

June 9, 2017

David Ismay
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VIA ELECTRONIC MAIL

Dear Mr. Ismay:

ISO New England Inc. ("ISO") is in receipt of your letter dated May 16, 2017 ("May 16 CLF Letter").¹ The May 16 CLF Letter focuses on the May 1, 2017 correspondence from NESCOE ("May 1 NESCOE Letter"),² which included a cover letter and written findings by each of the six New England states that they do not have public policies that drive the need for transmission solutions to be studied in the regional planning process administered by the ISO as the regional transmission organization.

In the May 16 CLF Letter, you state that the law requires that the ISO make a separate determination from the New England states regarding whether there are public policies that drive the need for new transmission. In support of this, the May 16 CLF Letter references *Emera Maine v. FERC*, No. 15-1139 (D.C. Cir.)(April 18, 2017).

The ISO disagrees with the conclusion reached in the May 16 CLF Letter. The ISO Tariff³ is clear that NESCOE may inform the ISO regarding the existence of state public policies through a written communication.⁴ Further, the Tariff is clear that while there is a process for stakeholders to request an ISO review of the NESCOE letter regarding federal public policies, there is not a similar review provision for state public policy determinations made by the New England states and communicated through NESCOE.⁵

¹ A copy of the May 16 CLF Letter is posted publicly on the ISO website at the following URL: https://www.iso-ne.com/static-assets/documents/2017/05/051617_clf_public_policy_letter.pdf

² A copy of the May 1 letter from the New England States Committee on Electricity ("NESCOE") is posted publicly on the ISO website at the following URL: https://www.iso-ne.com/static-assets/documents/2017/05/nescOE_submission_public_policy_transmission_upgrades.pdf

³ The regional planning process is described in Attachment K of Section II to the ISO's Transmission, Markets and Services Tariff ("Tariff"). Section II of the Tariff is the Open Access Transmission Tariff.

⁴ See Attachment K at Section 4A.1


⁵ See *id.* at 4A.1.1

The Emera case cited in your May 16 CLF Letter does not impact the Tariff language described, nor could it. The Tariff provisions regarding the role of the states and the ISO in the determination of state public policies was not on appeal. That is, there was no appeal of the Federal Energy Regulatory Commission's ("FERC" or "Commission") approval of language allowing states to identify state public policies to the ISO through NESCOE. There was similarly no holding or remand to the Commission to revise the language in the Tariff allowing for the states to have a key role in identifying state public policies that may drive the need for transmission. The clear language of the Tariff regarding the NESCOE communication, therefore, has remained unaltered.

While the D.C. Circuit's decision was clear that the ISO independently develops and studies possible transmission, the triggering event has not occurred for that independent development and study to take place. That is, the states, which set out what their public policies are, have not identified any statutes or regulations to the ISO that drive the need for new transmission development through the regional planning process.

What NESCOE did provide satisfies, and exceeds, what is required by the FERC-approved Tariff language. Not only was a written communication regarding the existence of public policies that may drive transmission provided, but each New England state submitted, as part of that communication, a thorough and reasoned explanation of why each of the identified statutes and regulations are not driving the need for new transmission in the regional planning process.

Regards,



Theodore J. Paradise
Assistant General Counsel, Operations & Planning
ISO New England Inc.