

161 FERC ¶ 61,123  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;  
Cheryl A. LaFleur, and Robert F. Powelson.

ISO New England Inc.

Docket No. ER17-2421-000

ORDER ACCEPTING TARIFF REVISIONS

(Issued October 31, 2017)

1. On September 1, 2017, pursuant to section 205 of the Federal Power Act (FPA),<sup>1</sup> ISO New England Inc. (ISO-NE), the New England Power Pool (NEPOOL) Participants Committee, and the Participating Transmission Owners Administrative Committee on behalf of the Participating Transmission Owners (collectively, Filing Parties), jointly submitted proposed revisions to sections I and III of Market Rule 1 of ISO-NE's Transmission, Markets and Services Tariff (Tariff).<sup>2</sup> Filing Parties state that the proposed revisions incorporate a methodology for considering interconnection requests as part of a cluster rather than individually, as well as for allocating certain network upgrade costs needed to accommodate those interconnection requests on a cluster basis, when a specified set of conditions are present in the interconnection queue (Clustering Revisions). As discussed below, we accept the proposed Clustering Revisions effective November 1, 2017, as requested.

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<sup>1</sup> 16 U.S.C. § 824d (2012).

<sup>2</sup> ISO New England Inc., ISO New England Inc. Transmission, Markets and Services Tariff, [I.2, I.2 Rules of Construction; Definitions, 104.0.0](#), [Schedule 11, Schedule 11 Generator Interconnection Related Upgrade Costs, 3.0.0](#), [Schedule 22, Schedule 22 Large Generator Interconnection Procedures, 11.0.0](#), [Schedule 23, Schedule 23 Small Generator Interconnection Procedures, 11.0.0](#), [Schedule 25, Schedule 25, Elec. Transmission Upgrade Inter. Proc., 2.0.0](#), [Attachment K, Attachment K Regional System Planning Process, 21.0.0](#).

## I. Background

2. Currently, ISO-NE's interconnection procedures utilize a serial study approach that identifies both the network upgrades and interconnection facilities<sup>3</sup> necessary to accommodate interconnection requests individually on a first-ready, first-served basis.<sup>4</sup> ISO-NE's procedures begin when a transmission customer submits an interconnection request, establishing that interconnection customer's position in the interconnection queue. Then, ISO-NE holds a scoping meeting with the interconnection customer, after which it performs the required interconnection studies. The interconnection process culminates with an interconnection agreement, which identifies the transmission facilities necessary to accommodate the interconnection. ISO-NE directly assigns all upgrade costs to the interconnection customer that would not have been incurred "but for" the interconnection.<sup>5</sup>

3. Filing Parties report that the existing serial queue study approach is working well for processing interconnection requests throughout New England, with the exception of northern and western Maine.<sup>6</sup> According to Filing Parties, wind resources in northern and western Maine are seeking to interconnect in remote areas of the system that were built to serve minimal system load rather than to facilitate substantial injection of energy. Filing Parties explain that, as a result, significant transmission infrastructure is needed to interconnect the quantity of proposed new resources in this area of the system. Filing Parties further state that this infrastructure need is common to all of the resources seeking to interconnect in these areas, and that individual interconnection customers are unable or

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<sup>3</sup> Network upgrades are new transmission facilities, or modifications to or upgrades of existing transmission facilities, that are at or beyond the point of an interconnection customer's interconnection to the transmission system and are needed to accommodate its interconnection request. In contrast, interconnection facilities are the transmission facilities and equipment between the generating facility and the point of interconnection with the transmission system that are needed to interconnect the generating facility to the transmission system. *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. ¶ 31,146, at 21 (2003), *order on reh'g*, Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160, *order on reh'g*, Order No. 2003-B, FERC Stats. & Regs. ¶ 31,171 (2004), *order on reh'g*, Order No. 2003-C, FERC Stats. & Regs. ¶ 31,190 (2005) *aff'd sub nom. Nat'l Ass'n of Regulatory Util. Comm'rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007).

<sup>4</sup> Filing Parties Transmittal at 13.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at 2.

unwilling to make the necessary infrastructure investments. To resolve this need, the Filing Parties developed the Clustering Revisions.

## **II. Filing Parties' Proposal**

4. The Clustering Revisions add a new interconnection cluster study process to the Tariff. The cluster study process would be triggered when: (1) there are two or more interconnection requests without a completed System Impact Study<sup>7</sup> in the same electrical part of the ISO-NE system based on the requested point of interconnection; and (2) none of the interconnection requests will be able to interconnect, either individually or on a cluster basis, without the use of common significant new transmission line infrastructure rated at or above 115 kV AC or HVDC. Absent these conditions, the existing serial interconnection study process will apply.<sup>8</sup>

5. The Clustering Revisions implement a two-phase cluster study process. Under phase one, ISO-NE will announce the initiation of a Cluster Regional Planning Study as part of its broader regional transmission planning process and will notify each individual interconnection customer eligible to participate in that planning study. Interconnection customers are eligible for inclusion in the study if they (1) are both geographically and electrically located in the area where the backlog conditions exist; and (2) do not have a completed System Impact Study. Notice of the Cluster Regional Transmission Plan will suspend all ongoing serial queue-based study work associated with the identified interconnection requests.<sup>9</sup>

6. ISO-NE will prepare and post on its website the scope of the Clustering Regional Planning Study, including the associated parameters and assumptions, and solicit

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<sup>7</sup> System Impact Study “is an assessment of (i) the adequacy of the [Pool Transmission Facilities] or Non-[Pool Transmission Facilities] to accommodate a request for the interconnection of a new or materially changed generating unit or a new or materially changed interconnection to another Control Area or new Regional Network Service or new Local Service or an Elective Transmission Upgrade, and (ii) whether any additional costs may be required to be incurred in order to provide the interconnection or transmission service.” ISO-NE Tariff § I.2.2, Definitions (102.0.0).

<sup>8</sup> *Id.* at 21.

<sup>9</sup> *Id.* at 23.

stakeholder input through the Planning Advisory Committee.<sup>10</sup> Filing Parties state that ISO-NE will then use reasonable efforts to complete the Cluster Regional Planning Study within 12 months from the cluster initiation notice to the Planning Advisory Committee. The study will identify: (1) a planning level description of the Cluster Enabling Transmission Upgrade(s) and associated system upgrades; (2) a non-binding good faith order-of-magnitude estimate, developed by the applicable transmission owner(s), of the costs for the Cluster Enabling Transmission Upgrade(s) and the associated upgrades; (3) the approximate megawatt quantity (or quantities if more than one level of megawatt injection was studied in the Cluster Regional Planning Study) of resources that could be interconnected in a manner that meets the interconnection standards in accordance with the interconnection procedures; and, (4) a list of the interconnection requests, referenced by queue position, that ISO-NE has identified as eligible to participate in the second-phase cluster studies, together with the interconnection requests' expected cost responsibility for the Cluster Enabling Transmission Upgrade and associated upgrade costs.<sup>11</sup> ISO-NE will post a draft Cluster Regional Planning Study report that details these results for stakeholder comment, as well as any written comments that it receives and its responses to those comments. Afterwards, Filing Parties state, ISO-NE will post the finalized Cluster Regional Planning Study on its website.<sup>12</sup>

7. After ISO-NE publishes its report of the Clustering Regional Planning Study, the identified interconnection customers will have 30 days to elect to join the cluster and proceed to the second phase.<sup>13</sup> If an interconnection customer does not join the cluster, it can either move to the bottom of the queue and be studied serially or withdraw its

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<sup>10</sup> The Planning Advisory Committee is an open stakeholder forum that provides input and feedback to ISO-NE concerning the regional system planning process. ISO-NE Tariff, Attachment K, § 2.2 (21.0.0).

<sup>11</sup> Filing Parties Transmittal at 28-29. The Clustering Revisions also provide ISO-NE with the option to design a Cluster Enabling Transmission Upgrade that facilitates the interconnection of less than the entire total megawatts proposed for the examined area. ISO-NE states that focusing every Cluster Regional Transmission Plan on designing a Cluster Enabling Transmission Upgrade that accommodates every single interconnection request in many cases will be counterproductive in light of the potential for queue attrition. To the extent that a Cluster Enabling Transmission Upgrade is oversubscribed, ISO-NE will commence a second Clustering Regional Transmission Plan. McBride Testimony at 34.

<sup>12</sup> Filing Parties Transmittal at 28-29; ISO-NE Tariff, Attachment K, § 15.4 (21.0.0).

<sup>13</sup> ISO-NE Tariff, Attachment K, § 15.4 (21.0.0).

interconnection request. Filing Parties explain that phase one of its proposed cluster study process is intended to provide interconnection customers with significant information about the magnitude and estimated costs of the transmission infrastructure necessary to accommodate the interconnection requests in the cluster, information that can help inform each interconnection customer's decision of whether to move forward in the process.<sup>14</sup>

8. Filing Parties explain that the second phase of Filing Parties' proposed cluster study process replaces the System Impact Study and optional Facilities Study that ISO-NE performs individually for each interconnection customer under its existing interconnection procedures.<sup>15</sup> ISO-NE will be required to perform a Cluster System Impact Study rather than individual System Impact Studies. While all interconnection requests included in the Cluster System Impact Study will be assessed together, upon completion of this study, ISO-NE will issue a study report to each individual interconnection customer that identifies the shared and sole-use facilities necessary to accommodate the proposed resource and the associated cost estimates. ISO-NE will then perform a Cluster Interconnection Facilities Study, which requires all interconnection customers in a cluster to participate in order to more accurately estimate the costs for all common upgrades associated with the Cluster Enabling Transmission Upgrade and any other shared interconnection facilities. In addition, each interconnection customer in the cluster can elect to have ISO-NE perform a separate Facilities Study for any sole-use interconnection facilities needed to accommodate its interconnection request, but the interconnection customer is not required to do so.

9. The cost of the Cluster Enabling Transmission Upgrade and any other necessary network upgrades will be allocated to the interconnection customers based on a distribution factor or pro-rata methodology, depending on the type of upgrade.<sup>16</sup> Filing Parties assert that the distribution factor cost allocation methodology assigns costs to

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<sup>14</sup> Filing Parties Transmittal at 29.

<sup>15</sup> Filing Parties Transmittal at 4. Generally, a System Impact Study identifies the network upgrades and interconnection facilities needed to accommodate the interconnection of an interconnection customer in a manner that does not impact the reliable operation of the transmission system. A Facilities Study, which the interconnection customer can waive in ISO-NE, develops a more detailed and accurate cost estimate for upgrades and facilities needed to accommodate an interconnection request. Under its serial interconnection study procedures, ISO-NE will directly assign the costs of any needed network upgrades and/or interconnection facilities to the interconnection customer.

