



ISO Responses to Stakeholder Comments on Draft Maine 2023 Needs Addendum Assessment Report: New Hampshire Transmission

ISO responses to comments from New Hampshire Transmission (NHT)

This response addresses comments submitted by NHT in relation to the Maine 2023 Needs as presented at the February 17, 2016, PAC meeting and documented in the draft Maine 2023 Needs Addendum Assessment report. The comments from NHT are appended to the end of this document.

In a letter to PAC Matters dated March 15, 2016, NHT commented that the process laid out by ISO New England regarding the Maine 2023 Needs Assessment allows for competitive solicitations for solutions only after solutions for the three-year-or-less solutions have been designed.

NHT takes issue with the ISO's process stating:

“NHT does not believe that ISO-NE has the discretion to delay soliciting competitive transmission solutions for Needs identified in the Maine 2023 Needs Assessment to permit the incumbent PTO to plan and design those transmission solutions that ISO-NE is ultimately permitted to designate as time sensitive. We believe that this is contrary to FERC's efforts to promote efficient and cost-effective transmission planning and to remove barriers to competitive transmission market development, and gives an unfair advantage to the incumbent PTO.”

NHT continues that “NHT does not believe that ISO-NE has met the spirit or intent of the May 17, 2013 FERC order ...” and proceeds to set out excerpts and commentary from the May 17 order, and its view of whether the ISO had satisfied the language of the order.

The ISO disagrees with NHT's interpretation of the FERC order, and the further relevant order where FERC accepted the tariff provisions that the ISO is now implementing. The FERC order directed that projects needed within three years, and with notice requirements, would be exempted from the competitive solicitation process. Disagreeing with arguments made against the exemption, FERC found that the three year window provided the right balance of system reliability within the Order No. 1000 process. *See ISO New England Inc. 143 FERC ¶ 61,150 at P 239 (May 17, 2013).*

NHT has acknowledged in the past that projects needed within three years would be exempted under the three-year process. In arguing to FERC that the ISO had not correctly understood the FERC compliance order regarding grandfathering, NHT stated, in support of their argument that “proposed” projects should not be grandfathered: “Time concerns should not thwart application of the

competitive process. *Projects needed within three years are likely to be subject to the conditional three year ROFR.*” See the December 16, 2013 NHT Protest of the ISO New England Compliance filing at paragraph 10, emphasis added.

While FERC rejected NHT’s arguments, it did note NHT’s statement regarding the expected use of the three year exemption for projects needed within three years, stating: “New Hampshire Transmission also argues that time should not be an issue, as projects needed within three years are likely to be subject to the conditional three-year right of first refusal.” See *ISO New England Inc.* 150 FERC ¶ 61,209 at P 51 (March 19, 2015).

In that same March 2015 order, FERC further accepted the ISO-proposed steps surrounding the use of the three-year competitive exemption for reliability projects. These steps, now part of Attachment K, have been observed by the ISO for the Maine study. NHT does not focus on the Tariff language actually approved by FERC, but rather NHT lists out the paragraphs from the May 17, 2013 order and provides its view of whether the ISO has satisfied NHT’s expectations given FERC’s descriptions. The exercise is legally irrelevant as FERC specifically reviewed the ISO’s tariff compliance language, has approved that compliance language and the ISO has implemented that compliance language.

Specifically, the FERC-approved Tariff provides:

4.1(j) Requirements for Use of Solution Studies Rather than Competitive Process for Projects Based on Year of Need

The following requirements must be met in order for the ISO to use Solution Studies in the circumstances described in Section 4.1(i) based on the solution’s year of need:

(i) The ISO shall separately identify and post on its website an explanation of the reliability criteria violations and system conditions that the region has a time-sensitive need to solve within three years of the completion of the relevant Needs Assessment. The explanation shall be in sufficient detail to allow stakeholders to understand the need and why it is time-sensitive.

ISO met this obligation when it posted the Addendum Report to the 2023 ME Needs Assessment to the ISO web site on February 10, 2016, and during the presentation on the ME 2023 needs to PAC on February 17, 2016. This report and presentation described the needs in the study area, provided a year of need for each described need based on the results of a critical load level analysis, and identified which needs were time sensitive based on the related year of need.

