

Order 1000 in New England  
*Consumer Liaison Group (CLG)*  
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New England States Committee on Electricity



NESCOE is New England's Regional State Committee, governed by a Board of Managers appointed by each of the New England Governors to represent the collective views of the six New England states on regional electricity matters

- ✧ **Focus:** Resource Adequacy, System Planning & Expansion
- ✧ **Resources:** 5 full-time staff with diverse disciplines & experience. Consultants on markets, transmission & for independent studies
- ✧ **More information:** including filings & comments at
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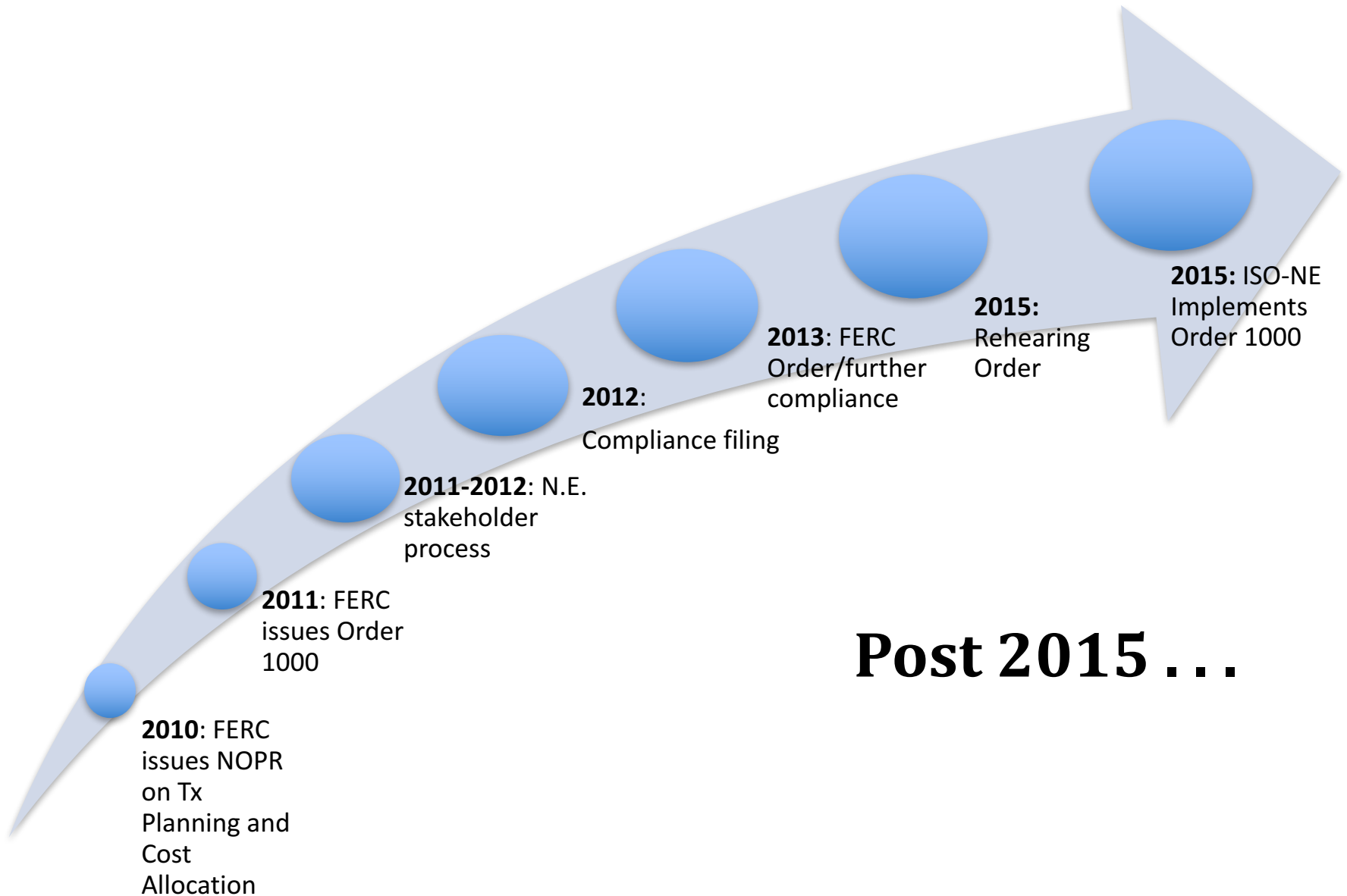
# Background: Order 1000

- The Federal Energy Regulatory Commission (FERC) issued Order 1000 on July 21, 2011.
- Objective: improve Tx planning processes and cost allocation mechanisms and ensure just and reasonable rates.
  - Nationally, intended to shift from utility company service-territory decisions to greater regional and interregional coordination and competition.
- Recognition that areas like New England with ISOs/RTOs may be further along than others.
  - New England already complied in some areas, and needed changes in others.



# Background: Order 1000

1. **Transmission Planning.** Must be a transmission planning process that produces a regional plan. Neighboring planning regions must coordinate regarding proposed interregional facilities.
2. **Public Policies.** Public policy requirements must be considered in transmission planning process.
  - D.C. Circuit: Rule required “*processes* for identifying and evaluating public policies that might affect transmission needs.” (emphasis in original)
3. **Cost Allocation.** There must be a cost allocation method in place to allocate the costs of new transmission facilities.
  - New in N.E.: default cost allocation method for policy-driven projects (70% regional/30% states with identified need)
4. **Competition in Transmission Project Development.** Mandated removal of right of first refusal for incumbent transmission owners.