<sup>16</sup> ISO-NE Tariff, Schedule 11, § (5) (3.0.0).

those participating in the cluster based on the measure of responsiveness or change in the electrical loading on the shared or common network upgrades due to a change in electric power transfer from one part of the system to another. In other words, each interconnection customer's cost assignment will be proportional to its use of the shared upgrade, as compared to the other resources proposed in the cluster. In instances where a distribution factor cost allocation methodology cannot be used (e.g., dynamic reactive devices), costs will be allocated to the participating interconnection customers based upon a pro rata megawatt share.<sup>17</sup> The costs of any sole-use interconnection facilities needed to accommodate an interconnection customer's interconnection request will be directly assigned to that customer, as is the case under ISO-NE's existing interconnection procedures.

10. If an interconnection customer wishes to proceed to phase two—that is, to join the cluster and fund the Cluster Enabling Transmission Upgrade—it must make a nonrefundable deposit equal to five percent of its share of the necessary upgrade costs.<sup>18</sup> If an interconnection customer proceeds to phase two but later drops out, it forfeits its deposit, and that deposit will be re-allocated to the remaining interconnection customers once those customers' resources achieve commercial operation. Following completion of the Cluster System Impact Study in phase two, interconnection customers must submit an additional study deposit for the Cluster Interconnection Facilities Study. After completion of the interconnection studies, the interconnection customers may execute an Interconnection Agreement with ISO-NE.

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<sup>17</sup> McBride Testimony at 63-64.

<sup>18</sup> ISO-NE Tariff, Schedule 22, § 4.2.3.2.2(3) (11.0.0); Schedule 23, § 1.5.3.3.2.2(3) (11.0.0); Schedule 25, § 4.2.3.2.2(3) (2.0.0). The deposit is refundable under limited conditions, when: (1) the cluster is initially under-subscribed, leaving the interconnection customers that join the cluster with a greater share of the Cluster Enabling Transmission Upgrade costs than expected; (2) the total cost estimate of the Cluster Enabling Transmission Upgrade is significantly higher than the original cost estimated from the Cluster Regional Planning Study; or (3) all interconnection customers withdraw from the cluster prior to construction of the Cluster Enabling Transmission Upgrade. Filing Parties Transmittal at 37.

11. Filing Parties request an effective date of November 1, 2017. Filing Parties state that, during stakeholder discussions of the proposal, ISO-NE initiated a strategic infrastructure study—the Maine Resource Integration Study—to identify the transmission needed to enable the interconnection of potentially all of the resources proposed in northern and western Maine. Filing Parties state that ISO-NE will use the Maine Resource Integration Study as the first Clustering Regional Planning Study (phase one) so that the second phase of the cluster study process can be initiated soon after the effective date.<sup>19</sup> With the Filing Parties' requested effective date, eligible interconnection customers must make a decision to enter the cluster study process within 30 days after the November 1 effective date or completion of the Maine Resource Integration Study, whichever is later.<sup>20</sup>

### **III. Notice of Filing and Responsive Pleadings**

12. Notice of the filing was published in the *Federal Register*, 82 Fed. Reg. 42,672 (2017), with protests and interventions due on or before September 22, 2017. The following parties submitted timely motions to intervene: New England States Committee on Electricity (NESCOE); RENEW Northeast, Inc. (RENEW); Consolidated Edison Energy, Inc.; Calpine Corporation; NRG Power Marketing LLC and GenOn Energy Management, LLC; Eversource Energy Service Company; National Grid; Clean Power Northeast Development Inc. (Clean Power Northeast); EDF Renewable Energy, Inc. (EDF Renewable Energy); and LSP Transmission Holdings, LLC (LS Power). Avangrid, Inc. (Avangrid) submitted an untimely motion to intervene.

13. NEPOOL, Clean Power Northeast, and NESCOE submitted comments. EDF Renewable Energy, RENEW, and American Wind Energy Association (AWEA) submitted timely protests. King Pine Wind, LLC (King Pine Wind) submitted a timely motion to intervene and protest. EDP Renewables North America LLC (EDP Renewables) submitted a timely motion to intervene and comments.

14. On September 26, 2016, LS Power submitted an untimely protest.

15. On October 10, 2017, ISO-NE, NEPOOL, and Avangrid filed answers. On October 26, 2017, RENEW filed an answer. On October 26, 2017, ISO-NE filed an additional answer.

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<sup>19</sup> Filing Parties Transmittal at 46.

<sup>20</sup> *Id.*

#### **IV. Discussion**

##### **A. Procedural Matters**

16. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2017), the timely-filed unopposed motions to intervene serve to make the entities filing them parties to this proceeding. We will grant Avangrid's late intervention given its interest in this proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

17. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2017), prohibits an answer to a protest or answer unless otherwise ordered by the decisional authority. We will accept the answers filed in this proceeding because they have provided information that has assisted us in our decision-making process. We also accept LS Power's late-filed protest.

##### **B. Substantive Matters**

18. We find that the Clustering Revisions are just and reasonable and accept them for filing, effective November 1, 2017, as requested. We find that the Clustering Revisions increase efficiencies, better inform the decisions of project developers, and allow project developers to share the costs of the upgrades necessary to accommodate their interconnection. By allowing interconnection requests to be studied in a cluster, the Clustering Revisions should provide a means to relieve the queue backlog in northern and western Maine, which is one of the primary obstacles to interconnections in that region. We also note that, while not determinative, the Clustering Revisions result from an extensive stakeholder process, and garnered substantial support from stakeholders across all sectors in NEPOOL. We address the protests by issue below.

#### **1. Timing and Implementation**

##### **a. Filing**

19. Filing Parties state that the Clustering Revisions provide for the current northern and western Maine queue backlog to be the first backlog to trigger the cluster study process and the currently ongoing Maine Resource Integration Study to be the first Cluster Regional Planning Study, so that the second phase of the cluster process can be initiated soon after the effective date of the Clustering Revisions without further delays.<sup>21</sup>

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<sup>21</sup> Filing Parties Transmittal at 46 (citing McBride Testimony at 66-67). Filing Parties explain that the final Maine Resource Integration Study report will provide the a description of the Cluster Enabling Transmission Upgrade(s), the megawatt quantity that the Cluster Enabling Transmission Upgrade(s) enable, the cost estimates for the Cluster  
(continued ...)

Filing Parties contend that the implementation of the Clustering Revision is consistent with the transition construct established in Order No. 2003.<sup>22</sup> They state that all interconnection requests in the queue that are located in the electrically relevant portions of northern and western Maine and are without a completed System Impact Study by the requested November 1, 2017 effective date, will be eligible to participate in the second-phase cluster studies. In other words, to be eligible under the Maine Resource Interconnection Study to participate in the second phase cluster studies, a valid interconnection request must be submitted to ISO-NE prior to the effective date of the Clustering Revisions. Filing Parties state that the cluster entry deadline will be 30 days after the later of the effective date of the Clustering Revisions or the completion of the Maine Resource Integration Study. Filing Parties contend that ISO-NE has and will continue to work with interconnection customers regarding the status of their interconnection requests and any actions they need to take based on that status to facilitate their transition to the new rules.<sup>23</sup>

**b. Comments/Protests**

20. RENEW, AWEA, EDP Renewables, and King Pine Wind assert that interconnection projects in northern and western Maine are competing for selection and execution of power purchase agreements in an request for proposals (RFP) issued in 2016 (Massachusetts RFP).<sup>24</sup> Protestors argue that it is unjust and unreasonable to allow the Clustering Revisions to take effect before the issuance of the Massachusetts RFP results.<sup>25</sup>

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Enabling Transmission Upgrade(s) and any associated supporting network upgrades, and the interconnection requests that are eligible to participate in the cluster.

<sup>22</sup> Filing Parties Transmittal at 46. In Order No. 2003, the Commission established a transition process whereby all interconnection customers without an executed Interconnection Study Agreement as of the effective date of the Large Generator Interconnection Procedures would be required to have any subsequent interconnection studies processed in accordance with those procedures. *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at 186.

<sup>23</sup> Filing Parties Transmittal at 46.

<sup>24</sup> RENEW Protest at 7; EDP Renewables Protest at 4; King Pine Protest at 4-5.

<sup>25</sup> RENEW Protest at 7-8; EDP Renewables Protest at 4; King Pine Protest at 5.

21. RENEW asserts that RFPs, like the Massachusetts RFP, determine which renewable energy generating projects are viable for interconnection construction and, thus, which projects execute power purchase agreements that include recovery of network upgrade costs.<sup>26</sup> Protestors contend that selection of projects through the Massachusetts RFP will not happen until January 25, 2018, which is the earliest any of the interconnection customers in northern and western Maine would be willing to commit to the submission of a Cluster System Impact Study Application and a deposit equal to five percent of the interconnection customer's share of the Cluster Enabling Transmission Upgrade costs. EDP Renewables argues that the alleged mismatch in timing will likely result in a collapse of the initial cluster, because interconnection customers that are not selected for the Massachusetts RFP will withdraw from the cluster, in turn worsening the interconnection queue backlog. Protestors argue that a collapse of the initial cluster will delay development of those network upgrades needed for resources seeking to interconnect in northern and western Maine, thereby jeopardizing the ability of any such projects selected in the Massachusetts RFP to meet the supply obligation of their contract awards.<sup>27</sup>

22. EDP Renewables asserts that ISO-NE can easily avoid these timing issues by aligning the implementation of the Clustering Revisions with the timing of the Massachusetts RFP process. EDP Renewables asks that, if the Commission approves the proposal, it grant limited waiver of the Tariff to allow the Maine queue cluster study process to be delayed until 30 days after the issuance of the Massachusetts RFP results. Similarly, RENEW contends that "the Commission has approved other regional clustering proposals in which the Regional Transmission Operator or Independent System Operator (RTO/ISO) requested that the Commission grant a delay in the interconnection process to accommodate the results of an energy procurement RFP."<sup>28</sup>

23. NEPOOL states that RENEW provided an alternative proposal in the stakeholder process to synchronize the interconnection cluster study process with the state energy procurement process. NEPOOL states that stakeholders fully discussed and considered

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<sup>26</sup> RENEW Protest at 5.

<sup>27</sup> EDP Renewables Comments at 2-4.