(ii) In deciding whether to utilize Solutions Studies, such that the regulated transmission solution will be developed through a process led by the ISO and built by the PTO(s), the ISO shall:

(A) Provide to the Planning Advisory Committee and post on its website a full and supported written description explaining the decision to designate a Participating Transmission Owner as the entity responsible for construction and ownership of the reliability project, including an explanation of other transmission or non-transmission options that the region considered but concluded would not sufficiently address the immediate reliability need, and the circumstances that generated the reliability need and an explanation of why that reliability need was not identified earlier.

ISO met these requirements through the presentation that was given to PAC on February 17, 2015. The materials for this presentation are posted to the ISO web site and contain the following:

- A statement on the determination to utilize the Solutions Study process to address the time sensitive needs (slide 25 of 31). This process results in the designation of Participating Transmission Owner(s) as the entities responsible for construction and ownership of the resulting reliability project(s).
- An explanation for why both transmission (e.g. Elective Transmission Upgrades) and non-transmission options the region considered would not sufficiently address the immediate reliability need (slide 15 of 31).
- Statements providing the circumstances that generated the reliability needs and an explanation of why the reliability needs were not identified in earlier ME Needs Assessments (slide 3 of 31).

(B) Provide a 30-day period during which comments from stakeholders on the posted description may be sent to the ISO, which comments will be posted on the website, as well.

On February 17, 2016, ISO stated that a 30 day comment period would take place for stakeholders to provide comments on the posted Addendum Report to the 2023 ME Needs Assessment and the related February 17, 2016, PAC presentation materials. ISO has responded to all received stakeholder comments. These documents, which have been posted to the ISO web site, include all of ISO's written responses to the stakeholder comments.

(iii) The ISO shall maintain and post on its website a list of prior year designations of all projects in the limited category of transmission projects for which the PTO(s) was designated as the entity responsible for construction and ownership of the project following the performance of Solution Studies. The list must include the project's need-by date and the date the PTO(s) actually energized the project, i.e., placed the project into service. The ISO shall file such list with the Commission as an informational filing in January of each calendar year covering the designations of the prior calendar year, when applicable.

Since the ISO has not yet completed the Solutions Studies to resolve the identified needs in Maine, there is no action for the ISO to take at this point with respect to these requirements. Once solutions are identified through the Solutions Studies, the ISO will take the actions necessary to ensure that these requirements are met.

As noted, NHT argues that in addition to its view that that ISO has not fully complied with the requirements by waiting to establish what – if any – reliability needs remain to be solved after needs occurring within a three year window after the completion of the relevant Needs Assessment have been designed.

As the ISO has explained at multiple PAC meetings, a meaningful RFP cannot be immediately conducted for the greater than three-year projects without knowing what the less than three-year solutions are because:

- i. Until 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. For example, adding a new line to meet the less than three-year needs may address issues in the out-years. It would not make sense for the ISO to issue an

RFP – the ISO study and backstop development costs of which are paid for by the ratepayers of New England – for an issue that will be otherwise addressed.

- ii. Until a solution to the three year need is developed, it is not clear 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. For example, in Southeast Massachusetts, current system needs are acute and there are not many options for redispatch due to the severity of the violations, some of which are present in the base case with no contingencies being applied. After near term transmission upgrades are designed, however, models may show options for redispatch of the system that will effectively address criteria violations without the need for additional transmission investment in the area.
- iii. Related to the first two points, 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. Additionally, the ISO would not be able to perform a review of the proposed solutions until the base system topology is solidified.

Arguing against these points, NHT asserts that going ahead and holding an RFP for projects that may not be needed, for solutions that may not even work or make sense given revised system topology “is contrary to FERC’s efforts to promote efficient and cost-effective transmission planning...” See NHT March 15, 2016 comments submitted to PAC Matters at pages 1-2. The ISO disagrees. Issuing an RFP before a need is established is neither an “efficient or cost effective” way to conduct transmission planning to spend significant resources and incur costs to rate payers for new transmission that may not even be necessary.

As the ISO has explained to the PAC, after solutions are developed (designed - not actually built or in-service) in the ISO-led process for the less than three-year needs, the ISO will be able to perform a Needs Assessment with the new system topology modeled that will identify any needs seen on the updated system.



