

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

Offshore Wind Integration in RTOs/ISOs)
)
) Docket No. AD20-18-000

**COMMENTS OF THE
NEW ENGLAND STATES COMMITTEE ON ELECTRICITY**

The New England States Committee on Electricity (“NESCOE”) submits these comments pursuant to the Federal Energy Regulatory Commission’s (“FERC” or “Commission”) March 11, 2021 Notice Inviting Post-Technical Conference Comments in the above-referenced proceeding (“Notice”).¹ The Notice seeks comment on a broad range of issues related to integration of offshore wind and other state-driven resource investments, focusing on transmission planning, interconnection procedures, and cost responsibility. NESCOE appreciates the opportunity to offers its perspective on these issues and to work with the Commission on evaluating regulatory changes that have critical policy implications for those New England states seeking to integrate substantial levels of clean energy resources.

I. DESCRIPTION OF COMMENTER

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 New England Inc. (“ISO-NE”) administers.² NESCOE’s mission is to represent the interests of the citizens of the

¹ The Commission convened the technical conference in this docket on October 27, 2020 (“Technical Conference”).

² *ISO New England Inc.*, 121 FERC ¶ 61,105 (2007). ISO-NE is the Regional Transmission Organization (“RTO”) and Independent System Operator (“ISO”) for New England. Section II of ISO-NE’s Transmission, Markets and Services Tariff (“Tariff”) is the Open Access Transmission Tariff (“ISO-NE OATT”).

New England region by advancing policies that will provide electricity at the lowest possible price over the long-term, consistent with maintaining reliable service and environmental quality.³

These comments represent the collective view of the six New England states.

II. INTRODUCTION

NESCOE shares the Commission’s interest in exploring mechanisms to inform the cost-effective integration of clean energy resources. This proceeding is timely for our region. As ISO-NE recently stated, New England “state-level policies and legislation have driven the focus and growth in renewable resources.”⁴ Over the last year, various New England states have continued their steady march toward a clean energy future by enacting new climate policy legislation,⁵ drafting an integrated resource plan aimed at pathways to achieving a 100 percent zero-carbon electric sector,⁶ and forging ahead with additional procurements of large-scale offshore wind resources.⁷ Every New England state has a form of renewable energy standard.⁸

³ See Sept. 8, 2006 NESCOE Term Sheet (“Term Sheet”) that was filed for information as Exhibit A to the Memorandum of Understanding among ISO-NE, the New England Power Pool (“NEPOOL”), and NESCOE (the “NESCOE MOU”). Informational Filing of the New England States Committee on Electricity, Docket No. ER07-1324-000 (filed Nov. 21, 2007). Pursuant to the NESCOE MOU, the Term Sheet is the binding obligation of ISO-NE, NEPOOL and NESCOE.

⁴ ISO-NE, 2021 Regional Electricity Outlook, March 2021 (“2021 REO”), at 13, available at https://www.iso-ne.com/static-assets/documents/2021/03/2021_reo.pdf.

⁵ See An Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy, 2021 Mass. Acts 8 (“2021 MA Climate Law”); An Act Relating to State Affairs and Government – 2021 Act on Climate, R.I. Gen. Laws §§ 42-6.2.

⁶ See Connecticut Department of Energy and Environmental Protection, 2020 Draft Integrated Resource Plan: Pathways to achieve a 100% zero carbon electric sector by 2040, Dec. 2020 (“Draft CT IRP”), available at <https://portal.ct.gov/-/media/DEEP/energy/IRP/2020-IRP/2020-CT-DEEP-Draft-Integrated-Resources-Plan-in-Accordance-with-CGS-16a-3a.pdf>.

⁷ See, e.g., Fitchburg Gas & Electric Light Company d/b/a Unitil et al., *Request for Proposals for Long-Term Contracts for Offshore Wind Energy Projects* (May 7, 2021) (soliciting proposals to deliver up to 1600 megawatts (“MW”) of offshore wind generation); Connecticut Public Utilities Regulatory Authority, Final Decision, *PURA Review of Offshore Wind Resource Agreements Selected by DEEP pursuant to Public Act No. 19-71*, Docket No. 19-12-18 (Aug. 19, 2020) (approving power purchase agreements for 804 MW of offshore wind).

⁸ 2021 REO at 14.

All of the New England states also continue their collective participation in the Regional Greenhouse Gas Initiative, the nation's first power sector carbon pricing program. Five of the New England states are committed to reducing economy-wide greenhouse gas emissions by at least 80 percent below 1990 levels by 2050.⁹

For most New England states, the addition of offshore wind is key to charting a path to decarbonization or to promoting a diverse portfolio of clean energy resources.¹⁰ Over 3,000 MW of offshore wind resources are under contract in New England pursuant to procurements authorized under state laws in Connecticut, Massachusetts, and Rhode Island. Those states have authorized, in aggregate, the solicitation of more than 7,400 MW of offshore wind, with those procurements moving forward under the processes that each state has established.