<sup>28</sup> RENEW Protest at 9 (citing *Portland General Electric Company*, 139 FERC ¶ 61,133 (2012) (request for waiver by transmission owner to postpone its own "open season" for financial commitments to purchase transmission capacity and interconnection services in order for interconnection customer to learn if their proposals have been selected in an RFP); and *California Independent System Operator*, 124 FERC ¶ 61,031 (2008) (existence of an approved or pending Power Purchase Agreements with a load-serving entity is a reasonable criterion for a project's inclusion in the serial study group)).

the proposal, and it failed to receive Participants Committee support (with only 39.63 percent in favor).<sup>29</sup>

**c. Answers**

24. ISO-NE contends that delaying implementation of the Clustering Revisions to accommodate a state procurement process would be unduly discriminatory and unjust and unreasonable. ISO-NE explains that such a delay would harm many other interconnection customers, including (1) those that are eligible to participate in a cluster but are not participating in the same, or any other, state procurement process; (2) those outside of the cluster, such as lower-queued projects, whose interconnection designs depend on the cluster study process outcome; and (3) those that have been awarded contracts in earlier procurements and are waiting for the cluster to move forward. More generally, ISO-NE argues, it is inappropriate to link the implementation of a tariff construct intended to serve all interconnection customers to a single state-sponsored funding opportunity.<sup>30</sup>

**d. Commission Determination**

25. We reject protestors' arguments that ISO-NE's proposed effective date and initial implementation process renders the Clustering Revisions unjust and unreasonable. Primarily concerned about losing nonrefundable security deposits through the clustering process, protestors essentially argue that the Clustering Revisions should be delayed or not apply to them at all until the results of the currently pending, Massachusetts RFP are released. However, the interconnection clustering process applies broadly to all interconnection customers, and, as discussed above and more fully described below, it is a process that we find just and reasonable. Given the overall expected long-term benefits of the Clustering Revisions, we find that, on balance, it would be inappropriate to wholly reject the revisions to accommodate a subset of interconnection customers in the near-term.

26. Requiring ISO-NE to align each cluster study process with any concurrent state procurement process will defeat the purpose of the Clustering Revisions, by reintroducing significant delay and uncertainty to the interconnection process (which these revisions are designed to address), to the detriment of interconnection customers that are not participating in a state procurement process. To the extent that protestors believe the lack of alignment between the timing of the cluster study process and state procurement processes will cause the first cluster following the Maine Resource Integration Study—or

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<sup>29</sup> NEPOOL Comments at 5.

<sup>30</sup> ISO-NE Answer at 19-21.

any other cluster, for that matter—to collapse, we note that the Clustering Revisions allow for full refund of the cluster participation deposit in such instances.<sup>31</sup>

27. Finally, we note that the Commission has found that it may not delay the effective date of otherwise just and reasonable tariff revisions.<sup>32</sup> Section 205 of the FPA provides public utilities a statutory right to amend their rates, terms, and conditions of service and to propose, as ISO-NE has proposed here, that the amendments be made effective after 60 days' notice.<sup>33</sup> Accordingly, we also deny protestors' request to waive implementation of the Clustering Revisions until 30 days after the results of the Massachusetts RFP are released. Granting such a request for waiver would operate as an end-run around the notice provisions of the FPA.<sup>34</sup>

## **2. Cluster Participation Deposit**

### **a. Filing**

28. Filing Parties state that to be included in a Cluster System Impact Study, an interconnection customer with an interconnection request identified as eligible to participate in the second phase of the cluster study process must submit the following to ISO-NE by the Cluster Entry Deadline: (1) a Cluster System Impact Study Application and (2) a potentially non-refundable initial Cluster Participation Deposit.<sup>35</sup> The initial Cluster Participation Deposit will be equal to five percent of the interconnection customer's responsibility for the costs of the Cluster Enabling Transmission Upgrade and any associated system upgrades identified in the final Clustering Regional Planning Study report.<sup>36</sup> Filing Parties state that interconnection customers will be required to

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<sup>31</sup> ISO-NE Tariff, Schedule 22, § 4.2.3.2.2(3) (11.0.0); Schedule 23, § 1.5.3.3.2.2(3) (11.0.0); Schedule 25, § 4.2.3.2.2(3) (2.0.0).

<sup>32</sup> See *ISO New England Inc.*, 157 FERC ¶ 61,025, at P 31 (2016) (finding that deferring effective date of otherwise just and reasonable proposal would be inconsistent with notice provision of section 205 of the FPA).

<sup>33</sup> See *Entergy Services, Inc.*, 121 FERC ¶ 61,126, at P 12 (2007).

<sup>34</sup> See *Indiana & Michigan Elec. Co. v Federal Power Commission*, 502 F.2d 336, 341 (D.C. Cir. 1974) (citing *United Gas Pipe Line Co. v. Memphis Light, Gas & Water Division*, 358 U.S. 103 (1958) (notice provision provides not only minimum notice period for customers and Commission, but also maximum waiting period for utility)).

<sup>35</sup> Filing Parties Transmittal at 35-36.

<sup>36</sup> *Id.* at 36.

provide an additional Cluster Participation Deposit, equal to five percent of the interconnection customer's cost allocation responsibility for the Cluster Enabling Transmission Upgrades and the associated system upgrades, subsequent to the final Cluster Interconnection Facilities Study report in order to advance into the interconnection agreement development phase of the interconnection process.<sup>37</sup> Filing parties state that the Clustering Revisions require that within 15 business days after receipt of the final interconnection agreement, clustered interconnection customers will be required to provide, in cash, a potentially non-refundable deposit in the amount of 20 percent of the total upgrade costs, including the Cluster Enabling Transmission Upgrades, based on the final Cluster Interconnection Facilities Study report.<sup>38</sup>

29. Filing Parties contend that the Clustering Revisions recognize that the circumstances known at the time of an interconnection customer's election to participate in a Cluster System Impact Study can change significantly later in the process. Therefore, Filing Parties contend that the Clustering Revisions incorporate time-specific off-ramps that afford interconnection customers reasonable opportunities to withdraw from the cluster should a significant change in circumstances occur.<sup>39</sup> Specifically, the Clustering Revisions provide for interconnection customers to receive a full refund of the initial Cluster Participation Deposit at specific intervals to the extent the following events occur: (1) cluster undersubscription (where less than 90 percent of megawatt quantity enabled by the Cluster Enabling Transmission Upgrade and associated system upgrades elect to proceed to the Cluster System Impact Study); (2) cluster oversubscription (where more eligible interconnection requests in the queue meet the cluster entry requirements than the Cluster Enabling Transmission Upgrade can ultimately accommodate); (3) termination of the cluster study if, due to withdrawals, there are no longer two or more interconnection requests in the cluster; (4) overall cost estimates for the Cluster Enabling Transmission Upgrade and the associated system upgrades in the draft Cluster System Impact Study or the draft Cluster Interconnection Facilities Study that exceed those provided in the final Clustering Regional Planning Study report for the entire cluster by 25 percent or more.<sup>40</sup> In the event that an interconnection customer withdraws from the cluster absent these circumstances, ISO-NE will allocate that customer's forfeited deposit to all of the interconnection customers that remain in the cluster based on their distribution impacts on the remaining upgrades. ISO-NE states

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<sup>37</sup> *Id.* at 38-39.

<sup>38</sup> *Id.* at 39.

<sup>39</sup> *Id.* at 37.

<sup>40</sup> *Id.*

that such an allocation is appropriate to minimize the risks and uncertainties that the remaining cluster participants face due to the withdrawal.<sup>41</sup>

**b. Comments/Protests**

30. King Pine Wind argues that ISO-NE's proposal to collect, not refund, and possibly re-allocate the cluster participation deposit is unjust and unreasonable and could lead to transmission over-building and unjust enrichment of remaining developers.<sup>42</sup> King Pine Wind argues that ISO-NE should fully refund a deposit if there is at least a 15 percent cost difference between the estimated costs of the Cluster Enabling Transmission Upgrade in the final Cluster System Impact Study report or Cluster Interconnection Facilities Study and the draft Cluster System Impact Study. King Pine Wind argues that the current 25 percent threshold is too high, especially when the amount of the deposit, which is based on the estimated costs of the Cluster Enabling Transmission Upgrade, could be material and affect a developer's willingness to continue development of its project. King Pine Wind also argues that, if none of the conditions for receipt of a full refund of the cluster participation deposit are available, it is unjust and unreasonable for the deposit to be forfeited absent complete cluster collapse. King Pine Wind contends that in the event that only one or two projects remain in the interconnection queue, there is no need for a cluster study, and that a cluster participant deposit should be refundable.<sup>43</sup>

31. Challenging the additional five percent Cluster Participation Deposit as proposed by Filing Parties, RENEW states that a better alternative would be to require the deposit to be made after the Cluster System Impact Study results are provided and before the Cluster Interconnection Facilities Study is performed, or to require an additional deposit of 2.5 percent following the Cluster System Impact Study results and a third deposit of 2.5 percent following the Cluster Interconnection Facilities Study.<sup>44</sup> RENEW also requests that ISO-NE transfer the collective 10 percent Initial Cluster Participation Deposits to the transmission owner to be credited towards the 20 percent interconnection

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<sup>41</sup> *Id.* at 38.

<sup>42</sup> King Pine Protest at 7.

<sup>43</sup> *Id.* at 7-8.

<sup>44</sup> RENEW Protest at 31.

agreement deposit.<sup>45</sup> RENEW also claims that the Clustering Revisions do not address the re-allocation of forfeited Cluster Participation Deposits.<sup>46</sup>

**c. Answers**

32. ISO-NE answers that the thresholds for the off-ramp events to be triggered – thresholds that are based on the direct input from stakeholders – are high so as to not upend the objective of the significant cluster participation deposit, which is to incentivize only those interconnection customers that are in fact ready to move forward to join the cluster. ISO-NE argues that reducing the threshold amounts for the off-ramp triggers increases the likelihood that interconnection customers that are not ready to move forward elect to join the cluster, thereby increasing the likelihood of late withdrawals and restudies, outcomes that the proposed revisions seek to minimize. ISO-NE also contends that King Pine’s request to allow for cluster collapse when two interconnection requests remain in the cluster is inconsistent with the cluster trigger conditions and would increase the likelihood of cluster collapse.<sup>47</sup> ISO-NE argues that RENEW’s alternative queue management proposals should not be considered because ISO-NE’s filing, as proposed, is just and reasonable.<sup>48</sup> ISO-NE further challenges RENEW’s assertion that the Clustering Revisions fail to address re-allocation of forfeited Cluster Participation Deposits. ISO-NE explains that the Clustering Revisions provide that the non-refundable Cluster Participation Deposits will be reallocated to the interconnection customers with interconnection requests included in a cluster at the time the facilities proposed in the interconnection requests achieve commercial operation.<sup>49</sup>

33. Continuing to challenge the timing of the additional Cluster Participation Deposit, RENEW argues that requiring this deposit prior to the Cluster Interconnection Facilities Study rather than after, as proposed, will prevent late-stage withdrawals, cost shifts, and delay from restudies.<sup>50</sup> RENEW also explains that it is not challenging the need for a

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<sup>45</sup> *Id.* at 23.

<sup>46</sup> *Id.* at 28.

<sup>47</sup> ISO-NE Answer at 35.

<sup>48</sup> *Id.* at 31.

<sup>49</sup> *Id.* at 33.

<sup>50</sup> RENEW Answer at 13.

