

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

Improvements to Generator)
Interconnection Procedures and) **Docket No. RM22-14-000**
Agreements)

**MOTION OF THE
NEW ENGLAND POWER POOL PARTICIPANTS COMMITTEE
REQUESTING AN EXTENSION OF TIME
(October 2, 2023)**

Pursuant to Rules 212 and 2008 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC” or “the Commission”),¹ the New England Power Pool (“NEPOOL”)² Participants Committee³ submits this motion (“Motion”) to extend the deadline a relatively modest 45 calendar days for ISO New England Inc. (“ISO-NE”) and the New England Participating Transmission Owners (“PTOs”) to comply with the Final Rule issued in the above-captioned docket on July 28, 2023 (“Order No. 2023” or “Final Rule”).⁴

¹ 18 C.F.R. §§ 385.212 and 385.2008 (2023)

² Capitalized terms not defined herein have the meaning ascribed thereto in the Second Restated NEPOOL Agreement, Participants Agreement, or the ISO New England Inc. (“ISO-NE”) Transmission, Markets and Services Tariff (“ISO-NE Tariff” or “the Tariff”).

³ The New England Power Pool Agreement³ was initially entered into in 1971 and the number of signatories to that agreement as it has evolved over time has grown to include over 520 members. Those signatories are referred to both as “members” and “Participants” and they are referred to collectively as “NEPOOL.” The Participants include all of the electric utilities rendering or receiving services under the ISO-NE Tariff, as well as independent power generators, marketers, load aggregators, brokers, consumer-owned utility systems, demand response providers, developers, end users, and a merchant transmission provider. Pursuant to revised governance provisions accepted by the Commission in *ISO New England Inc. et al.*, 109 FERC ¶ 61,147 (2004), the Participants act through the NEPOOL Participants Committee. The NEPOOL Participants Committee is authorized by Section 6.1 of the Second Restated NEPOOL Agreement and Section 8.1.3(c) of the Participants Agreement to represent NEPOOL in proceedings before the Commission. NEPOOL is the principal stakeholder organization for the New England Regional Transmission Organization (“RTO”).

⁴ *Improvements to Generator Interconnection Procedures and Agreements*, 184 FERC ¶ 61,054 (2023) (“Order No. 2023”).

As explained further herein, NEPOOL is requesting this extension of time to permit adequate regional stakeholder consideration of, input into, and vote on ISO-NE’s proposed Order No. 2023 compliance filing. NEPOOL has consulted with ISO-NE regarding this compliance deadline extension request and ISO-NE has stated that it does not object to the request for a 45 calendar day extension, until January 19, 2024. NEPOOL has also consulted with the New England Participating Transmission Owners Administrative Committee (“PTO-AC”), which acts on behalf of the New England Participating Transmission Owners, and the PTO-AC does not object to this request.

Pursuant to the Commission-approved governance arrangements in New England, NEPOOL is the principal stakeholder advisory group for ISO New England, and as such, almost all proposed changes to the ISO-NE Tariff and related rules and procedures are required to be reviewed within the NEPOOL Participant Processes prior to filing with the Commission.⁵

In Order No. 2023, the Commission adopted various reforms to the interconnection process and directed transmission providers to file revisions to their large and small generator interconnection agreements and procedures (“LGIA” and “LGIP,” respectively) in accordance with the requirements set forth in the Final Rule within 90 day calendar days of the publication of the Final Rule in the *Federal Register*, i.e., on or before December 5, 2023.⁶ Many of the NEPOOL

⁵ Participants Agreement § 11. Proposed changes to the Market Rules, Operating Procedures, Manuals, Reliability Standards, General Tariff Provisions, or Non-TO Open Access Transmission Tariff are to be reviewed and voted on by the appropriate technical committee(s) and then by the Participants Committee. Although the Participants Agreement does not require the normal multi-month stakeholder process contemplated in Section 11 to be completed prior to ISO-NE making a compliance filing or in exigent circumstances, the region works hard to ensure meaningful opportunities for stakeholder input, especially when compliance requires substantial changes to the Tariff with impacts to Participants. *See* Participants Agreement § 11.5.

