

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

ISO New England Inc.,)	
PJM Interconnection, L.L.C.,)	Docket No. ER13-1957-000
New York Independent System Operator, Inc.)	

ISO New England Inc.,)	
New England Power Pool Participants)	Docket No. ER13-1960-000
Committee)	

(not consolidated)

**MOTION TO INTERVENE AND COMMENTS OF
THE NEW ENGLAND STATES COMMITTEE ON ELECTRICITY**

Pursuant to Rules 212 and 214 of the Federal Energy Regulatory Commission’s (“Commission” or “FERC”) Rules of Practice and Procedure, 18 C.F.R. §§ 385.212 and 385.214, the Commission’s July 12, 2013 Combined Notice of Filings #1, and the Commission’s August 7, 2013 Notice Granting an Extension of Time to Submit Comments on Interregional Compliance Filings, the New England States Committee on Electricity (“NESCOE”) hereby files this Motion to Intervene and Comments in the above-captioned proceedings.

I. SERVICE AND COMMUNICATIONS

The persons to whom correspondence, pleadings, and other papers in regard to these proceedings should be addressed and whose names are to be placed on the Commission’s official service list are designated as follows:

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

Phyllis G. Kimmel
Miller, Balis & O'Neil, P.C.
1015 15th Street, NW
Twelfth Floor
Washington, DC 20005
Tel: (202) 296-2960
Email: pkimmel@mbolaw.com

II. MOTION TO INTERVENE

NESCOE is the Regional State Committee for New England. It is governed by a board of managers appointed by the Governors of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont and is funded through a regional tariff that ISO-NE New England Inc. ("ISO-NE") administers.¹ NESCOE's mission is to represent the interests of the citizens of the New England region by advancing policies that will provide electricity at the lowest reasonable cost over the long-term, consistent with maintaining reliable service and environmental quality.

On July 11, 2013, ISO-NE submitted in Docket No. ER13-1957-000 on behalf of itself, New York Independent System Operator, Inc., and PJM Interconnection, L.L.C., an Amended and Restated Northeastern ISO/RTO Interregional Planning Coordination Protocol ("Amended Protocol"). ISO-NE states that this filing was made in furtherance of these three entities' compliance with the interregional coordination requirements of Order Nos. 1000 and 1000-A.²

Also on July 11, 2013, ISO-NE and the Participating Transmission Owners Administrative Committee ("PTO AC"), joined by the New England Power Pool ("NEPOOL") Participants Committee (collectively, the "Filing Parties"), jointly submitted in Docket No.

¹ *ISO New England Inc.*, 121 FERC ¶ 61,105 (2007).

² *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323 (2011) ("Order No. 1000"), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132 ("Order No. 1000-A"), *order on reh'g*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), *petition for review pending*, No. 12-1232 (D.C. Cir.).

ER13-1960-000 proposed revisions to Sections I and II of the ISO-NE Transmission, Markets and Services Tariff (“ISO-NE Tariff”), including changes to ISO-NE’s Open Access Transmission Tariff (“ISO-NE OATT”) (Section II of the ISO-NE Tariff). The Filing Parties state that these changes are intended to comply with the interregional coordination and cost allocation requirements of Order Nos. 1000 and 1000-A, and that ISO-NE’s compliance with these requirements is accomplished through the combination of changes to the ISO-NE Tariff submitted in Docket No. ER13-1960 and the Amended Protocol filed in Docket No. ER13-1957.

The instant proceedings have system reliability, consumer cost and environmental implications. Accordingly, NESCOE has a direct, immediate, and substantial interest in the outcome of these proceedings, which will not be adequately represented by any other party. In addition, NESCOE’s participation in these proceedings as the representative of the New England Governors will serve the public interest. NESCOE respectfully requests leave to intervene in these proceedings.

III. COMMENTS

NESCOE generally supports the proposed changes to the ISO-NE Tariff as well as the Amended Protocol. As the Commission is aware from NESCOE’s prior pleadings addressing Order No. 1000 compliance,³ it is very important to NESCOE that any changes made to New England’s planning, coordination and cost allocation processes – whether regional or interregional – reflect the requirement in Order No. 1000 that regional processes and rights be respected.⁴ Consistent with this requirement in Order No. 1000, the proposed changes to the

³ See, e.g., “Request for Clarification and Rehearing of the New England States Committee on Electricity and the Five New England States,” filed in Docket Nos. ER13-193-001, ER13-196-001 (June 17, 2013) (“NESCOE Rehearing Request”).