20 percent deposit requirement, only the inability to count the Cluster Participation Deposits towards this 20 percent.<sup>51</sup>

**d. Commission Determination**

34. We find that Filing Parties' proposed deposit requirements and the circumstances under which ISO-NE will refund those deposits are just and reasonable and not unduly discriminatory. One of the key objectives of the Clustering Revisions is to minimize uncertainties and the impacts of late-stage withdrawals, and the deposit requirements included in Filing Parties' proposal aid in this effort. Specifically, the deposit requirements are stringent enough to demonstrate interconnection customers' commitment to remain in the cluster and proceed to interconnection, while not so burdensome that they pose a barrier to interconnection customers moving forward in the cluster study process.<sup>52</sup> Because we find that ISO-NE's proposal is just and reasonable, we need not address RENEW's alternative proposals.<sup>53</sup> In any case, we find that RENEW's proposal that the second Cluster Participation Deposit be required prior to the Cluster Interconnection Facilities Study would be too burdensome and thus offset the aforementioned balance achieved by the Clustering Revisions. We find it appropriate for the second participant deposit to be required only after receiving the more accurate cost estimates provided in the Cluster Interconnection Facilities Study.

35. In addition, we reject RENEW's argument that the 10 percent collective Initial Cluster Participation Deposits should be credited toward the 20 percent interconnection agreement deposit. Rather than being redundant or overlapping as RENEW argues,

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<sup>51</sup> *Id.* at 14.

<sup>52</sup> *See, e.g., Cal. Indep. Sys. Operator Corp.*, 124 FERC ¶ 61,292, at P 60 (2008) ("Accordingly, we find that the increased financial commitments proposed by the CAISO are just and reasonable measures, because they strike an appropriate balance that will reduce the number of speculative projects clogging the interconnection queue without being excessively high so as to prevent legitimate projects from pursuing interconnection requests.").

<sup>53</sup> *Cities of Bethany v. FERC*, 727 F.2d 1131, 1136 (D.C. Cir. 1981) ("FERC has interpreted its authority to review rates under the FPA as limited to an inquiry into whether the rates proposed by a utility are reasonable — and not to extend to determining whether a proposed rate schedule is more or less reasonable than alternative rate designs"), cert denied, 469 U.S. 917 (1984); *OXY USA, Inc. v. FERC*, 64 F.3d 679, 692 (D.C. Cir. 1995) ("[T]he Commission may approve the methodology proposed in the settlement agreement if it is 'just and reasonable'; it need not be the only reasonable methodology or even the most accurate.").

we find that the 20 percent deposit represents an important milestone requirement to demonstrate an interconnection customer's further commitment toward funding the upgrades needed to accommodate its interconnection request.

36. With respect to the circumstances under which ISO-NE will refund those deposits, we are not persuaded by King Pine Wind's arguments that Filing Parties' proposal to refund an interconnection customer's deposit if the overall cost estimates for the Cluster Enabling Transmission Upgrade and the associated system upgrades in the draft Cluster System Impact Study or the draft Cluster Interconnection Facilities Study exceed those provided in the final Clustering Regional Planning Study report for the entire cluster by 25 percent or more is unjust and unreasonable. Broadening the circumstances under which an interconnection customer may withdraw from the cluster with a refund of its deposit increases the incentive for interconnection customers that are not yet ready to move forward to join the cluster, as it is less likely they will lose their deposit if they subsequently withdraw. Thus, we agree with ISO-NE that King Pine Wind's proposal could result in more late withdrawals from the cluster study process, which would require restudies and increase the uncertainty for the interconnection customers that remain in the cluster about the costs of the Cluster Enabling Transmission Upgrade and the associated system upgrades for which they will ultimately be responsible.<sup>54</sup> We find that the Clustering Revisions strike a balance between ensuring cluster discipline, thereby granting more certainty to other interconnection customers participating in the cluster, and allowing for interconnection customers to withdraw from the cluster with a refund of their deposits in the event of significant upgrade cost increases.

37. We also reject King Pine Wind's argument that ISO-NE should grant a full refund of the cluster participation deposit in instances where only two interconnection customers remain in the cluster. As ISO-NE explains, a Cluster Enabling Transmission Upgrade Regional Planning Study is triggered if there are *two* or more interconnection requests without a completed System Impact Study in the same electrical part of the ISO-NE system. Even as few as two interconnection customers may benefit from having their requests evaluated through the proposed cluster study process, as they could share the costs of the common network upgrades needed to facilitate their individual interconnections. Therefore, we find ISO-NE's proposal to terminate a cluster study due to withdrawals only if one interconnection customer remains in the cluster is just and reasonable and consistent with the criteria triggering the Clustering Regional Planning Study.

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<sup>54</sup> ISO-NE Answer at 35.

### **3. Cluster Regional Planning Study, Cluster System Impact Study, and Cluster Interconnection Facilities Study**

#### **a. Filing**

38. Filing Parties propose a clustering approach consisting of a two-phased study process where the first phase, or the Cluster Regional Planning Study, is designed to provide interconnection customers meaningful early information regarding the likely ultimate outcome and cost of the infrastructure needed to accommodate the interconnection requests studied as part of the cluster. After eligible interconnection customers have time to analyze that information and decide whether to move forward with the cluster, ISO-NE will perform the second phase—the Cluster System Impact Study and Cluster Interconnection Facilities Study—to identify the specific transmission facilities required to interconnect these resources.<sup>55</sup>

39. Filing Parties explain that, with respect to the first phase, the process for a Cluster Regional Planning Study is proposed to be incorporated in a new section 15 of Attachment K, the section of the Tariff that sets forth ISO-NE's regional transmission planning process. Filing Parties emphasize that, as the Cluster Regional Planning Study is not a study to support the regional transmission planning process but rather supports the interconnection process, the proposed revisions provide in section 15 that, other than section 2 of Attachment K regarding the responsibilities of the Planning Advisory Committee and the new section 15, none of the other provisions in Attachment K apply to the conduct of the Cluster Regional Planning Study or the results of the study. In particular, the interconnection customers whose interconnection requests are included in the Cluster Regional Planning Study will reimburse the transmission owners for the costs that they incur to develop upgrade cost estimates in support of that study.<sup>56</sup>

40. Also in the first phase, consistent with the process established for transmission planning studies, ISO-NE will prepare and post on its website the scope of the Cluster Regional Planning Study, together with associated parameters and assumptions, and solicit stakeholder input on such scope, parameters, and assumptions through the Planning Advisory Committee. Upon completion of the Cluster Regional Planning Study, ISO-NE will prepare and post on its website a draft Cluster Regional Planning Study report for stakeholders to comment on the results. Filing Parties assert that in furtherance of transparency, ISO-NE will also post any written comments received on the report, as well as its responses to those comments.

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<sup>55</sup> Filing Parties Transmittal at 24-25.

<sup>56</sup> *Id.* at 26.

41. Under the second phase, the Cluster System Impact Study will address the same elements that would be included in a serial System Impact Study today. However, unlike a serial System Impact Study, which assumes the addition of only the interconnection customer being studied, the Study Base Case that ISO-NE will use in a Cluster System Impact Study will include all of the interconnection requests that meet the requirements for inclusion in the cluster, as well as the Cluster Enabling Transmission Upgrade and associated system upgrades identified in the Cluster Regional Planning Study. Filing Parties state that, during the Cluster Regional Planning Study, ISO-NE will study ranges of megawatts proposed in the electrical area of the system where clustering was triggered in designing the Cluster Enabling Transmission Upgrade. Therefore, Filing Parties assert, ISO-NE will not need to redesign the Cluster Enabling Transmission Upgrade during the Cluster System Impact Study every time an interconnection customer withdraws from the cluster.<sup>57</sup>

**b. Comments/Protests**

42. EDF Renewable Energy argues that ISO-NE will not satisfy all interconnection requests in the queue as the Maine Resource Integration Study, the Cluster Regional Planning Study that it intends to use for the first cluster, aims only to accommodate 1,200 MW. EDF Renewable Energy explains that there are 5,800 MW backlogged in the queue. EDF Renewable Energy also contends that the Planning Advisory Committee determines what amount of transmission will be modeled and planned in the Cluster Regional Transmission Plan, and the relevant standards are neither known nor transparent and have not been confirmed by the Commission as just and reasonable. EDF Renewable Energy argues that interconnection customers cannot operate with such uncertainty.<sup>58</sup>

43. EDF Renewable Energy also argues that, under the Clustering Revisions, an interconnection request that enters the queue at the same time as other interconnection requests, but is just beyond the electric/geographic proximity of those requests, cannot be studied in the cluster and will be relegated to a serial study, with no demonstration that the timing for completion of its study will be similar to the timing of the completion of the cluster study process. EDF Renewable Energy contends that, if the completion time is not known or is delayed waiting for other serial projects to be completed, it provides the projects in the cluster with a competitive advantage in RFPs. EDF Renewable Energy contends that all interconnection requests should be included in a cluster, and if an interconnection request is not in electric/geographic proximity to others, it will not be assigned the costs associated with the Cluster Enabling Transmission Upgrades and can proceed to an interconnection agreement at the same time as all of the other

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<sup>57</sup> *Id.* at 30.

<sup>58</sup> EDF Renewable Energy Protest at 1-2.

interconnection requests in the cluster. EDF Renewable Energy states that this approach would be consistent with the approach that Midcontinent Independent System Operator, Inc. and PJM Interconnection, L.L.C. have adopted.<sup>59</sup>

44. RENEW argues that the Clustering Revisions are unclear in certain places. RENEW notes that ISO-NE will study ranges of megawatts in the Cluster Regional Planning Study for purposes of designing a Cluster Enabling Transmission Upgrade; however, RENEW argues that it is unclear whether ISO-NE will also identify a subset of Cluster Enabling Transmission Upgrades that would allow a lesser number of megawatts to interconnect.<sup>60</sup> RENEW contends that, if ISO-NE were to identify such a subset, only the upgrades required for the number of megawatts that join the cluster would be required in the Cluster System Impact Study. In addition, RENEW states, if an interconnection request withdraws from the cluster after the Cluster System Impact Study starts and is not replaced by a backfilling request, ISO-NE could use the subset of Cluster Enabling Transmission Upgrades in the Cluster System Impact Study if the megawatts that remain in the cluster fall below the threshold identified in the Cluster Regional Planning Study for requiring the full set of upgrades.<sup>61</sup>

45. RENEW also argues that the timing of re-queuing cluster-eligible interconnection requests that decline to enter the cluster presents gaming opportunities. Specifically, according to RENEW, any project that submits a new queue position in the 30-day window between the release of the final Cluster Regional Planning Study report and the Cluster Entry Deadline would find itself in a higher queue position than any of the re-queued cluster-eligible projects.<sup>62</sup>

46. Lastly, EDF Renewable Energy asserts that it is unjust and unreasonable that an interconnection customer whose request is already being studied, and who may be nearing completion of a System Impact Study, will effectively be forced to enter a cluster if ISO-NE determines that it is eligible to do so. Specifically, EDF Renewable Energy argues that, unless the interconnection customer joins the cluster, it will move to the bottom of the interconnection queue. Instead, EDF Renewable Energy contends, the interconnection customer whose request was already being studied under the serial process should be allowed to choose to proceed and finish serially.<sup>63</sup> Similarly, EDP

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<sup>59</sup> *Id.* at 3.

