practical effect of ISO-NE's approach is a process that closely resembles a continuation of the pre-Order 1000 *status quo* and, critically, limits for New England consumers the potential for cost control mechanisms in the development of transmission facilities.

For example, since Order 1000 became effective in New England, all transmission needs for reliability are being developed through sole-sourced projects exempt from competition. NESCOE is not aware of any cost control measures proposed or adopted in connection with these projects. ISO-NE has announced its expectation that it will issue a request for proposals this year for a relatively modest potential market efficiency project,⁹ but has not made any similar announcement regarding projects needed for reliability.

ISO-NE has provided a detailed explanation for its view that “a meaningful [Request for Proposals] cannot be immediately conducted for the greater than three-year projects without knowing what the less than three-year solutions are”¹⁰ NESCOE appreciates that this is a complex issue and, as stated in pre-technical conference comments, NESCOE is cognizant of both the costs associated with running a competitive procurement and a potential need for

⁹ See ISO New England, Review of FERC Order 1000 Technical Conference: FERC Order 1000 Planning in New England, NEPOOL Reliability and Transmission Committee (RC/TC) Summer Meeting, Aug. 10, at 8, available at www.iso-ne.com/committees/transmission/transmission-committee/?load.more=1.

¹⁰ ISO New England, ISO Responses to Stakeholder Comments on Draft Maine 2023 Needs Addendum Assessment Report: New Hampshire Transmission, April 2016, at 3-4, available at www.iso-ne.com/static-assets/documents/2016/04/response-to-nht-comments_maine-2023-needs-addendum-report_20160428.pdf. ISO-NE elaborated in the Report that “[u]ntil a solution to the three year need is developed, it is not clear if there will still be greater than three year needs that remain as a result of the immediately required infrastructure additions . . . [or] if there will be new system dispatch options made possible by new near-term infrastructure that will eliminate the need for additional transmission build out.” *Id.* ISO-NE further stated that “prior to the design of the three-year-and-less solutions, the applicants would be challenged to respond to an RFP because they will not know what the system topology will be” and, in addition, that ISO-NE “would not be able to perform a review of the proposed solutions until the base system topology is solidified.” *Id.* at 4.

expediency for some near-term projects.¹¹ Indeed, NESCOE supported the three-year exemption from competition for immediate need reliability projects. However, such support recognized, as did the Commission, that an exemption from competition would happen in only “limited circumstances.”¹² Consistent with this view, NESCOE opposed efforts to impose a broader exemption that would have maintained the right-of-first refusal for incumbent transmission owners or, under an alternative proposal, would have exempted all reliability projects needed within a five-year time frame.¹³ The Commission appropriately rejected both of those proposed approaches.

Following NESCOE’s comments in this docket regarding New England’s reliance on sole-sourced projects to meet reliability needs, a market participant raised this as a topic of discussion in the New England Power Pool (“NEPOOL”) stakeholder process.¹⁴ ISO-NE and market participants subsequently committed to further near-term discussion of this issue, and NESCOE intends to participate actively in that process. Among the related topics that must be considered is how to integrate cost discipline where projects are sole-sourced due to a verified immediate need. As NESCOE stated in its pre-Technical Conference comments, one approach could include the development of parameters for time-sensitive projects, such as, for example, eliminating a presumption of prudence for project costs that fall outside certain bands.

¹¹ NESCOE Comments at 9.

¹² *ISO New England Inc.*, 143 FERC ¶ 61,150, at P 236 (2013); *see, e.g.*, Motion to Intervene and Protest of the New England States Committee on Electricity, Docket No. ER13-193-000 and ER13-196-000 (filed Dec. 10, 2012) (“December 2012 Filing”), at 56 (requesting that the Commission identify the appropriate exception period that would “properly safeguard reliability [while] creat[ing] appropriate competitive opportunities that could benefit ratepayers.”).

¹³ December 2012 Filing at 45-56.

¹⁴ *See* NEPOOL Reliability and Transmission Committee (RC/TC) Summer Meeting Agenda, Item 16, Delivering Benefits of Competitive Transmission to New England Ratepayers While Balancing System Reliability, Aug. 9-10, 2016, available at www.iso-ne.com/committees/transmission/transmission-committee/?document-type=Meeting%20Agendas.

The Commission should closely monitor the discussion at NEPOOL to determine whether, depending on the outcome, further action is prudent to ensure that (i) the appropriate balance has been struck between solving for time-sensitive reliability needs and achieving consumer benefits through competition, and (ii) there are opportunities for cost discipline to the greatest extent practicable, whether a project is exempt from competition or not. More immediately, should the Commission provide guidance following its consideration of the Technical Conference and related comments, the Commission's general expression of interest in issues related to time-sensitive projects would help facilitate regional dialogue in New England.

II. CONCLUSION

For the reasons stated herein, NESCOE respectfully requests that the Commission consider the above comments in its review of competitive transmission development under Order 1000.

Respectfully submitted,

/s/ Jason Marshall

Jason Marshall
General Counsel
New England States Committee
on Electricity
655 Longmeadow Street
Longmeadow, MA 01106
Tel: (617) 913-0342
jasonmarshall@nescoe.com

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