⁴ See e.g., Order No. 1000 at P 61 (“the Commission recognizes that each transmission planning region has unique characteristics and, therefore, this Final Rule accords transmission planning regions significant flexibility to tailor regional transmission planning and cost allocation processes to accommodate these regional

ISO-NE Tariff and to the Amended Protocol both appear to promote the integrity of regional processes and rights. For example, the Amended Protocol provides for the coordination and performance of studies, with input from the Interregional Planning Stakeholder Advisory Committee, to facilitate the effective consideration by the respective regional stakeholder processes of an Interregional Transmission Project proposed in the planning process of more than one region.⁵

Also critical is ensuring that the protections in Order No. 1000 against involuntary cost allocation are reflected in the compliance filings in these dockets. According to Interregional Cost Allocation Principle 2, “[a] transmission planning region that receives no benefit from an interregional transmission facility that is located in that region, either at present or in a likely future scenario, must not be involuntarily allocated any of the costs of that transmission facility;” and according to Interregional Cost Allocation Principle 4, in relevant part, “[c]osts cannot be assigned involuntarily . . . to a transmission planning region in which that transmission facility is not located.”

The compliance filings in these proceedings appropriately ensure that, as a precondition for interregional cost allocation, projects must first be approved and selected in all of the relevant regional transmission plans. The Filing Parties explain that this is reflected in Section 7.4 of the Amended Protocol, which provides that only if “the proposed Interregional Transmission Project is approved in each region by including it in the respective regional transmission plans in accordance with procedures for each Party’s reliability, economic and/or public policy transmission planning process” will the costs of the Interregional Transmission Project be

differences.”); *id.* at P 604 (“we recognize that regional differences may warrant distinctions in cost allocation methods among transmission planning regions.”).

⁵ See Docket No. ER13-1960, Transmittal Letter at 12, Amended Protocol § 7.3.

allocated as described in Section 9 of the Amended Protocol.⁶ Likewise, Section 9 of the Amended Protocol has appropriately been amended “to act as a signpost for interregional cost allocation” and cross-references the respective tariffs and agreements developed in the three regions to address cost allocation for interregional transmission projects.⁷

These cost allocation principles are also reflected in the proposed changes to the ISO-NE OATT. Under Section I.1.(c) of Schedule 15 of the ISO-NE OATT, a facility is eligible for interregional cost allocation only if it is included in each region’s regional transmission plan. Schedule 15 of the ISO-NE OATT does not allocate the costs of an Interregional Transmission Project “if it has not been selected in the region’s transmission plan or if there are no facilities in the region.”⁸

Consistent with the intent of Order No. 1000, the interregional coordination procedures contained in the Amended Protocol and in the ISO-NE Tariff have the ability to provide potential benefits to New England consumers in the form of cost savings where interregional solutions can displace more costly regional solutions. For example, Section 3.6(a) of Attachment K of the ISO-NE OATT provides that “[a]n Interregional Transmission Project developed pursuant to Section 6.3 of this Attachment K may displace a regional Reliability Transmission Upgrade or Market Efficiency Transmission Upgrade on the [Regional System Plan] Project List where the ISO has determined that the Interregional Transmission Project is a more efficient and/or cost-effective solution.” This concept is also reflected in Section 7.1 of the Amended Protocol, which provides for proactive review of regional needs and solutions to determine whether Interregional Transmission Projects might be able to “meet the regional needs of more than one region . . .

⁶ Docket No. ER13-1960, Transmittal Letter at 21-22, Amended Protocol § 7.4.

⁷ Docket No. ER13-1960, Transmittal Letter at 22.

⁸ *Id.* at 29.

more efficiently and cost-effectively than separate regional transmission projects,” as well as in Section 7.4 of the Amended Protocol, which, as noted above, provides that existing regional transmission projects will be displaced if a proposed Interregional Transmission Project is approved in each region.