<sup>60</sup> RENEW Protest at 17 (citing Filing Parties Transmittal at 30).

<sup>61</sup> *Id.* at 17-18.

<sup>62</sup> *Id.* at 29.

<sup>63</sup> EDF Renewable Energy Protest at 3-4.

Renewables requests clarification regarding application of the Clustering Revisions to a project that has a completed System Impact Study but has not yet executed a Large Generator Interconnection Agreement or submitted a Large Generator Interconnection Agreement to the Commission for approval.<sup>64</sup>

**c. Answers**

47. ISO-NE responds that the role of the Planning Advisory Committee is to review and provide input to ISO-NE with respect to the ISO-NE-identified transmission infrastructure, and it is ISO-NE, not the Planning Advisory Committee, that is responsible for identifying the transmission infrastructure needed to interconnect potentially all of the proposed resources in the queue in the area where clustering is invoked.<sup>65</sup>

48. With respect to the fact that the Cluster Enabling Transmission Upgrades identified in the final Cluster Regional Planning Study report may not be designed to interconnect the total megawatts proposed in the interconnection requests located in the same area of the system where clustering is invoked, ISO-NE states that this is part of the design of Filing Parties' proposal. According to ISO-NE, Filing Parties' transmittal fully explained that the basis for this aspect of the design is to allow for potential attrition and to avoid cluster failure from the start.<sup>66</sup> ISO-NE argues that the appropriateness of this design is confirmed in the protests, which make it clear that not all interconnection requests will move forward. Moreover, ISO-NE argues that if the cluster is oversubscribed (i.e., more interconnection requests meet the requirements to enter the Cluster System Impact Study than the Cluster Enabling Transmission Upgrade can accommodate), the Clustering Revisions provide for ISO-NE to immediately repeat the cluster study process for the next round of eligible interconnection requests.<sup>67</sup>

49. With respect to EDF Renewable Energy's argument that all interconnection requests should be included in a cluster irrespective of whether or not they are in electric/geographic proximity to one another, ISO-NE argues that this alternative approach must be rejected as a matter of law. ISO-NE argues that its clustering approach is just and reasonable, and the fact that the Commission has accepted as just and

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<sup>64</sup> EDP Renewables Comments at 3.

<sup>65</sup> ISO-NE Answer at 22-23.

<sup>66</sup> *Id.* at 23 (citing Filing Parties Transmittal at 40-41).

<sup>67</sup> *Id.* at 24.

reasonable other clustering approaches such as the one EDF Renewable Energy proposes is irrelevant under the standard of review for FPA section 205.<sup>68</sup>

50. With respect to RENEW's arguments that it is unclear whether ISO-NE will also identify a subset of Cluster Enabling Transmission Upgrades that would allow a lesser number of megawatts to interconnect, ISO-NE argues that no clarification is needed. According to ISO-NE, under proposed section 15.4 of Attachment K to the OATT, the Cluster Regional Planning Study will identify the Cluster Enabling Transmission Upgrades, as well as the "approximate megawatt quantity (or quantities if more than one level of megawatt injection was studied in the Cluster Regional Planning Study) of resources that could be interconnected...."<sup>69</sup> ISO-NE argues that the Cluster Enabling Transmission Upgrades that are modeled in the Cluster System Impact Study Base Case are ultimately driven by the ranges of megawatts that meet the cluster entry requirements.<sup>70</sup>

51. Finally, with respect to the requirement that cluster-eligible interconnection requests either join the cluster or move to the back of the interconnection queue, ISO-NE argues that, consistent with the "first-ready, first-served" construct, the Clustering Revisions provide interconnection customers with significant information about the upgrades and costs that are necessary to accommodate their interconnection and reasonable opportunity to choose whether or not they are ready to move forward with their projects. According to ISO-NE, the Clustering Revisions provide a clear path for interconnection customers that are ready to move forward by electing to participate in the second-phase cluster studies, as well as another clear path for those interconnection customers that are not ready to proceed until a later time by either moving to the bottom of, or withdrawing from, the interconnection queue. ISO-NE notes that, if multiple cluster-eligible interconnection requests decline to join a cluster, they will move the bottom of the queue in the same relative order as their current queue positions.<sup>71</sup>

52. RENEW argues that if an interconnection customer should choose to join a cluster but later withdraw, that customer will be required to submit a new interconnection request and will be placed in the interconnection queue behind those eligible

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<sup>68</sup> *Id.* at 13-14 (citing *Atlantic City Electric Co. v. FERC*, 295 F.3d 10 (D.C. Cir 2002)).

<sup>69</sup> *Id.* at 37 (citing Filing Parties Transmittal at 28).

<sup>70</sup> *Id.* at 38.

<sup>71</sup> *Id.* at 29-30.

interconnection customers that initially declined to join the cluster.<sup>72</sup> RENEW contends that an interconnection customer that enters a cluster but later withdraws should not be required to re-enter the queue behind projects that declined to join the cluster in the first place.

**d. Commission Determination**

53. We find just and reasonable Filing Parties' proposed clustering approach consisting of a two-phased study process, with the Cluster Regional Planning Study in the first phase and the Cluster System Impact Study and Cluster Interconnection Facilities Study in the second phase. As Filing Parties state, the two-phase cluster study process will help to alleviate any backlog in ISO-NE's interconnection queue, allowing ISO-NE to study common network upgrades needed to accommodate multiple interconnection requests at the same time. The two-phase cluster study process will also provide interconnection customers with information that will help inform their decision as to whether or not to move forward in the process. Specifically, the results of the first phase of the cluster study process—the Cluster Regional Planning Study—will provide interconnection customers information about the Cluster Enabling Transmission Upgrades and any associated system upgrades necessary to interconnect the interconnection customers in the cluster, as well as an estimate of these facilities' costs. Interconnection customers can use this information to determine whether or not to join the second phase of the cluster study process, which requires a deposit.

54. We are not persuaded by arguments that ISO-NE must identify Cluster Enabling Transmission Upgrades that will facilitate the interconnection of all of the interconnection requests in a given cluster. We agree with ISO-NE that, to avoid cluster failure from the start, it is acceptable to take into account potential attrition of interconnection customers from a cluster in determining the approximate megawatt quantity or quantities of injection to study. Focusing every Cluster Regional Planning Study on designing a Cluster Enabling Transmission Upgrade that accommodates every single interconnection request in a cluster in many cases will be counterproductive in light of the potential for queue attrition. Such attrition could result in the need for repeated restudies, creating uncertainty around the costs for which each interconnection customer in a cluster will be responsible and unnecessarily delaying the ultimate completion of the cluster study process. To the extent that a Cluster Enabling Transmission Upgrade is oversubscribed, we note that ISO-NE will immediately commence a second Clustering Regional Planning Study to accommodate residual interconnection requests, facilitating their timely interconnection.

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<sup>72</sup> RENEW Answer at 17-18.

55. We are also not persuaded by EDF Renewable Energy's arguments that ISO-NE must study all interconnection requests, including those beyond the relevant electrical/geographic area of the cluster, in the Cluster Regional Planning Study in order for Filing Parties' proposal to be just and reasonable. Opening the Cluster Regional Planning Study to include all interconnection requests would defeat the Clustering Revisions' intentional limitation of employing a cluster study process only in instances where a backlog is experienced in the queue. We agree with ISO-NE that its existing serial study process is effective in areas that are not experiencing an interconnection queue backlog, and, therefore, it is appropriate that only those interconnection requests that meet the conditions that the Filing Parties propose to establish for consideration through a cluster study process should be eligible for inclusion in a cluster.

56. We disagree with RENEW's arguments that it is unclear whether ISO-NE will also identify a subset of Cluster Enabling Transmission Upgrades that would allow a lesser number of megawatts to interconnect. As noted earlier, ISO-NE will take into account potential attrition of interconnection requests in determining the approximate megawatt quantity or quantities of injection to be studied in order to avoid cluster failure. The Cluster Enabling Transmission Upgrade that is modeled in the Cluster System Impact Study Base Case is ultimately driven by the ranges of megawatts that meet the cluster entry requirements. Further, in the event of withdrawal, the Clustering Provisions provide for ISO-NE to first backfill to fill the gap created by the withdrawn interconnection request and thereafter restudy. We find that these provisions represent a just and reasonable approach to studying interconnection requests in a way that enhances certainty and availability of critical information to interconnection customers while minimizing the need for costly and time-consuming restudies.

57. With respect to RENEW's concerns about potential gaming opportunities related to the timing of re-queuing cluster-eligible interconnection requests, we believe that the Late Comer provisions discussed further below in the cost assignment section of this order should reduce, or even eliminate, the incentive to engage in such practices. This is because the highest-queued serial interconnection customers that originally qualified for the cluster are most likely to become subject to Late Comer credits associated with the relevant Cluster Enabling Transmission Upgrades. Specifically, even if these requests are studied serially after the cluster, they are likely to use the Cluster Enabling Transmission Upgrades identified through the cluster study process, and thus will be assessed costs equal to the difference between the cost assignments with and without their interconnection under the Filing Parties' proposed Later Comer provisions.<sup>73</sup> In short, because cluster-eligible interconnection requests by definition require the relevant

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<sup>73</sup> Filing Parties Transmittal at 44-45.

Cluster Enabling Transmission Upgrade, we expect that in practice, they will choose to either join the cluster or ultimately withdraw from the queue entirely.

58. We not persuaded by arguments that moving an eligible interconnection customer that does not agree to join the cluster to the bottom of the queue is unjust and unreasonable. The Clustering Revisions appropriately aim to ensure that only those interconnection customers that are ready to move forward in the interconnection process participate in phase two of the cluster studies. This is consistent with the “first-ready, first-served” approach that the Commission discussed as a possible queue reform measure in RTO/ISOs as early as 2008.<sup>74</sup> Moreover, we note that, if multiple cluster-eligible interconnection requests decline to join the cluster, they will move to the bottom of the queue in the same relative order as their current queue positions, which should preserve any relative advantages or disadvantages inherent in their pre-existing serial queue positions. Under the circumstances, we find it reasonable that the cluster will take a higher queue position than any cluster-eligible interconnection requests that decline to join the cluster.