Integrating consumer investments in offshore wind and distributed clean energy resources into the New England transmission grid requires consideration of the lowest cost options for delivering that power. Last year, the New England states took an important collective step toward enhancing the proactive transmission planning that is needed to connect clean energy to the regional grid cost-effectively. While energy policies and priorities vary across states, in the

⁹ See *id.* at 16; see also Statement of the Governors of Connecticut, Maine, Massachusetts, Rhode Island and Vermont: *New England's Regional Wholesale Electricity Markets and Organizational Structures Must Evolve for 21st Century Clean Energy Future* (Oct. 2020), at 1, available at http://nescoe.com/wp-content/uploads/2020/10/Electricity_System_Reform_GovStatement_14Oct2020.pdf; Conn. Gen. Stat. §§ 22a-200a and 22a-200c; 38 Me. Rev. Stat. ch. 3-A and 3-B; Mass. Gen. Laws ch. 21A § 22 and ch. 21N § 3; R.I. Gen. Laws §§ 42-6.2-2, 42-17.1-2(19), 23-23, and 23-82; Public Act No. 153 (2020 Vt. Adj. Sess.).

¹⁰ See, e.g., Kathleen Theoharides, Secretary, Massachusetts Executive Office of Energy and Environmental Affairs, New England Electricity Restructuring Roundtable, Mar. 26, 2021, at Slide 4, available at <http://www.raabassociates.org/Articles/Secretary%20Theoharides%20Presentation%203.26.21.pptx>; Draft CT IRP at 115; Governor Gina M. Raimondo, Executive Order 20-01, *Advancing a 100% Renewable Energy Future for Rhode Island by 2030*, Jan. 17, 2020, available at <https://governor.ri.gov/documents/orders/Executive-Order-20-01.pdf>; *Raimondo calls for up to 600 MW of new offshore wind energy for Rhode Island*, Oct. 27, 2020, available at <https://www.ri.gov/press/view/39674>; *State of Maine Renewable Energy Goals Market Assessment*, Sponsored by the State of Maine Governor's Energy Office, Mar. 2021, at 25, available at https://www.maine.gov/energy/sites/maine.gov/energy/files/inline-files/GEO_State%20of%20Maine%20Renewable%20Energy%20Goals%20Market%20Assessment_Final_Mar%202021_1.pdf.

fall of last year, NESCOE set forth a common vision for achieving “a clean, affordable, and reliable 21st century regional electric grid.”¹¹ In addition to identifying the need for fundamental changes in wholesale market design and ISO-NE governance, the vision provided a new framework for transmission planning in New England.¹² When incorporated into the Tariff, that framework would provide the New England states with a new scenario-based planning tool to inform “the potential use of transmission to integrate all of the necessary energy resources in the region at the lowest cost possible[.]”¹³ To that end, close collaboration between the states and ISO-NE is critical to ensuring that the region will “conduct detailed planning processes to maximize the use of existing transmission, build new transmission only where absolutely necessary, and use competitive processes to minimize costs to consumers.”¹⁴

NESCOE greatly appreciates ISO-NE’s engagement, and the participation of regional stakeholders and others, on the reforms set out in the NESCOE Vision Statement. Much work remains on all three core areas identified—wholesale market design, transmission system planning, and ISO-NE governance. On transmission planning, NESCOE is hopeful that progress can be made in the near-term to implement the reforms captured in the framework. There are

¹¹ NESCOE, *New England States’ Vision for a Clean, Affordable, and Reliable 21st Century Regional Electric Grid* (Oct. 2020) (“NESCOE Vision Statement”), available at <http://nescoe.com/resource-center/vision-stmt-oct2020/>. New Hampshire noted in the statement that it “does not have the same or similar clean energy mandates as do the other New England states” but that it has “a common interest in preserving efficient wholesale markets and in ensuring that transmission system planning achieves least-cost solutions; as well as a legislative mandate to prevent or minimize any rate impact of other states’ policies on New Hampshire retail electric rates.” *Id.* at n. 2.

¹² The New England states held a series of technical forums in 2020 and 2021 focused on those three issues as well as environmental justice. Materials, including recordings of the archived forums, are available at <https://newenglandenergyvision.com>.

¹³ NESCOE Vision Statement at 5.