March 15, 2016

VIA EMAIL: PACMatters@iso-ne.com

Mr. Alex Rost
Supervisor Transmission Planning
ISO New England, Inc.
1 Sullivan Road
Holyoke, MA 01040

RE: Maine 2023 Needs Assessment and the Re-evaluation of the Maine 2023 Needs Assessment

Dear Alex,

New Hampshire Transmission (NHT) is pleased to offer these comments to ISO-NE's February 17, 2016, Planning Advisory Committee (PAC) Presentation regarding the December 31, 2014, Maine 2023 Needs Assessment and the Re-evaluation of the Maine 2023 Needs Assessment as set forth in the Addendum Report dated February 9, 2016 (collectively referred to as the Presentation).

NHT is a public utility in the state of New Hampshire, a FERC rate-regulated Transmission Owner in New England, and the majority owner of the Seabrook substation. NHT and its predecessor, FPL-New England Division, has nearly a decade of experience as a transmission owner in New England and regularly works with ISO-NE, states, and other stakeholders on a variety of transmission related issues. NHT continues to pursue opportunities to develop, build, and operate new transmission facilities in the region and would like to participate in the Maine 2023 Reliability Study process to advance meaningful competitive solutions that mitigate the needs identified in the Maine 2023 Needs Assessment and the Re-evaluation of the Needs Assessment.

However, the process proposed by ISO-NE in the Presentation only allows for competitive transmission development opportunities after the incumbent Participating Transmission Owners (PTO) have first designed and planned solutions to address those reliability needs that ISO-NE designates as time-sensitive. Competitive opportunities would exist only if those incumbent PTO solutions are not designed and planned so as to eliminate those reliability needs which ISO-NE does not designate as time sensitive. NHT does not believe that ISO-NE has the discretion to delay soliciting competitive transmission solutions for Needs identified in the Maine 2023 Needs Assessment to permit the incumbent PTO to plan and design those transmission solutions that ISO-NE is ultimately permitted to designate as time-sensitive. We believe that this is contrary to FERC's efforts to promote efficient and cost-

effective transmission planning and to remove barriers to competitive transmission market development, and gives an unfair advantage to the incumbent PTO.

Specifically, NHT does not believe that ISO-NE has met the spirit and intent of the May 17, 2013, FERC Order addressing ISO-NE's October 2012 Order 1000 Compliance Filing. Section 4.1(j) of Attachment K does not allow ISO-NE to designate any of the Needs identified in the Plan as time-sensitive such that the transmission solutions should be reserved for the incumbent PTO to plan, design and construct pursuant to Section 4.2 of Attachment K absent sufficient justification. FERC, in its May 17, 2013 Order addressing ISO-NE's October 2012 Compliance Filing, recognized the potential for some transmission solutions that were deemed time-sensitive to be exempt from the competitive solicitation process. However, FERC expected those instances to be limited circumstances as set forth below.

We recognize that in certain instances time constraints may not allow for the open solicitation of reliability-related transmission projects without risking reliability to the system...we find that it is just and reasonable to include a class of reliability-related transmission projects that are exempt from the competitive solicitation.

*However, we also find that such an exception **should only be used in certain limited circumstances**. Therefore, we adopt the following five criteria, which we believe will place reasonable bounds on ISO-NE's discretion to determine whether there is sufficient time to permit competition to develop reliability projects and, as a result, will **ensure that an exception from the requirement to eliminate a federal right of first refusal for reliability projects will be used in limited circumstances**. [Emphasis added]*

The five criteria set forth in the Commission's May 17, 2013 Order and NHT's determination of whether ISO-NE has satisfied these criteria with respect to ISO-NE's proposed process for identifying solutions to mitigate reliability needs identified in the Maine 2023 Needs Assessment is summarized below.

1. The reliability project must be needed in 3-years or less to solve reliability criteria violations.

NHT believes that ISO-NE has complied with this criterion based on Critical Load Level Analysis

2. Separately identify and then post on its website an explanation of the reliability violations and system conditions in advance for which there is a time-sensitive need. The explanation must be in sufficient detail to allow stakeholders to understand the need and why it is time sensitive

NHT believes that ISO-NE has partially satisfied this criterion. ISO-NE has identified each reliability criteria violation as either thermal or voltage criteria violations and has posted the information as required. However, ISO-NE has not met the burden of explaining to stakeholders

why these reliability criteria violations rise to the level of time-sensitive other than simply showing that the violations are predicted to occur within three years. If this simple mathematical exercise was all that FERC intended to satisfy these requirements, there would be no further explanation required that wasn't covered under the first criterion. Given that most reliability needs identified by ISO-NE in the past several years have been predicted as occurring within three years or less of the Needs Assessment in which they were identified, NHT requests that ISO-NE demonstrate why the reliability needs identified in the Maine 2023 Needs Assessment (and in the Addendum/re-evaluation study) are exceptional or more serious than those other circumstances.