59. Additionally, we are not persuaded by RENEW’s argument that an interconnection customer that enters a cluster but subsequently withdraws should not be required to re-enter the queue behind those eligible interconnection customers that declined to enter the cluster. As an initial matter, Filing Parties’ proposal that interconnection customers that withdraw from a cluster should re-enter the interconnection queue behind those interconnection requests that declined to join the cluster in the first place is consistent with the first-ready, first-served principle that underlies ISO-NE’s interconnection process. In this case, the interconnection customers that chose not to join the cluster essentially acknowledged that they were not ready to move forward at that time by doing so. These interconnection customers’ requests therefore appropriately move to the end of the interconnection queue. An interconnection customer that withdraws from a cluster at a later date is similarly demonstrating its lack of readiness, and thus it is appropriate that the interconnection customer likewise move to the end of the interconnection queue, behind those interconnection customers that have been waiting in the queue and may have become more ready to move forward since they initially declined to join the cluster. Moreover, under the circumstances in which the Cluster Revisions will be invoked, we do not believe that serial queue position will hold the same significance as it would in other circumstances. As noted above, cluster-eligible interconnection requests by definition require significant transmission infrastructure in the form of the relevant Cluster Enabling Transmission Upgrade to accommodate their interconnection. Accordingly, irrespective of whether such interconnection requests are in the cluster or either withdraw or never enter in the first place, they will all likely pay

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<sup>74</sup> See *Interconnection Queuing Practices*, 122 FERC ¶ 61,252, at P 18 (2008).

their share of the costs of that Cluster Enabling Transmission Upgrade, either through the cluster cost assignment provisions or the Late Comer provisions, or of Cluster Enabling Transmission Upgrades identified in future cluster study processes. Accordingly, unlike in traditional serial interconnection procedures, there appears to be no significant advantage to higher queue positions in these circumstances.

#### **4. Identification of Cluster Enabling Transmission Upgrades**

##### **a. Filing**

60. When identifying a Cluster Enabling Transmission Upgrade, Filing Parties propose to consider proposed Elective Transmission Upgrades.<sup>75</sup> Filing Parties state that if an internal Elective Transmission Upgrade meets the requirements to take the place of a Cluster Enabling Transmission Upgrade or part thereof, the Cluster System Impact Study will also include the internal Elective Transmission Upgrade. Filing Parties state that each interconnection customer in the cluster that wants to interconnect to the internal Elective Transmission Upgrade will need to indicate that it has an arrangement establishing a commitment to fund and a right to use the Elective Transmission Upgrade to interconnect to the system, by the time the System Impact Study Agreement to support the Cluster System Impact Study is due.<sup>76</sup>

##### **b. Comments/Protests**

61. RENEW and LS Power argue that the Clustering Revisions give undue preference to incumbent utilities for developing Cluster Enabling Transmission Upgrades over nonincumbent transmission developers.<sup>77</sup> RENEW also argues that the Clustering Revisions governing Elective Transmission Upgrades are not fully developed and create too much uncertainty and, therefore, are not just and reasonable. RENEW explains that ISO-NE will not analyze in the initial Cluster Regional Planning Study competitive, nonincumbent transmission proposals that could satisfy the interconnection needs of a cluster in place of the incumbent-developed and -built Cluster Enabling Transmission Upgrade, potentially at a lower cost. RENEW argues that, if the Clustering Revisions preclude the use of a lower-cost Elective Transmission Upgrade,<sup>78</sup> interconnection may

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<sup>75</sup> Filing Parties Transmittal at 27.

<sup>76</sup> *Id.* at 31.

<sup>77</sup> Renew Protest at 10.

<sup>78</sup> An External Elective Transmission Upgrade (“External ETU”) is an Elective Transmission Upgrade that interconnects the New England Control Area with another Control Area; an Internal Elective Transmission Upgrade (“Internal ETU”) is an Elective  
(continued ...)

be provided at rates, terms, and conditions that are not just and reasonable.<sup>79</sup>

62. RENEW explains that states, through their RFPs, might have the ability to support an Elective Transmission Upgrade and contract to pay for it. However, Filing Parties' proposal would require interconnection customers in the cluster to commit to, and pay for, the ISO-NE-identified Cluster Enabling Transmission Upgrade unless every interconnection customer in the cluster could demonstrate that it had entered into a contractual arrangement with the Elective Transmission Upgrade developer, a threshold that would be extremely difficult to achieve under the timeline required in ISO-NE's proposal. RENEW contends that, if ISO-NE recognized and utilized a competitive transmission solution in the cluster study process when a majority of cluster participants or a state procurement process selected an Elective Transmission Upgrade, they could remedy discrimination against the use of Elective Transmission Upgrades by interconnection customers.<sup>80</sup> Moreover, RENEW argues that, while a state or electric distribution company can commit today to pay for the cost of transmission upgrades needed to interconnect a new generator, if they commit to an Elective Transmission Upgrade (rather than the ISO-NE-identified, incumbent-built Cluster Enabling Transmission Upgrade), they cannot ensure that ISO-NE will utilize the selected transmission line or that it will meet the expected purpose. RENEW contends that this eliminates the states' ability to run an effective, competitive solicitation process for transmission.<sup>81</sup>

63. RENEW also contends that, if the cluster of interconnection customers decided to contract with an Elective Transmission Upgrade rather than an incumbent transmission owner's Cluster Enabling Transmission Upgrade and the Elective Transmission Upgrade fails, then the whole cluster would fail, and no option exists for the transmission owner to step in and build the Cluster Enabling Transmission Upgrade. RENEW argues that, should the cluster fail for this reason, the cluster should instead be allowed to go forward with the Cluster Enabling Transmission Upgrade that ISO-NE originally identified in the Cluster Regional Planning Study just as if the Elective Transmission Upgrade had never been sought.<sup>82</sup>

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Transmission Upgrade that interconnects solely within the New England Control Area. ISO NE, Tariff, Schedule 25.

<sup>79</sup> *Id.* at 10-11.

<sup>80</sup> *Id.* at 11.

<sup>81</sup> *Id.* at 16-17

<sup>82</sup> *Id.* at 13-14.

c. Answers

64. ISO-NE argues that RENEW's claim that ISO-NE will not analyze Elective Transmission Upgrades is inaccurate. ISO-NE explains the Clustering Revisions explicitly require ISO-NE to identify internal Elective Transmission Upgrades that may be eligible to take the place of a Cluster Enabling Transmission Upgrade. ISO-NE points to proposed section 15 of Attachment K to the OATT, which states that, in identifying the transmission infrastructure, ISO-NE will consider previously-identified concepts of transmission upgrades in the relevant electrical area, including proposed Elective Transmission Upgrades. ISO-NE further points to section 4.2.1 of the Elective Transmission Upgrade Interconnection Procedures, which also requires ISO-NE to identify in the Cluster Regional Planning Study any internal Elective Transmission Upgrades that it has identified as potentially eligible to take the place of a Cluster Enabling Transmission Upgrade. ISO-NE argues that RENEW is aware that ISO-NE has already done this in the Maine Resource Integration Study, specifically the Elective Transmission Upgrade proposed at Queue Position Nos. 571, 589, 590 and 591 and compared the performance of these and other alternatives. ISO-NE explains it has identified those Queue Positions as eligible to participate in the Maine Resource Integration Study and will identify those Elective Transmission Upgrades that can take the place of a Cluster Enabling Transmission Upgrade.<sup>83</sup>

65. ISO-NE explains that the requirement for interconnection customers to show they have entered into a contractual arrangement with the owner of a proposed Elective Transmission Upgrade is necessary. ISO-NE states that the requirement helps to avoid the potential for an Elective Transmission Upgrade developer to exclude interconnection customers or otherwise engage in inappropriate practices prohibited in Order No. 888. With respect to requiring the inclusion of only those internal Elective Transmission Upgrades selected through a state procurement process for the interconnection of only some projects, regardless of whether or not the internal Elective Transmission Upgrade is available to all facilities that are seeking to interconnect to the system, ISO-NE asserts that doing so would be unjust and unreasonable and unduly discriminatory.<sup>84</sup>

66. Regarding RENEW's assertion that a cluster should be able to move forward with the originally-identified Cluster Enabling Transmission Upgrade if an internal Elective Transmission Upgrade withdraws, ISO-NE contends the Clustering Revisions prohibit this for a specific reason. ISO-NE explains this could provide an incentive for interconnection customers to claim the use of an Elective Transmission Upgrade in order

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<sup>83</sup> ISO-NE Answer at 24-25.

<sup>84</sup> *Id.* at 26-27.

to avoid paying a deposit for a Cluster Enabling Transmission Upgrade, only to withdraw the Elective Transmission Upgrade sometime after the commencement of the Cluster System Impact Study. ISO-NE further states that if the Elective Transmission Upgrade withdraws after the Cluster System Impact Study that included the Elective Transmission Upgrade has commenced, then the cluster will collapse.<sup>85</sup>

67. RENEW notes that ISO-NE acknowledges the failure of the cluster when an Elective Transmission Upgrade withdraws is a necessary consequence solely due to the problematic deposit requirement if an Elective Transmission Upgrade is used in the place of a Cluster Enhancing Transmission Upgrade. RENEW contends the lack of a deposit requirement on the Elective Transmission Upgrade portion of the costs should not be reason to allow the cluster to collapse. RENEW suggests that requiring a deposit for the full amount of the Cluster Enhancing Transmission Upgrades, and letting Elective Transmission Upgrades take the place of Cluster Enhancing Transmission Upgrades, would eliminate the gaming opportunity identified by ISO-NE. RENEW argues that without the opportunity to switch to a Cluster Enhancing Transmission Upgrade in the case of a failed Elective Transmission Upgrade, the queue process will be unreasonably delayed due to the cluster collapsing. RENEW states that the ultimate customers harmed are the interconnection customers that chose the Elective Transmission Upgrade route, and who would have been willing to place deposits necessary to ensure that the Elective Transmission Upgrade follows through to completion.<sup>86</sup>

**d. Commission Determination**

68. We find that Filing Parties' approach to identifying Cluster Enabling Transmission Upgrades and Elective Transmission Upgrades is just and reasonable. Filing Parties' proposal to identify transmission solutions needed to accommodate clusters of interconnection requests explicitly allows for ISO-NE to study Elective Transmission Upgrades as potential alternatives to Cluster Enabling Transmission Upgrades during the Cluster Regional Planning Study. Specifically, proposed section 15 of Attachment K to the OATT states that the preliminary transmission upgrade concepts that ISO-NE will include in its scope for a Cluster Regional Planning Study may account for previously identified Elective Transmission Upgrades with interconnection requests pending in the interconnection queue prior to the initiation of the Cluster Regional Planning Study. Additionally, section 4.2.1 of Schedule 25 of the ISO-NE Tariff, which details the Elective Transmission Upgrade Interconnection Procedures, states that an Elective Transmission Upgrade that ISO-NE identifies as potentially eligible to take the place of a

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<sup>85</sup> *Id.* at 28.

<sup>86</sup> RENEW Answer at 12-13.

Cluster Enabling Transmission Upgrade will be eligible to participate in a Cluster System Impact Study.