¹⁴ *Id.* Importantly, the NESCOE Vision Statement provides that “[w]hile developing and implementing a transmission system planning framework that meets those enumerated criteria, cost allocation issues should be held aside until there is a better understanding of the type and magnitude of transmission needs under each scenario.” *Id.* at 6.

two critical steps that ISO-NE can take this year, working closely with states and stakeholders, to effectuate this new planning tool. The first step, conducting a 2050 Transmission Study, is in an early stage of development and is expected to proceed in the relative near-term to stakeholder discussion. The study is intended to inform “the region of the amount and type of transmission infrastructure needed to cost-effectively incorporate clean-energy and distributed-energy resources and to meet energy policy goals, including economywide decarbonization.”¹⁵ ISO-NE has already dedicated resources in its 2021 Work Plan to conduct this analysis.¹⁶

The second step ISO-NE must take is developing Tariff language to ensure that such a planning tool becomes, through close partnership with the New England states, part of ISO-NE’s ongoing routine transmission planning process and is not just a one-off study. ISO-NE is planning to initiate discussions with stakeholders on that Tariff language later this year. As discussed below, the work to develop that language needs to begin expeditiously to leverage the momentum and focus on a key transmission planning reform that received broad regional support in a public feedback session that state officials led earlier this year.

The Commission’s policies are essential in supporting New England states that are translating their vision for a reliable, clean, and affordable regional power grid into action. NESCOE appreciates the Commission’s leadership in considering significant changes to wholesale markets and transmission planning processes that would better align with, and appropriately account for, the execution of state energy and environmental laws. In this proceeding, a Commission policy statement providing guidance in connection with its open

¹⁵ ISO New England, Updated 2021 Annual Work Plan, NEPOOL Participants Committee, May 6, 2021 (“2021 ISO-NE Work Plan”), at Slide 5, available at https://www.iso-ne.com/static-assets/documents/2021/04/2021_awp_update_05_06_21_pc.pdf.

¹⁶ *Id.* at Slides 5 and 11.

access regulations and a limited category of cost allocation approaches could help provide important clarifications and guideposts as New England considers reforms. Such a policy statement could inform regional discussions that are already underway.

While NESCOE appreciates the Commission's focus in this important area and welcomes such policy guidance, it respectfully cautions the Commission against taking any prescriptive action at this time that would implicate New England. As discussed below, one-size-fits-all planning or cost allocation directives would risk disrupting ongoing collaborative efforts in our region that target new approaches to public-policy driven transmission planning that are supportive of New England states' clean energy policies.

III. COMMENTS

Pursuant to guidance in the Notice, NESCOE does not provide a response to every question. For example, states are better positioned to respond individually to some questions and areas of inquiry, such as those relating to their procurement processes. NESCOE understands that some New England states intend to file comments individually in response to the Notice. The responses below are organized in accordance with the numbering and sequencing of the Notice.

2. Incorporating State Policies into RTO/ISO Transmission Planning and Interconnection Processes

- a. Do existing RTO/ISO transmission planning processes, which are required to consider transmission needs driven by public policy requirements, accommodate states that seek to collaborate with the RTO/ISO to identify and advance planned transmission projects to efficiently and cost-effectively integrate offshore wind generation? Are the existing processes adequate, or should they be reformed to better accommodate state initiatives?

Response: Like wholesale power markets, transmission and “public policy . . . are inextricably intertwined.”¹⁷ Similarly, when state-led investments in resources such as offshore wind have major implications for the transmission system, state interests and the requirements of state law are also inseparable from the transmission planning process. As described earlier, New England states’ legal requirements and other mandates are increasingly transitioning the region’s power mix away from a central station, carbon-intensive fleet and toward a clean distributed energy system.¹⁸ Despite the central role that New England states occupy over electric power supply within their borders—an authority clearly reserved to states under the Federal Power Act¹⁹—the current Tariff fails to foster a meaningful relationship between states and ISO-NE on options for, and decisions around, cost-effectively delivering that power to consumers. In short, there is a fundamental gap in the Tariff related to the states’ role in public policy-driven transmission planning.

NESCOE appreciates ISO-NE’s support for a greater partnership with states on public policy transmission planning, from its initial filing with the Commission to comply with Order 1000²⁰ to its current activities in furtherance of the NESCOE Vision Statement. However, for

¹⁷ *ISO New England Inc.*, 173 FERC ¶ 61,161 (2020) (Glick, Comm’r, dissenting at P 7).