IV. RESERVATION OF RIGHTS

Although NESCOE generally supports the compliance filings made in these dockets, NESCOE notes that the compliance filings, and in particular the tariff modifications, do not reflect changes proposed by ISO-NE and the PTO AC in their Order No. 1000 regional compliance filings made in Docket Nos. ER13-193-000 and ER13-196-000 on October 25, 2012 (“Regional Compliance Filings”). The Filing Parties explain that the modifications to Attachment K and Schedule 12 of the ISO-NE Tariff “are shown as revisions to the respective provisions that are currently in effect,” pointing out that the modifications made in the Regional Compliance Filings are not yet in effect.⁹ Indeed, neither the substance of further modifications to the Regional Compliance Filings nor the proposed effective date of the tariff revisions¹⁰ will specifically be known until ISO-NE and PTO AC make a further compliance filing, due on November 15, 2013.¹¹

These tariff provisions, to be modified pursuant to the Commission’s Regional Compliance Order, address, among other things, the public policy transmission planning process and the cost allocation method for public policy projects. These are significant changes to ISO-

⁹ *Id.* at 10.

¹⁰ In its Order on Compliance Filings issued on May 17, 2013, *ISO New England Inc.*, 143 FERC ¶ 61,150, at P 26 (2013) (“Regional Compliance Order”), the Commission directed the Filing Parties to submit, as part of its further compliance filing, a request for “an appropriate effective date to coincide with the beginning of an ISO-NE planning cycle. . . . The Commission anticipates that this appropriate effective date will coincide with the beginning of the next transmission planning cycle following the issuance of this order.”

¹¹ *ISO New England Inc.*, Docket Nos. ER13-193-000, ER13-196-000, Notice of Extension of Time (July 22, 2013).

NE's regional planning process and how projects are funded. As the Filing Parties recognize, the interregional coordination process builds upon the regional planning processes: "the public policy planning process must be addressed in the interregional coordination and cost allocation compliance filing."¹² However, depending on the outcome of rehearing requests¹³ and a Commission order on the upcoming November 15 compliance filing, there may be more than just a "temporal mismatch" of references to "Public Policy Transmission Upgrades," *et al.*¹⁴ The mismatch could be more substantive. Significant changes were already proposed to the ISO-NE Tariff with the Regional Compliance Filings, and more are expected as ISO-NE and the PTO AC endeavor to address the directives of the Regional Compliance Order. Indeed, further compliance efforts are already underway and are the subject of stakeholder discussion over the coming months.

For these reasons, while NESCOE expresses general support for these interregional compliance filings, there are factors beyond – but related to – these proceedings, the outcome of which may affect NESCOE's final view of the changes proposed in the compliance filings here. Accordingly, NESCOE reserves the right to further comment on the compliance filings in these dockets should the substance of the changes therein change as a result of relevant and substantive modifications to the regional transmission planning and cost allocation processes, whether as a result of a Commission order responding to the upcoming compliance filing or of a Commission order or court ruling on the underlying issues addressed in the Regional Compliance Filings.

¹² Docket No. ER13-1960, Transmittal Letter at 10.

¹³ In addition to the NESCOE Rehearing Request, ISO-NE and the PTO AC each separately sought rehearing of the Commission's Regional Compliance Order.

¹⁴ Docket No. ER13-1960, Transmittal Letter at 10.

V. CONCLUSION

For the reasons stated herein, NESCOE respectfully requests that the Commission grant its Motion to Intervene in these proceedings and take its comments into consideration as it evaluates in these proceedings compliance with the interregional coordination and cost allocation requirements of Order No. 1000.

Respectfully submitted,

/s/ Jason R. Marshall

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

/s/ Phyllis G. Kimmel

Phyllis G. Kimmel
Miller, Balis & O'Neil, P.C.
1015 15th Street, NW
Twelfth Floor
Washington, DC 20005
Tel: (202) 296-2960
Email: pkimmel@mbolaw.com

Date: September 9, 2013

CERTIFICATE OF SERVICE

In accordance with Rule 2010 of the Commission's Rules of Practice and Procedure, I hereby certify that I have this day served by electronic mail a copy of the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Boston, Massachusetts this 9th day of September, 2013.

Respectfully submitted,

/s/ Jason R. Marshall
Jason R. Marshall
Senior Counsel
New England States Committee
on Electricity
655 Longmeadow Street
Longmeadow, MA 01106
Tel: (617) 913-0342
jasonmarshall@nescoc.com