69. We are not persuaded by arguments that it is unjust and unreasonable to allow an Elective Transmission Upgrade to stand in place of a Cluster Enabling Transmission Upgrade only in instances where every interconnection customer in the cluster has demonstrated that it has entered into a contractual arrangement with the Elective Transmission Upgrade developer. To the contrary, this requirement helps minimize the potential for an Elective Transmission Upgrade developer to exclude interconnection customers in an unduly discriminatory or preferential manner. Accordingly, we find it reasonable for ISO-NE to require that all cluster participants enter into, and file with the Commission, a transmission service agreement with the Elective Transmission Upgrade developer prior to allowing that Elective Transmission Upgrade to stand in place of a Cluster Enabling Transmission Upgrade.

70. We are also not persuaded by RENEW's arguments that a cluster should be able to move forward with the originally-identified Cluster Enabling Transmission Upgrade if an internal Elective Transmission Upgrade withdraws. We view the opportunity for interconnection customers to use Elective Transmission Upgrades instead of the Cluster Enabling Transmission Upgrades identified to be an option that Filing Parties were under no obligation to offer. However, if the interconnection customers in a cluster choose this alternative, it should be a viable alternative with a likelihood of success comparable to the displaced Cluster Enabling Transmission Upgrade. It is not unreasonable for consequences to follow if this alternative solution fails, and interconnection customers should be cognizant of these trade-offs when making the decision as to which option to pursue. Furthermore, ISO-NE states that the Clustering Revisions provide for this consequence to disincentivize interconnection customers from claiming to rely on an Elective Transmission Upgrade to avoid the requirement to post a deposit to join the cluster, only to later withdraw that Elective Transmission Upgrade sometime after the commencement of the Cluster System Impact Study. We find that these provisions fairly balance the needs of interconnection customers, who may benefit from pursuing an Elective Transmission Upgrade in place of a Cluster Enabling Transmission Upgrade, with those of the transmission owners and ISO-NE, who might be overly burdened if they were required to continue planning a Cluster Enabling Transmission Upgrade in case that Elective Transmission Upgrade does not ultimately come to fruition. Furthermore, the provisions should help increase certainty in the process and limit unnecessary delays, all of which should help address the interconnection backlog.

## **5. Cost Assignment**

### **a. Filing**

71. Filing Parties propose modifications to Schedule 11 to accommodate the assignment of costs for Interconnection Facilities, Network Upgrades, Distribution

Upgrades, and Cluster Enabling Transmission Upgrades identified in the cluster study process.<sup>87</sup> Under the Clustering Revisions, Filing Parties explain, the costs of direct-connect or sole-use facilities, such as a generator lead line connecting an interconnecting generator with a Cluster Enabling Transmission Upgrade, will continue to be directly assigned to the relevant interconnection customer. However, Filing Parties state, the costs of any common or shared upgrade, such as the Cluster Enabling Transmission Upgrade itself, identified through the cluster study process will be assigned to all interconnection customers included in the cluster (except for any interconnection customer that has proposed an Elective Transmission Upgrade that will take the place, in whole or in part, of a Cluster Enabling Transmission Upgrade) based on a distribution factor methodology.<sup>88</sup> Filing Parties assert that the distribution factor cost allocation methodology assigns costs to those participating in the cluster based on the measure of responsiveness or change in the electrical loading on the shared or common network upgrades due to a change in electric power transfer from one part of the system to another.<sup>89</sup> To the extent that the distribution factor methodology cannot be applied to a particular upgrade, Filing Parties propose to assign the associated costs based on a pro rata megawatt share basis.<sup>90</sup>

72. Filing Parties also propose that, when an Elective Transmission Upgrades takes the place of a Cluster Enabling Transmission Upgrade, the assignment of the costs of that Elective Transmission Upgrade is not subject to Schedule 11. Instead, Filing Parties explain, the developer of the Elective Transmission Upgrade will recover its costs from the interconnection customers in a cluster based upon its Commission-approved contractual arrangements with those customers.<sup>91</sup>

73. Finally, Filing Parties propose Late Comer provisions governing the assignment of Cluster Enabling Transmission Upgrade costs to interconnection customers that interconnect to a Cluster Enabling Transmission Upgrade within 10 years of that upgrade's in-service date. Filing Parties propose that Late Comers shall reimburse the interconnection customers that were assigned the costs of the Cluster Enabling

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<sup>87</sup> ISO-NE Tariff, Schedule 11, § (5) (3.0.0).

<sup>88</sup> Filing Parties Transmittal at 43 and n.220.

<sup>89</sup> McBride Testimony at 63-64.

<sup>90</sup> Filing Parties Transmittal at 44.

<sup>91</sup> *Id.* at n.216.

Transmission Upgrade based on the difference between the cost assignments with and without the added Later Comer.<sup>92</sup>

**b. Comments/Protests**

74. RENEW argues that the proposed cost assignment provisions in the Clustering Revisions are discriminatory against Elective Transmission Upgrades. It explains that the developer of an Elective Transmission Upgrade is required to file a proposed cost allocation with the Commission, while the costs of Cluster Enabling Transmission Upgrades are automatically assigned pursuant to Schedule 11.<sup>93</sup> RENEW argues that if an Elective Transmission Upgrade becomes an interconnection facility, it should be treated the same way under the Tariff as a Cluster Enabling Transmission Upgrade. RENEW argues that by failing to accommodate cost assignments for Elective Transmission Upgrades under the Tariff, such solutions face more uncertainty and are less likely to stand in for Cluster Enabling Transmission Upgrades.

75. RENEW asserts that, while the Clustering Revisions allow cluster participants that pay for these Cluster Enabling Transmission Upgrades to be reimbursed if such upgrades are used later by Late Comers, the Late Comer provisions do not apply to any Elective Transmission Upgrade used in place of a Cluster Enabling Transmission Upgrade.<sup>94</sup> RENEW contends that the Clustering Revisions are unjust and unreasonable in that they allow Late Comers that would benefit from such substantial upgrades to become free riders at the expense of those interconnection customers that funded the Elective Transmission Upgrade. Moreover, with respect to the Late Comer provisions, RENEW states that the Tariff is unclear whether Late Comers will also be required to reimburse those interconnection customers that funded the annual costs of the Cluster Enabling Transmission Upgrade in addition to the capital costs.<sup>95</sup>

76. RENEW also argues that, if a later interconnection is made to a substation where a Cluster Enabling Transmission Upgrade terminates, then the interconnection customer should not be considered a Late Comer if it does not need the Cluster Enabling Transmission Upgrades to interconnect.<sup>96</sup>

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<sup>92</sup> *Id.* at 44-45.

<sup>93</sup> RENEW Protest at 15.

<sup>94</sup> *Id.* at 16 (citing McBride Testimony at 66).

<sup>95</sup> *Id.* at 19.

<sup>96</sup> *Id.* at 20.

77. RENEW further argues that the Clustering Revisions are unclear as to when the Late Comer's payments are due or when the original funders of the Cluster Enabling Transmission Upgrades would receive refunds as a result.<sup>97</sup> RENEW explains that the provisions regarding payments for upgrades generally require a deposit of 20 percent of the upgrade costs following receipt of the final Interconnection Agreement with a commitment to the payment schedule for the remaining costs. RENEW argues that Filing Parties should clarify the provisions governing the size and timing of deposits and payments in Schedule 11.<sup>98</sup>

78. RENEW also argues that, in cases in which the costs of an upgrade identified through the cluster study process cannot be assigned using the distribution factor methodology and a different cost assignment approach is used, the Tariff is unclear whether these costs apply to Elective Transmission Upgrades taking the place of a Cluster Enabling Transmission Upgrade.<sup>99</sup> RENEW asserts that it understands that these costs are not intended to be allocated to Elective Transmission Upgrades in such circumstances.

79. RENEW argues that Schedule 11 provides that, should a resource be abandoned after an upgrade has been partially or fully built, it is unclear in the context of a cluster how the "but for" standard is used for determining the costs for which the interconnection customer would be responsible should an interconnection customer abandon a resource in the cluster.<sup>100</sup>

80. LS Power argues that the cost assignment provisions for interconnection facilities appear to allow ISO-NE discretion to broadly allocate the costs of transmission facilities without those facilities being subject to a competitive transmission development process.<sup>101</sup> Specifically, LS Power states, Schedule 11 provides that "if [ISO-NE] determines that a particular [upgrade] provides benefits to the system as a whole as well as to particular parties, then the costs of such [upgrade] shall be allocated the same way as Reliability Transmission Upgrades."<sup>102</sup> LS Power argues that the Clustering Revisions

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<sup>97</sup> *Id.* at 23.

<sup>98</sup> *Id.* at 25.

<sup>99</sup> *Id.* at 19.

<sup>100</sup> *Id.* at 25 (citing ISO-NE Tariff, Schedule 11, § (7) (3.0.0)).

<sup>101</sup> LS Power Protest at 5.

<sup>102</sup> ISO-NE Tariff, Schedule 11, § (5) (3.0.0).

facilitate the development of significant new transmission infrastructure, which is much more likely than the network upgrades needed to accommodate interconnection requests under a serial study process to be adjudged to provide benefits to the system as a whole. Thus, LS Power asserts, the Clustering Revisions may allow significant portions, or the entirety, of the costs of Cluster Enabling Transmission Upgrades and any other necessary network upgrades to be assigned regionally.<sup>103</sup> LS Power contends that this outcome circumvents ISO-NE's Order No. 1000 regional transmission planning process, and that any transmission infrastructure upgrades whose costs will be allocated regionally should be subject to competition.

**c. Answers**

81. ISO-NE argues that the Commission should reject RENEW's statements that the proposed cost assignment provisions are discriminatory against Elective Transmission Upgrades.<sup>104</sup> First, ISO-NE states that Elective Transmission Upgrades are merchant- or participant-funded transmission projects that may be proposed by any entity. Unlike transmission owners, these entities do not have a clearly defined set of obligations under the Tariff to expand their transmission facilities to provide interconnection service. Second, ISO-NE explains that the Clustering Revisions do not introduce a new requirement for Elective Transmission Upgrade developers to file with the Commission for approval of a rate treatment for their proposed upgrade.<sup>105</sup> Rather, it notes, this filing is already a requirement under the existing Elective Transmission Upgrade construct.<sup>106</sup>

82. ISO-NE argues that, contrary to RENEW's arguments, the cost assignment provisions and related Late Comer provisions, as filed, are clear. With respect to RENEW's request for additional revisions to clarify that costs for upgrades identified under clustering that cannot be determined using the proposed distribution factor cost allocation methodology do not apply to Elective Transmission Upgrades, ISO-NE contends that an exemption for Elective Transmission Upgrades that have been identified to take the place of a Cluster Enabling Transmission Upgrade is already provided in the revisions.<sup>107</sup> Accordingly, ISO-NE argues that no further revisions are necessary.

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<sup>103</sup> LS Power Protest at 5.

<sup>104</sup> ISO-NE Answer at 26.

<sup>105</sup> *Id.* at 27.

<sup>106</sup> *Id.* (citing, ISO-NE Tariff, § II.47.5).