¹⁸ NESCOE has strongly supported a current ISO-NE initiative—the Future Grid Reliability Study—which will examine “the implications of a substantially changed grid, one where the majority of the resource mix is clean, intermittent resources. . . . [to] provide information on what the regional system will need to run reliably.” 2021 REO at 17. The second phase of the study will analyze whether “the current market structure will be sufficient to attract and retain the resources needed to keep the grid reliable under the range of future scenarios.” *Id.*

¹⁹ 16 U.S.C § 824(b)(1); see *Hughes v. Talen Energy Mktg. LLC*, 136 S. Ct. 1288, 1292 (2016) (“The States’ reserved authority includes control over in-state ‘facilities used for the generation of electric energy.’”).

²⁰ See *ISO New England Inc.*, 143 FERC ¶ 61,150 at PP 77-84 (2013) (describing proposed public policy planning procedures whereby New England states would have decisional roles through the process, including project selection). The Commission rejected key features of the approach that ISO-NE set forth in its initial Order 1000 compliance filing related to public policy transmission planning, directing changes regarding rules for evaluating and selecting public policy-driven projects that made ISO-NE the sole entity responsible for decisions in those areas. *Id.* at PP 64, 67, 116, *aff’d*, *Emera Maine v. FERC*, 854 F.3d 662, 673-674 (D.C. Cir. 2017) (“*Emera*”). Under the current Tariff, neither NESCOE nor the New England states individually have a

that partnership to have real results, it must be codified in the Tariff to a greater extent than it is today. Working closely with the states, ISO-NE should pursue Tariff revisions in at least two primary areas. Together, these changes would more accurately capture the division of roles between ISO-NE, as the region's planning entity and grid operator, and New England state officials, who have authority, expertise, accountability, and legal obligations in connection with implementing state laws and policies. In so doing, the Tariff would better facilitate planning not only for the integration of offshore wind (the primary concern of this docket) but all resources in furtherance of state policies and requirements.

First, as discussed above, ISO-NE should begin developing Tariff language that implements the state-led scenario analysis framework set forth in the NESCOE Vision Statement as a permanent transmission planning tool. NESCOE has asked ISO-NE to start that work this year.²¹ Based on a public input session that state officials led earlier this year, there appears to be strong regional support for such a new planning framework. This foreshadows broad stakeholder support and the potential for an uncontested filing when those Tariff changes are presented for the Commission's review, following further regional processes. Deferring this Tariff work for another day would lose the moment. NESCOE looks forward to engaging with ISO-NE on the 2050 Transmission Study and related Tariff revisions.

Moreover, while the specifics of the approach require further stakeholder discussion and analysis, this planning tool could have important implications for facilitating the integration of offshore wind and other resources. For example, one or more states could elect to use the

prescribed role in procedures for evaluating and selecting policy-driven transmission options, even where a state's policies might be the identified driver for a proposed project.

²¹ See, e.g., NESCOE, *Comments on 2021 Draft Updated Work Plan*, April 13, 2021, available at https://nescoe.com/wp-content/uploads/2021/04/Comments_ISO-NE_Updated_Work_Plan_2021.pdf.

information obtained from ISO-NE’s scenario analysis to pursue transmission upgrades in furtherance of state energy and environmental requirements. The NESCOE Vision Statement framework supports “competitive processes to minimize costs to consumers.”²² The Commission’s recent proceeding on PJM’s “State Agreement Approach” illustrates one potential pathway on which to model this new planning mechanism in New England.²³ Under such an approach, at a high level, New England states could leverage ISO-NE’s planning expertise to study cost-effective options for integrating clean energy resources. Following such a study, at states’ direction, ISO-NE could then conduct a competitive procurement for transmission projects to integrate state-identified resources into the regional grid, whether via new transmission projects or upgrades to existing transmission. Importantly, similar to the State Agreement Approach in PJM, ISO-NE would not be the arbiter over project selection.²⁴ Instead, ISO-NE’s role would be to evaluate and recommend projects to the state or states requesting the solicitation. Those participating states would ultimately decide whether to select a project or not.

Second, after almost a decade since the Commission’s initial order on ISO-NE’s Order 1000 compliance filing, ISO-NE should update its planning rules to provide states a meaningful role in the process used to evaluate and select public policy-driven transmission projects. The Tariff can, and respectfully should, be amended to promote a more collaborative approach between ISO-NE and states as discussed below. For clarity, NESCOE is not requesting Commission action at this time regarding further Order 1000 reforms, which would be better

²² NESCOE Vision Statement at 5.

²³ *PJM Interconnection, L.L.C.*, 174 FERC ¶ 61,090 (2021) (“PJM Order”) (accepting State Agreement Approach Study Agreement between PJM and the New Jersey Board of Public Utilities (“NJBPU”).