ISO-NE's should also describe the system operations and procedures implemented to maintain reliable operation of the transmission system when solutions have not been able to be implemented on a timely basis in the past, and why similar system operations and procedures are not viable options for ISO-NE to implement during the short period of time required for ISO-NE to conduct a competitive solicitation.¹ To avoid being deemed in violation of NERC Reliability Standards only requires a plan to be in place to address the reliability criteria violations. Such a plan can include a description of how ISO-NE is in the process of having transmission solutions designed and planned, and would not preclude the use of a competitive solicitation.

- 3. The process that ISO-NE uses to decide whether a reliability project is assigned to a PTO must be clearly outlined in ISO-NE's OATT and must be open, transparent, and not unduly discriminatory. ISO-NE must provide to stakeholders and post on its website a full and supported written description explaining: (1) the decision to designate a PTO as the entity responsible for construction and ownership of the project, including an explanation of other transmission or non-transmission options that the region considered but concluded would not sufficiently address the immediate reliability need, and (2) the circumstances that generated the reliability need and an explanation of why the reliability need was not identified earlier.***

NHT believes that ISO-NE has partially satisfied this criterion. The tariff does set forth that a ROFR will be maintained for an incumbent PTO for time sensitive reliability needs. However, to satisfy this criterion ISO-NE should provide an explanation as to why those procedures are applicable to address the reliability needs in the Maine 2023 Needs Assessment and Addendum/re-evaluation study. In addition to NHT's concerns set forth in criterion two above, ISO-NE has also not provided an explanation as to why these reliability needs were not identified earlier so as to avoid the needs falling within the three-year time-sensitive window.

- 4. Fourth, stakeholders must be permitted time to provide comments in response to the description in criterion three and such comments must be made publicly available.***

¹ ISO-NE's justification for designating needs and solutions as time-sensitive must also take into account the fact that Attachment K requires the incumbent PTO to design and plan a backstop solution to protect against those instances where solutions fail to be completed when awarded to a Qualified Transmission Project Sponsor pursuant to Section 4.3 of Attachment K. The fact that a backstop solution is being designed and planned substantially mitigates any incremental time consumed in the competitive solicitation process.

NHT believes that ISO-NE has partially satisfied this criterion. ISO-NE has established a 30-day comment period to address the information it presented to the PAC on February 17, 2016, but that information did not include all of the information required in criteria two or three.

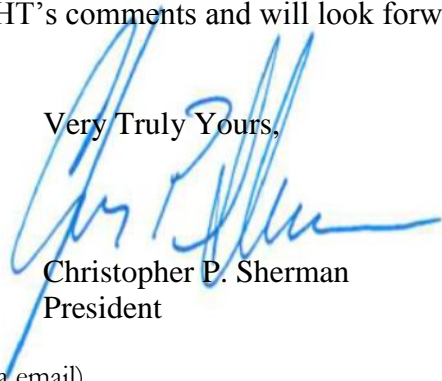
5. ***ISO-NE must maintain and post on its website a list of prior year designations of all projects in the limited category of transmission projects for which the Participating Transmission Owner was designated as the entity responsible for construction and ownership of the project.***

Presumably ISO-NE will be maintaining this posting requirement as it accumulates a list of projects for which it has properly designated as time-sensitive and designated the incumbent PTO to design and construct.

The Commission made it clear that ISO-NE can only grant a right-of-first refusal for a PTO to plan, design, construct and own reliability transmission solutions when the five criteria have been satisfied. For the reasons stated above, NHT does not believe ISO-NE has met this burden. Accordingly, NHT respectfully requests that ISO-NE the comments as set forth herein and reconsider the solutions proposed in the Presentation to allow for participation by competitive transmission providers.

Thank you for consideration of NHT's comments and will look forward to continuing to work with you in this regard.

Very Truly Yours,



Christopher P. Sherman
President

cc. Steven Garwood, PowerGrid Strategies (via email)