<sup>107</sup> *Id.*

83. With respect to RENEW's arguments regarding resources abandoned after an upgrade has been partially or fully built, ISO-NE answers that cost responsibility in such situations is governed by the existing termination provisions in the *pro forma* Interconnection Agreements, and nothing in the Clustering Revisions modifies those provisions.<sup>108</sup>

84. With respect to arguments that an interconnection customer that only connects to the substation where a Cluster Enabling Transmission Upgrade terminates should not be considered a Late Comer, ISO-NE notes that this provision only identifies which interconnection customers are eligible to be assigned costs. ISO-NE explains that for all interconnection requests, cost assignment is determined by the distribution factor methodology. Accordingly, ISO-NE argues that, although such an interconnection customer would be eligible to be assigned costs as a Late Comer, if the distribution factor associated with its interconnection request is low, then the corresponding cost allocation will be low for the applicable Cluster Enabling Transmission Upgrade(s).<sup>109</sup>

85. Regarding RENEW's arguments that there is ambiguity as to whether the Late Comer provisions will allocate both capital and annual costs of Cluster Enabling Transmission Upgrades, ISO-NE clarifies that the Late Comer provisions use the term "costs" to capture both the capital and annual costs addressed in Schedule 11.<sup>110</sup>

86. ISO-NE argues that the claimed ambiguity regarding the timing of the deposit provisions and the Late Comer provisions arises from RENEW's misreading of the rules in an effort to achieve an outcome different than what Filing Parties intended.<sup>111</sup> ISO-NE states that there is no interplay between the new or existing deposit requirements and the Late Comer provisions proposed in Schedule 11. ISO-NE explains that the deposit obligation in the Large Generator Interconnection Procedures relates to the findings in its interconnection studies; if the studies did not find any incremental changes to a Cluster Enabling Transmission Upgrade, the interconnection customer's deposit should not reflect any Cluster Enabling Transmission Upgrade-related costs. These deposit provisions are distinct from the Late Comer provisions in Schedule 11, which merely create an obligation on Late Comers to reimburse, through the relevant transmission owner, the original interconnection customers' capital and annual cost contributions associated with the Cluster Enabling Transmission Upgrade.

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<sup>108</sup> *Id.* at 42.

<sup>109</sup> *Id.* at 39-40.

<sup>110</sup> *Id.* at 40.

<sup>111</sup> *Id.* at 40.

87. Lastly, ISO-NE argues that the Commission should reject LS Power's requests for revisions to Schedule 11 to ensure that the costs of interconnection-related upgrades are not shifted to regional ratepayers as outside the scope of this proceeding.<sup>112</sup> ISO-NE argues that the Clustering Revisions in no way modify the existing "but for" cost assignment construct in New England. ISO-NE contends that the Clustering Revisions only expand Schedule 11 to specify the methodology for assigning the costs of interconnection-related upgrades among interconnection customers included in a cluster. Moreover, ISO-NE argues that no revisions are needed to address LS Power's concerns. ISO-NE explains that, consistent with Schedule 11, an interconnection-related upgrade must already have been identified as a solution in the Regional System Planning Process for that upgrade to be found to provide benefits to the system. ISO-NE explains that, in that case, the solution would already have been subject to the requirements of that process, including, to the extent applicable, an Order No. 1000 competitive transmission development process.<sup>113</sup>

88. Avangrid disagrees with RENEW's arguments that the developer of an Elective Transmission Upgrade should be able to recover costs in the same manner that a transmission owner recovers its costs pursuant to the Tariff. Avangrid argues that Elective Transmission Upgrade are elective, not required under the Tariff and, therefore, require a section 205 filing at the Commission to establish rate recovery and cost assignment. Avangrid similarly disagrees with RENEW's arguments that a Late Comer that interconnects to an Elective Transmission Upgrade should be required to reimburse the interconnection customers that funded that Elective Transmission Upgrade.<sup>114</sup> Avangrid notes that, in order for any Late Comer to use an Elective Transmission Upgrade, it would be required to negotiate terms and conditions with the owner of the Elective Transmission Upgrade. Accordingly, depending on the terms and conditions between the owner of the Elective Transmission Upgrade and the initial interconnecting customers, the transmission service payments by the Late Comer could flow to the initial interconnection customers.

89. RENEW states that it is concerned with Filing Parties' proposed alternative *pro rata* megawatt share cost allocation when a distribution factor methodology cannot be applied.<sup>115</sup> RENEW argues that an interconnection customer should not be responsible for its *pro rata* megawatt share of the Cluster Enabling Transmission Upgrade costs if it

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<sup>112</sup> *Id.* at 46.

<sup>113</sup> *Id.* at 47.

<sup>114</sup> *Id.* at 6.

<sup>115</sup> RENEW Answer at 10.

does not require any of these facilities.

**d. Commission Determination**

90. We find Filing Parties' proposed cost assignment provisions to be just and reasonable. Filing Parties propose to assign the costs of both the Cluster Enabling Transmission Upgrade(s) and any other shared network upgrades needed to accommodate the interconnection requests in a cluster in proportion to each interconnection customer's use of the facilities, as compared to the other resources proposed in the cluster. The use of clustering in queue management was both permitted and encouraged in Order No. 2003.<sup>116</sup> The Commission has also stated that, if an RTO or ISO identifies a need for a regional variation from the specific requirements of Order No. 2003, the Commission will review such variations under the "independent entity variation standard," which allows independent transmission providers flexibility in developing interconnection procedures to meet regional needs.<sup>117</sup> Here, a regional need for Cluster Enabling Transmission Upgrades identified through cluster studies leads to a need to assign costs among cluster participants. Consistent with the "independent entity variation standard," we find that Filing Parties' proposed cost assignment provisions are just and reasonable because they assign costs in proportion to each interconnection customer's use of the common facilities and thus accomplish the purpose of Order No. 2003.

91. With respect to RENEW's arguments that the cost assignment proposed in Schedule 11 should apply to Elective Transmission Upgrades that stand in for Cluster Enabling Transmission Upgrades, we disagree. Under the Clustering Revisions, Elective Transmission Upgrades may take the place of a Cluster Enabling Transmission Upgrade, in whole or in part, only if all of the interconnection customers in a cluster demonstrate that they have entered into a contractual arrangement with the Elective Transmission Upgrade. As part of that contractual arrangement, the interconnection customers will establish their respective cost assignments, so there is no need for the distribution factor methodology proposed for inclusion in Schedule 11 to apply. Of course, interconnection customers and the developers of an Elective Transmission Upgrade may negotiate cost

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<sup>116</sup> See, e.g., Order No. 2003, FERC Stats. & Regs. ¶ 31,146, at P 155 (2003).

<sup>117</sup> See *id.*; Order No. 2003, *FERC Statutes and Regulations, Regulations Preambles 2001-2005* ¶ 31,146 at P 822-827; Order No. 2003-A, *FERC Statutes and Regulations, Regulations Preambles 2006-2007* ¶ 31,261 at P 759. Under the independent entity variation standard, an RTO or ISO proposing a variation must demonstrate that the variation is just and reasonable, not unduly discriminatory, and accomplishes the purposes of Order No. 2003. See *Midcontinent Indep. Sys. Operator, Inc.*, 154 FERC ¶ 61,247, at P 20 (2016); *California Indep. Sys. Operator Corp.*, 140 FERC ¶ 61,070, at P 44 (2012).

assignment using a distribution factor methodology if they wish. Those rates are then established through an FPA section 205 filing with the Commission, an obligation that already exists under the Tariff's Elective Transmission Upgrade construct.

92. We also find Filing Parties' proposed Late Comer provisions to be just and reasonable, including the fact that they do not apply to any Elective Transmission Upgrades that displace a Cluster Enabling Transmission Upgrade. As noted by commenters, Elective Transmission Upgrades are market-oriented elective, participant-funded transmission facilities. Presumably, cluster interconnection customers will only elect to rely on an Elective Transmission Upgrade instead of a Cluster Enabling Transition Upgrade if they are able to negotiate rates, terms, and conditions with the developer of the Elective Transmission Upgrade that are at least as good as the rates, terms, and conditions to which they would be subject if they relied instead on a Cluster Enabling Transmission Upgrade. Among these rates, terms, and conditions, cluster interconnection customers choosing to displace a Cluster Enabling Transmission Upgrade with an Elective Transmission Upgrade are free to negotiate Late Comer crediting provisions. We find that those negotiations are the appropriate venue for any Elective Transmission Upgrade-related Late Comer provisions, not the Clustering Revisions at issue here.

93. With respect to RENEW's assertion that the Tariff is unclear as to whether Late Comers will also be required to reimburse those interconnection customers that funded a Cluster Enabling Transmission Upgrade the annual costs of the Cluster Enabling Transmission Upgrade in addition to the capital costs, we agree with ISO-NE that use of the term "costs" in the relevant tariff provisions captures both the capital and annual costs addressed in Schedule 11.

94. With respect to RENEW's argument that an interconnection customer that only connects to the substation where a Cluster Enabling Transmission Upgrade terminates should not be considered a Late Comer, we find that, to the extent such an interconnection customer uses the Cluster Enabling Transmission Upgrades, as demonstrated through the application of the distribution factor methodology, it is reasonable to designate that interconnection customer as a Late Comer and to assign it costs, both through the distribution factor and *pro rata* megawatt share cost allocation methodology. Furthermore, as ISO-NE notes, the Late Comer provision only identifies which interconnection customers are eligible to be assigned costs as a Late Comer – if the distribution factor is low, then the corresponding cost allocation will be low, and if the distribution factor is high, then the corresponding cost allocation will be appropriately high.

95. With respect to RENEW's request that Filing Parties should clarify the provisions governing the size and timing of deposits and payments in Schedule 11, we agree with ISO-NE that the provisions in the Large Generator Interconnection Procedures governing

deposit and the Late Comer cost assignment provisions are independent from one another and reasonably clear.

96. Finally, we reject as outside the scope of this proceeding LS Power's arguments that the cost assignment provisions for interconnection facilities appear to allow ISO-NE discretion to broadly allocate the costs of transmission facilities without those facilities being subject to an Order No. 1000 competitive transmission development process. In Order No. 1000, the Commission found that issues related to the generator interconnection process and to interconnection cost recovery were outside of the scope of that rulemaking.<sup>118</sup> In particular, the Commission stated that Order No. 1000 did not set forth any new requirements with respect to the procedures for interconnecting large, small, wind or other generation facilities.<sup>119</sup> In the instant filing, ISO-NE proposes to revise its existing interconnection procedures to implement clustering and such interconnection procedures are not subject to Order No. 1000.

The Commission orders:

ISO-NE's proposed revisions are hereby accepted, effective November 1, 2017, as requested, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>118</sup> *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323, at P 760 (2011), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132, at P 425, *order on reh'g and clarification*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), *aff'd sub nom. S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d 41 (D.C. Cir. 2014).

<sup>119</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 760.