²⁴ *Id.* at PP 6-7, 13; *see also* PJM Interconnection, L.L.C., New Jersey State Agreement Approach Study Agreement, SA No. 5890, Docket No. ER21-689-000, Dec. 18, 2020 (“PJM-NJBPU Agreement”), at 5.

informed by regional discussions.²⁵ Moreover, NESCOE recognizes the broad portfolio of work that ISO-NE has already committed to this calendar year, including analyses examining future power system reliability and new wholesale market designs. Where ISO-NE dedicates resources to transmission work over the remaining year and into 2022, NESCOE supports prioritizing the 2050 Transmission Study and related Tariff language for the reasons explained above.

ISO-NE's current rules to comply with Order 1000 include a process for (i) identifying public policy requirements driving transmission needs, (ii) evaluating potential transmission solutions, and (iii) determining how a project or projects, if any, would be selected for inclusion in the Regional System Plan.²⁶ NESCOE has a defined role in the procedures for identifying public policies that may drive transmission needs. No changes are needed to those rules, which help ensure that "ISO-NE has no role in setting public policy for the states."²⁷

However, despite state policies serving as the potential driver for ISO-NE's evaluation and selection of a project, the Tariff is conspicuously silent with respect to the states' role in considering transmission options or interacting with ISO-NE in connection with project submissions. This omission stands in contrast to the process that the New York Independent System Operator ("NYISO") employs. For example, prior to beginning the process of evaluating proposed public policy projects, NYISO must consult with the state's Department of Public

²⁵ In fact, NESCOE recently initiated discussions with ISO-NE and stakeholders on a concept for integrating reliability system planning and public policy transmission planning. At the April 14, 2021 meeting of the Planning Advisory Committee, NESCOE presented a concept called Overlay Network Expansion ("ONE") Transmission. See https://www.iso-ne.com/static-assets/documents/2021/04/a5_nescoc_overlay_network_expansion_transmission_concept_for_discussion.pdf. NESCOE looks forward to continuing discussions with ISO-NE and stakeholders on the ONE Transmission concept.

²⁶ See ISO-NE OATT, Attachment K, § 4A.

²⁷ *Emera* at 674.

Service regarding evaluation metrics.²⁸ Moreover, at any time before NYISO selects a policy-driven project, the New York Public Service Commission can issue an order in which it “determines that either: (i) there is no longer a transmission need driven by a Public Policy Requirement that requires the [NYISO’s] evaluation of potential transmission solutions, or (ii) the transmission need should be modified.”²⁹ In the case of the former determination, NYISO will cease its evaluation of transmission solutions and will not select a project.³⁰ In the latter case, NYISO will restart the public policy planning process.³¹

Similarly, while NESCOE understands that PJM’s State Agreement approach was not filed with the Commission to meet Order 1000 requirements, PJM’s process likewise reflects the central role that states must occupy in planning transmission to help meet state policies and requirements. The recent PJM-NJBPU Agreement illustrates how an RTO/ISO can accommodate states that are seeking to work closely with their regional planner—leveraging the RTO’s/ISO’s technical expertise and experience running procurements—without having to abdicate decision-making over the selection of a project that is expressly proposed in furtherance of state laws or objectives.³²

The current Tariff procedures in New England have built-in “on ramps” for ISO-NE to proceed with further project evaluation and selection of public policy projects and, conversely, “off ramps” for ISO-NE to conclude its analysis of transmission solutions without selecting a

²⁸ NYISO, OATT, Attachment Y, § 31.4.8.1.

²⁹ *Id.* at § 31.4.6.7.1.

³⁰ *Id.* at § 31.4.6.7.2.

³¹ *Id.* at § 31.4.6.7.3.

³² In connection with the PJM-NJBPU Agreement, PJM issued a competitive solicitation on April 15, 2021 inviting developers to submit transmission projects to deliver offshore wind energy to the power grid. *See* <https://www.state.nj.us/bpu/newsroom/2021/approved/20210415.html>.

project,³³ cancel a procurement,³⁴ or remove a project from its regional system plan.³⁵ The New England states currently have no defined role in the public policy evaluation and project selection process. Under the current Tariff design, the states' defined role ends when policy needs are identified. The New England states must have the opportunity—reflected in the Tariff—to have a meaningful voice throughout the process when state laws are implicated.

Reforming the Tariff to provide that voice should be a priority. With New England state laws and policies leading the way to an influx of clean energy resources, our region's planning structure for public policy-driven transmission must reflect a more collaborative relationship between ISO-NE and the states. NESCOE looks forward to its continuing work with ISO-NE and stakeholders to ensure that the regional transmission planning process is better aligned with state policy initiatives. While NESCOE greatly appreciates the Commission's engagement in exploring mechanisms to achieve this alignment, given this ongoing regional work on transmission planning reforms, NESCOE respectfully asks the Commission not to mandate particular Tariff changes or direct other processes at this time.