⁶ Order No. 2023 at P 1762. The Final Rule was published in the *Federal Register* on September 6, 2023.

Participants, including generation and participant-funded transmission developers and the individual PTOs, will be directly impacted by the Order No. 2023 compliance changes to the ISO-NE Tariff.

As described in this Motion, there is good cause to grant a 45 calendar day extension because the additional time would provide the Participants as well as other regional stakeholders, including the New England States, with a meaningful opportunity to fully review, consider, and vet the proposed changes before ISO-NE is required to submit its compliance filing. Accordingly, NEPOOL respectfully requests that the Commission extend the compliance deadline for ISO-NE and the other New England transmission providers with a compliance obligation by 45 calendar days **to January 19, 2024**, and further requests expedited consideration and decision on this Motion with an order from the Commission on or **by October 30, 2023**.

I. BACKGROUND

On June 16, 2022, the Commission issued a Notice of Proposed Rulemaking (“NOPR”) in this docket proposing reforms to the interconnection process to address the volume and backlog of projects in interconnection queues and new challenges to the interconnection process created by the influx of new types of generating resources seeking to interconnect to the transmission system.⁷ The NOPR proposed to require each transmission provider to submit a compliance filing within 180 days of the effective date of the final rule.⁸ NEPOOL filed comments that included asking for flexibility on the proposed 180-days compliance period to provide sufficient time for

⁷ *Improvements to Generator Interconnection Procedures and Agreements*, 179 FERC ¶ 61,194 at P 3 (2022) (“NOPR”).

⁸ NOPR at P 342.

stakeholder review.⁹ On July 28, 2023, the Commission issued Order No. 2023, which now requires transmission providers to submit compliance filings within 90 calendar days after the date of the publication of the Final Rule in the *Federal Register*. Order No. 2023 was subsequently published in the *Federal Register* on September 6, 2023, making compliance filings due on or before December 5, 2023.

II. NEPOOL MOTION FOR EXTENSION OF TIME

NEPOOL requests an extension to ensure that ISO-NE's Order No. 2023 compliance filing is reviewed and considered fully by regional stakeholders within the Commission-approved Participant Processes. The current timeline for compliance with Order No. 2023 does not allow for such fulsome stakeholder review of necessary Tariff revisions prior to filing, particularly in light of the substantial impacts of Order No. 2023, the potential for deviations from the *pro forma* procedures and agreements and the allowance of some flexibility for transmission providers to propose certain specifics of compliance. If this Motion is granted, New England ISO-NE and the other New England transmission providers with a compliance obligation would have until January 19, 2024, to submit the compliance filing. Not only would this additional time allow for proper stakeholder consideration of proposed Order No. 2023 compliance changes prior to filing but importantly would ensure that ISO-NE and the Commission receive the benefit of informed and meaningful stakeholder input that results from sufficient presentation and review time within the NEPOOL stakeholder process.

The Commission has long recognized the value of the NEPOOL Participant Processes. NEPOOL is the Commission-recognized stakeholder advisory organization for ISO-NE with

⁹ See Initial Comments of the New England Power Pool Participants Committee, Docket No. RM 22-14-000 (Oct. 13, 2022).

review and voting rights over most revisions to the ISO-NE Tariff.¹⁰ NEPOOL’s members represent all energy sectors in New England, including, particularly relevant here, transmission providers, participant-funded transmission developers and generation developers. Fully engaging the NEPOOL Participants before completing and filing proposed changes helps assure that NEPOOL Participants have a chance to fully understand proposed changes, and an opportunity to suggest and explore alternatives. It also helps ensure that ISO-NE fully understands how the proposal will impact NEPOOL Participants and the ISO-NE markets, and provides the opportunity to resolve or narrow any issues of controversy. Here, where modifications to the Tariff will directly impact NEPOOL stakeholders, additional time for adequate review, input and vote by NEPOOL is appropriate.¹¹

Further, the NEPOOL Participant Processes allow for Participant-proposed amendments to ISO-NE Tariff revision proposals. A brief additional time for compliance will allow for any such Participant proposals to be thoughtfully developed, considered by NEPOOL and ISO-NE, and voted on by the appropriate committee(s).