# Where are we now?

*Panelists described Order 1000 as “either partially a success, generally a failure, cost containment is either important, unnecessary or unneeded, should be flexible or very well-defined.”*

Former Commission Clark

Competitive Transmission Development Technical Conference

Docket No. AD16-18-000

June 27, 2016

# Implementation in New England

- ISO New England was last region to get final compliance orders.
  - Offers potential to benefit from experience in other regions (cost containment)
- Implementing tariff changes, for example:
  - Qualified Transmission Project Sponsors (QTPS): 21 approved
  - Planning process guides, I.3.9 process

# Implementation in New England: RTUs

- **Reliability Transmission Upgrades (RTUs): Reliability Projects**
  - Projects needed to maintain power system, meet federal reliability standards (NERC).
  - No RFPs to date.
  - Many projects grandfathered (pre-May 2015)
  - FERC eliminated incumbent TOs' so-called "Right of First Refusal" (exclusive right to construct and own within territory).
    - Allowed exception for "immediate need" projects (within 3 years) and rejected calls to expand to 5 years.
    - NESCOE has questioned whether solving for near-term needs with sole-sourced projects effectively precludes competition: *no easy answers*.
    - RFPs cost consumers money. NESCOE does not support RFPs for the sake of an RFP. Need to be sure ISO-NE uses RFPs when and in a way that is sensible for consumers. Doing that is complicated and requires continued discussion.



# Implementation in New England: METUs

- **Market Efficiency Transmission Upgrades (METUs): Economic Projects**
  - METUs are “designed primarily to provide a net reduction in total production cost to supply the system load.”
    - Do production cost savings justify infrastructure costs?
  - No RFPs to date.
  - ISO-NE economic evaluation of Keene Road interface suggested insufficient savings to justify initiation of RFP.
  - NESCOE agreed.
    - RFPs cost consumers money (ISO resources and TO backstop solution) and no indication economic solution existed. RFP not sensible for consumers in this case.
    - Risk that any small savings offset by overruns.
    - Little or no interest from bidders in first RFP could provide false impression that no interest in N.E.

# Implementation in New England: PPTUs

- **Public Policy Transmission Upgrades (PPTUs): Policy-Driven Projects**
  - Transmission needs driven by federal, state, or local public policy requirements (statutes and regs).
  - No RFPs to date.
  - First planning cycle commenced January 2017 and has concluded.
  - NESCOE communication to ISO-NE identified no needs in current cycle.
    - Each state assessed stakeholder input on laws driving Tx
  - Next planning cycle by 2020 (every three years).

# D.C. Circuit Appeal

- April 2017 decision:
  - Rejected TOs' petition challenging ROFR removal.
    - SCOTUS declined review of similar challenge from 7<sup>th</sup> Cir.
  - Rejected narrow NESCOE petition on public policy process.
    - **However**, ruling served to provide clarity NESCOE had long sought: ISO not required to select a policy-driven project.
    - Important “off ramp” – helps prevent development of costly projects states do not view as advancing their policies or not in consumer interest.



# Cooperative Federalism

- Trio of recent SCOTUS cases (*EPSA*, *Oneok*, *Hughes*) recognize principle of cooperative federal and state jurisdiction.
  - “Platonic ideal” of clear demarcation between federal/state authorities at odds with the “regulatory world”
  - Wholesale and retail markets “not hermetically sealed from each other”
  - FPA designed with federal-state interplay in mind
- FERC: Order 1000 “not placing public utility transmission providers in the position of being policymakers or allowing them to substitute their public policy judgments in the place of legislators and regulators.”
  - “Order No. 1000 and state-level Public Policy Requirements should be complementary . . .”

# NESCOE Perspective



- NESCOE has strongly supported qualified project proponents having comparable project development & cost recovery opportunity.
- New England consumers recognize the value of transmission, having invested roughly \$8 billion in reliability projects since 2002 with another \$4 billion on the horizon.
- Cost containment is complex and implementation details matter. Cost control mechanisms would give consumers greater confidence in the planning process and safeguards against escalating costs.
- Near-term, sole-sourced projects (exempt from competition) may have the effect of precluding competition for all reliability projects.
- On public policy: Continue to advocate for a process states would use.

# Closing Thoughts

- **Cost Containment**

- PJM actively developing manual that would include procedures on cost caps and cost containment as part of its Order 1000 competitive transmission process.
- *RTO Insider* reported earlier this year that out of twelve competitive windows in CAISO, SPP, and MISO, “54% of the 56 proposed projects and 55% of the selected projects included cost-containment provisions” and out of thirteen competitive windows in PJM “about 18% of 650 proposals included cost-containment provisions” with two of those projects selected.
- Time would be well spent in New England developing cost discipline procedures in advance of eventual RFP and NESCOE has recommended ISO-NE spend time on this in 2018.

# Closing Thoughts

- **Sole-Sourced Reliability Projects**

- Challenging issue requiring continued, thoughtful discussion.
- Cost containment provisions may be less effective for these projects
- NESCOE open and interested in continuing the conversation, hearing all ideas.
  - Should we consider a hybrid model? (for discussion, not a position)

Model	Approach	Regions
Competitive Bidding	<ul style="list-style-type: none"><li>- RTO identifies regional Tx need.</li><li>- RTO develops solution and selects project.</li><li>- RTO solicits and selects bids to construct (incumbent and nonincumbent).</li></ul>	CAISO MISO SPP
Sponsorship	<ul style="list-style-type: none"><li>- RTO identifies regional Tx need.</li><li>- RTO solicits bids to develop and construct solutions (incumbent and nonincumbent).</li><li>- RTO selects project/bidder.</li></ul>	ISO-NE NYISO PJM
Hybrid	<ul style="list-style-type: none"><li>- Use competitive bidding model for immediate need projects.</li><li>- Use sponsorship model for longer-term needs.</li></ul>	None to date

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