- b. Are states acting to promote the development of adequate transmission to support the integration of offshore wind generation that they plan to procure? Do current state procurement processes favor the development of Interconnection Customer Interconnection Facilities and Network Upgrades developed in tandem with a new generator interconnection request and sized to accommodate a single generation facility? What, if any, changes to the state procurement processes for offshore wind generation are states considering related to the development of comprehensive interconnection and transmission solutions for offshore wind generation? Can the existing generator interconnection procedures accommodate different state procurement processes for offshore wind? If not, should they and how?

³³ In *Emera*, the D.C. Circuit clarified that the Commission's orders did not require ISO-NE to select a project after evaluating potential transmission solutions. *Emera* at 673.

³⁴ ISO-NE OATT, Attachment K, § 4A.10.

³⁵ *Id.* at § 3.6(c).

Response: New England states procuring off-shore wind generation are best positioned to address this line of questions through individual responses in this docket. In general, NESCOE is aware of mechanisms developed pursuant to existing New England state laws to contract for transmission in connection with procuring offshore wind and other clean energy resources.³⁶

- c. Several conference panelists stated that transmission planned to accommodate anticipated offshore wind generation does not fit neatly into the existing regional transmission planning categories (i.e., reliability, economic and public policy). What are the barriers, if any, to developing transmission solutions to more efficiently or cost-effectively integrate offshore wind generation? Do these barriers differ by region, and if so, how? Can RTO/ISO existing transmission planning processes incorporate state offshore wind generation laws or regulations as transmission needs driven by public policy requirements? If so, how? If not, why, should they, are the challenges unique to offshore wind, and what specific changes could be made to better accommodate transmission needs driven by state laws and regulations related to offshore wind generation?

Response: As discussed above, a primary barrier to considering transmission options for offshore wind and other state-led investments in clean energy more broadly is the lack of regional planning mechanisms that (i) provide greater visibility into potential investments in infrastructure to interconnect clean energy and distributed energy resources, and (ii) capture in the Tariff a more collaborative and interactive relationship between ISO-NE and the states to ensure that transmission planning to accommodate state policy initiatives is appropriately aligned with state requirements.

³⁶ See, e.g., 2021 MA Climate Law at § 95 (permitting Massachusetts state agency to require utilities to solicit proposals for electric transmission in connection with offshore wind generation procurement); An Act to Advance Clean Energy, 2018 Mass. Acts 227, at § 21 (same); Massachusetts Dep't. of Pub. Utils., Docket Nos. 18-64, 18-65, 18-66 (June 25, 2019) (approving power purchase agreements that included the costs of new transmission infrastructure to deliver hydroelectric generation from Canada to New England); Conn. Gen. Stat. section 16a-3n(a)(1) (the Commissioner of the Connecticut Department of Energy and Environmental Protection may "solicit proposals, in one solicitation or multiple solicitations, from providers of energy derived from offshore wind facilities that are Class I renewable energy sources, as defined in section 16-1, and any associated transmission . . .") (emphasis added).

NESCOE's earlier response explains why more prescriptive Commission action at this time to remedy perceived barriers to transmission development would not be constructive in New England. However, the Commission's policy guidance on issues relating to open access and a specific category of cost allocation rules could help inform discussions that are underway in our region. These topics were discussed at the Technical Conference.

First, regarding open access, NESCOE welcomes guidance on whether resource capacity interconnection rights over transmission facilities could be reserved for a period of time where consumers are funding a public policy project to integrate a certain resource type. NESCOE appreciates FERC staff exploring at the Technical Conference the policy tension between open access regulations and public-policy transmission.³⁷ That discussion highlighted the risk to consumers in making substantial investments to facilitate the interconnection of offshore wind when open access requirements might allow other resource types to use that new capacity before the wind resources are able to come online. Understanding the boundaries of the Commission's open access policies in the context of consumer-funded transmission to integrate specific resource types is critical. That guidance would help regions like New England explore approaches that can effectively balance the public interest in maintaining open access with consumer protections for targeted transmission infrastructure investments.

Second, with respect to cost allocation, the Technical Conference discussions included a number of references to the Commission's 2007 approval of the so-called Tehachapi model in California.³⁸ The Commission's guidance on the current viability of this approach in other

³⁷ See, e.g., Transcript of Staff-Led Technical Conference Regarding Offshore Wind Integration in RTOs/ISOs, Docket No. AD20-18-000, Oct. 27, 2021, at 205-210.

³⁸ See *Cal. Indep. Sys. Operator Corp.*, 119 FERC ¶ 61,061 (2007) ("Tehachapi Order"), *order on reh'g*, 120 FERC ¶ 61,224 (2007).