On September 27, 2023, ISO-NE provided its first overview to the NEPOOL Transmission Committee (“TC”) of its proposed compliance with and proposed deviations from Order No. 2023.

¹¹ The Commission has previously instructed that Tariff changes should be brought through the NEPOOL stakeholder process. *See e.g., ISO New England Inc. and New England Power Pool*, 133 FERC ¶ 61,239, at P 26 (2010) (directing that parties that seek to propose changes to the language in the Tariff should use the NEPOOL stakeholder process); *ISO New England Inc. and New England Power Pool Participants Committee*, 128 FERC ¶ 61,023, at P 31 (2009) (noting that certain revisions to the Tariff should come as a product of the NEPOOL stakeholder process); *ISO New England Inc., et al.*, 125 FERC ¶ 61,230, at P 8 (2008) (specifically noting that problems raised relating to the Financial Assurance Policy, which is a product of deliberate NEPOOL stakeholder process, are best addressed and resolved through the stakeholder process); *New England Power Pool and ISO New England Inc.*, 109 FERC ¶ 61,252, at P 40 (2004) (directing that parties who wish to make changes to provisions in the tariff regarding periodic evaluation of Participant-funded facilities and reliability should bring those suggested changes through the NEPOOL stakeholder process).

Based on that discussion and the many questions and answers at the meeting, it was clear that there are several important Tariff drafting and compliance details that still need to be carefully worked out and that the region would benefit from a modest extension of the compliance deadline for New England to do so. Granting NEPOOL's reasonable request for an extension of time would ensure NEPOOL members, and New England State representatives are provided with a meaningful opportunity to fully review and consider ISO-NE's proposed revisions to the ISO-NE Tariff.

Under the NEPOOL Commission-approved stakeholder process, Tariff revisions relating to transmission and interconnection are first presented to, and reviewed by, the TC.¹² After TC discussion and deliberation, the TC will vote on whether to recommend the Tariff revisions for support by the Participants Committee ("PC"). Per the Second Restated NEPOOL Agreement and the NEPOOL Participants Agreement, NEPOOL acts predominantly through its PC and formal NEPOOL support of the Tariff revisions must come from a vote by the PC.¹³

With compliance filings due on December 5, 2023, there is insufficient time for proposed revisions to be adequately presented by ISO-NE, fully reviewed and discussed by the Transmission Committee, and voted on by the NEPOOL Participants Committee. As stated above, ISO-NE presented its Order No. 2023 compliance and Tariff proposal at a conceptual level only for the first

¹² The NEPOOL TC is a standing technical committee of NEPOOL. The TC advises the PC, ISO-NE and transmission owners on the reliable and efficient operation of the regional transmission system on matters such as: (1) amendments to transmission-related provisions of the ISO-NE Tariff and related rules; (2) transmission and ancillary services billing procedures; and (3) proposed amendments to the Transmission Operating Agreement. *See*, ISO-NE, Transmission Committee, <https://www.iso-ne.com/committees/transmission/transmission-committee>.