RTOs/ISOs would be useful in considering cost allocation options for some public policy-related projects. At a high level, under the Tehachapi model, consumers bear the costs of financing a transmission project subject to interconnection generators paying their “*pro rata* share of the going-forward costs of using the line.”³⁹ Consistent with the Commission’s non-discriminatory open access principles, there is no restriction on the resource types that could interconnect to the new transmission facilities.⁴⁰ Also, among other conditions in connection with project development and operations, consumers are protected through a cap on their overall rate exposure as well as a triggering subscription requirement and demonstrated interest.⁴¹ However, NESCOE understands that consumers would remain at risk for projects costs under a Tehachapi approach—potentially substantial risk depending on the magnitude of the project—so long as the full capacity of the facilities is unsubscribed. As New England considers broader transmission planning reforms to better align with state policy initiatives, NESCOE would respectfully welcome the Commission’s policy guidance on the Tehachapi model. To be sure, there are many considerations and details to explore in determining whether a Tehachapi-style model might work in New England. The Commission’s guidance would be helpful in understanding whether any legal or policy impediments caution against FERC accepting a wider adoption of the general Tehachapi approach or other potential financing models, informed by experience and changes in Commission policy since the Tehachapi Order was issued.

- d. Panelists noted that, due to limitations on the ability of states and other stakeholders to provide input, there are challenges within the public policy transmission planning processes in multi-state RTOs/ISOs with respect to developing the transmission needed to integrate offshore wind generation. What are these challenges? Are they unique to offshore wind, or do they exist

³⁹ Tehachapi Order at P 5.

⁴⁰ *See id.*

⁴¹ *Id.* at P 6.

more broadly? Should RTOs/ISOs consider reforms to evaluate various scenarios of potential planned transmission approaches to accommodate planned offshore wind generation?

Response: NESCOE's responses above identify the current gap in ISO-NE's Tariff relative to the states' role in the public policy transmission planning process and identify areas of reform that would help address that gap. As discussed earlier, NESCOE respectfully requests that the Commission not impose a one-size-fits-all directive and instead allow regional flexibility to accommodate collaborative work that is ongoing in New England at this time.

- e. Panelists stated that there may be barriers to developing interregional transmission projects to integrate offshore wind generation. How could existing interregional transmission coordination mechanisms be improved to reduce barriers to identifying interregional transmission projects that would integrate offshore wind generation in a more efficient or cost-effective manner? Are these barriers unique to interregional transmission projects to integrate offshore wind generation, or do they exist more broadly? Beyond improving existing interregional transmission coordination mechanisms, are there other ways to more effectively facilitate interregional projects to integrate offshore wind resources?

Response: Along with many stakeholders, NESCOE participates in the Interregional Planning Stakeholder Advisory Committee ("IPSAC"), which is the forum for ISO-NE, PJM, and NYISO to identify and address interregional planning issues. NESCOE will continue to monitor IPSAC activities and, where appropriate, engage with ISO-NE and others on any needed changes to enhance interregional coordination on offshore wind integration or other transmission-related issues.

- f. Do challenges exist to allocating costs of transmission facilities needed to integrate offshore wind resources? If so, what are they? Are they unique to offshore wind, or do they exist more broadly? What are the opportunities to overcome these challenges?
- g. How should the cost of network upgrades to interconnect offshore wind generation be assigned? Are existing policies to directly assign costs to the generator(s) appropriate? Why or why not? Alternatively, should the costs be

assigned to a broader set of potential beneficiaries? If so, how should such beneficiaries be identified, should those beneficiaries include the offshore wind generator(s), and what would that cost allocation method look like? For network upgrades to interconnect offshore wind generation needed to meet a state law or regulation, should the network upgrade costs be allocated entirely to that state's consumers or would a different cost allocation methodology be more appropriate? Are these questions unique to offshore wind, or do they apply more broadly?

Response: As a general matter, the NESCOE Vision Statement expressly deferred consideration of cost allocation issues in New England pending development and implementation of the new transmission planning framework discussed in NESCOE's earlier comments above.⁴² Cost allocation is not a threshold question in developing a more useful transmission planning tool. Importantly, the NESCOE Vision Statement also noted that "[t]here is no intent to modify the New England Governors' agreement dated March 15, 2019 that States will ensure consumers in any one State do not fund the public policy requirements mandated by another State's laws."⁴³ Work to implement the transmission planning reforms set out in the NESCOE Vision Statement is in progress, as explained above. To the extent cost allocation issues are the subject of later discussion among states, NESCOE would appreciate the Commission's openness to alternative methodologies that align with the principle outlined above.⁴⁴

Moreover, consideration of interconnection costs in New England must be examined in the context of ISO-NE's long-standing and holistic regional rate framework. Under this construct, reflected in Schedule 11 of ISO-NE's OATT, generators pay the full cost of

⁴² See NESCOE Vision Statement at 6.

⁴³ *Id.* at n. 8.

⁴⁴ For example, the existing default cost allocation methodology in New England for Public Policy Transmission Upgrades failed to receive majority support among the states and could be reevaluated consistent with this principle.

interconnection and related upgrades and are, in turn, permitted to inject energy onto the grid and access the region's markets at no charge. In a separate proceeding, NEPOOL detailed the genesis and policy underpinning of this rate structure:

Schedule 11 came out of the ongoing work in New England in 1997 and 1998 to create a regional OATT and regional power markets with regional transmission and interconnection service administered by an ISO. Schedule 11 was heavily negotiated by load interests and generator interests and found to reflect a fair and equitable balancing of those respective interests. Under that just and reasonable arrangement, all of the costs of regional transmission service are supported by load. Generators do not pay for such network transmission service. Conversely, all of the costs of interconnection service, including all costs related to any Network Upgrades required to achieve interconnection, are paid for by the Interconnection Customer whose interconnection causes such costs. . . . Schedule 11's allocation of costs to the Interconnection Customer is based on the fundamental and still applicable cost allocation principle of assigning costs to those who cause them and who are in the best position to manage them. While some parts of Schedule 11 have been modified over time to accommodate other changes in the ISO-NE Tariff . . . the fundamental cost allocation rule challenged in this proceeding has been a part of Schedule 11 since it was first supported by NEPOOL and accepted by the Commission.^[45]

As NEPOOL recounts, the Commission affirmed Schedule 11 as part of New England's Order No. 2003 compliance process.⁴⁶ Order No. 2003 provided an RTO/ISO with "greater flexibility to customize its interconnection procedures and agreements to fit regional needs"⁴⁷

⁴⁵ Comments and Protest of the New England Power Pool Participants Committee, Docket No. EL18-31-000 (filed Dec. 6, 2017) ("NEPOOL Comments").

⁴⁶ *See id.* at 7-11; *see also Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, 68 Fed. Reg. 4 9,845 (Aug. 19, 2003), FERC Stats. & Regs., Regulations Preambles 2001-2005 ¶ 31,146 (2003) (Order 2003); *order on reh'g*, Order No. 2003-A, 69 Fed. Reg. 15,932, (Mar. 26, 2004), FERC Stats. & Regs., Regulations Preambles 2001-2005 ¶ 31,160 (2004); *order on reh'g and directing compliance*, Order No. 2003-B, 70 Fed. Reg. 265 (Jan. 4, 2005), FERC Stats. & Regs., Regulations Preambles 2001-2005 ¶ 31,171 (2005), *order on reh'g*, Order No. 2003-C, 70 Fed. Reg. 37,662 (June 30, 2005), FERC Stats. & Regs., Regulations Preambles 2001-2005 ¶ 31,190 (2005); *aff'd sub nom., National Association of Regulatory Commissioners v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007).

⁴⁷ Order 2003 at P 827.

and, therefore, allowed for the participant funding approach contained in Schedule 11. The Commission rejected protests to Schedule 11 in the compliance proceeding, citing to prior orders where it accepted ISO-NE's rule assigning 100% of interconnection costs and upgrades to the interconnecting resource.⁴⁸

Like cost allocation, any changes to New England's rules for assigning interconnection costs, whether for offshore wind or other resources, should only be considered in the context of a broader regional discussion examining not only transmission planning reforms but fundamental market design changes as well. Indeed, shifting costs from consumers to merchant generators—here, interconnection costs and upgrades—has long been a fundamental tenet of the current market structure.

- h. Do existing RTO/ISO processes allow for or facilitate states to jointly initiate planning for transmission to meet their respective policy goals with respect to offshore wind?

Response: See the responses above regarding transmission planning reforms that would enhance the states' role in the integration of offshore wind pursuant to state mandates. The NESCOE Vision Statement reflects a wider focus on needed changes, examining a suite of resources in addition to offshore wind that are integral to New England's transition to a clean energy and decarbonized resource mix.

IV. CONCLUSION

NESCOE appreciates the Commission's initiation of this proceeding and its interest in facilitating the integration of state-led investments in offshore wind and other resources.

⁴⁸ NEPOOL Comments at 10 (quoting *New England Power Pool*, 105 FERC ¶ 61,300 at P 43 (2003)).

NESCOE respectfully requests that the Commission consider these comments in evaluating any further action related to this proceeding.

Respectfully Submitted,

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