¹³ Second Restated NEPOOL Agreement § 6.1; Participants Agreement § 8.1.3. Specifically, in the Participants Agreement, the Participant Process consists of: (a) advice and input to ISO and consideration of that advice and input by ISO; (b) advice and input to ISO with respect to changes in the General Tariff Provisions, Non-TO OATT Provisions, the Market Rules, the Operating Procedures, Installed Capacity Requirement, Manuals, Reliability Standards and Information Policy; (c) Review and input on ISO's annual operating and capital budgets and consideration of that input by ISO; (d) Participation in the process for the nomination and election of ISO Board members; and (e) Consideration and approval of certain amendments to this Agreement. Participants Agreement § 7.1.1.

time to the NEPOOL Transmission Committee on September 27, 2023.¹⁴ Although the Transmission Committee had some brief time to ask questions and discuss the proposed compliance at a conceptual level only, and despite ISO-NE's diligent best efforts, there were some questions about important details for which there were no answers yet ready. Moreover, there were no specific revisions to the ISO-NE Tariff available for the TC to review at this meeting, including any proposed deviations or proposals in areas where ISO-NE has flexibility. The Transmission Committee will next meet on October 17, where specific ISO-NE Tariff revisions would be available for one meeting of review and feedback before a currently scheduled vote by the TC on November 9, 2023.¹⁵ A vote at the TC would then go to the PC for final vote on whether to support the compliance filing.

The Participants Committee's regularly scheduled monthly meetings will occur on November 2 and December 7, 2023, and January 4, 2024.¹⁶ The Participants Committee has also reserved November 16, 2023 as a special meeting date if required to vote on Order No. 2023 before the compliance deadline of December 5. With a vote at the Transmission Committee on November 9 and a vote at the Participants Committee on November 16 the process will be rushed. Transmission Committee members will have had only one meeting (October 17) to review revisions to the Tariff before voting on them at the next meeting (November 9). Allowing an additional 45 calendar days would give the TC an additional meeting to review the Tariff revisions and an opportunity in December to discuss and vote on whether to recommend Participants

¹⁴ See September 27, 2023 TC Agenda https://www.iso-ne.com/static-assets/documents/100003/a00_2023_09_27_tc_agenda.docx.

¹⁵ See NEPOOL Calendar, <https://nepool.com/calendar/month/2023-10/>.

¹⁶ *Id.*

Committee support for the proposed Tariff revisions. This schedule would then allow for a Participants Committee vote on January 4, 2024.

Moreover, if the Commission does not grant the requested extension, ISO-NE and the Commission will lose the benefit of informed discussion through a complete stakeholder process and the opportunity to refine the compliance package before the filing deadline.¹⁷ Ensuring that regional stakeholders can fully review, discuss, and vote on proposed Order No. 2023 changes prior to compliance deadline will help to produce a compliance filing for the New England region reflecting that informed stakeholder consideration and which may also reduce the risk of prolonged litigation on issues that could be resolved at the NEPOOL stakeholder table. NEPOOL is not aware that any party would be harmed by the Commission allowing an additional 45 calendar days for ISO-NE's compliance with Order No. 2023; and, as stated, NEPOOL has consulted with ISO-NE regarding this requested extension of time and ISO-NE has confirmed that it does not object to this request, nor does the PTO-AC. Accordingly, NEPOOL submits that good cause exists to grant this motion for a brief 45-day extension of time for ISO-NE and the applicable New England transmission owners to make their Order No. 2023 compliance filing.

¹⁷ *Cf. ISO New England Inc. and New England Power Pool*, 139 FERC ¶ 61,047 at P 25 (2012) (commending regional stakeholders for their efforts “to develop improvements” to market rules); *cf. New England Power Pool*, 105 FERC ¶ 61,300 at P 39 (2003) (noting the extensive stakeholder process used to develop a cost allocation plan, which the Commission expected would “help to minimize litigation and encourage actual needed transmission”).

III. CONCLUSION

For the foregoing reasons, the Commission should grant the requested extension of New England's Order No. 2023 compliance deadline until January 19, 2024.

Respectfully submitted,

NEPOOL Participants Committee

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Its Attorneys

CERTIFICATE OF SERVICE

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

Dated this 2nd day of October, 2023.

/s/ Teresa J. Chen

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