

180 FERC ¶ 61,129
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Richard Glick, Chairman;
James P. Danly, Allison Clements,
Mark C. Christie, and Willie L. Phillips.

ISO New England Inc.
New England Power Pool Participants Committee and
Participating Transmission Owners Administrative
Committee

Docket No. ER22-2226-000

ORDER ACCEPTING TARIFF REVISIONS

(Issued August 26, 2022)

1. On June 29, 2022, ISO New England Inc. (ISO-NE), joined by the New England Power Pool (NEPOOL) Participants Committee and the PTO Administrative Committee (PTO AC) on behalf of the New England Participating Transmission Owners (PTOs) (together, Filing Parties), proposed revisions to ISO-NE's Transmission, Markets and Services Tariff (Tariff) modifying the process for interconnection of new distributed energy resources (DERs) and revising the coordination of interconnection studies.¹ Filing Parties' proposed Tariff revisions affect Schedules 22, 23, and 25 to the ISO-NE Open Access Transmission Tariff (OATT).² In this order, we accept the proposed Tariff revisions, to become effective August 28, 2022, as requested.

I. Background

2. Filing Parties state that, pursuant to Schedules 22, 23, and 25 of the OATT, ISO-NE administers the interconnection of new generating facilities to the Administered Transmission System.³ Filing Parties explain that the

¹ ISO New England Inc., ISO New England Inc. Transmission, Markets and Services Tariff, [Schedule 22, Schedule 22 Large Generator Interconnection Procedures \(20.0.0\)](#), [Schedule 23, Schedule 23 Small Generator Interconnection Procedures \(16.0.0\)](#), and [Schedule 25, Schedule 25, Elec. Transmission Upgrade Inter. Proc. \(6.0.0\)](#).

² Section II of the ISO-NE Tariff contains the ISO-NE OATT.

³ *Id.* at 6.

Administered Transmission System is defined in Schedules 22, 23, and 25 as “the [Pool Transmission Facilities],⁴ the [Non-Pool Transmission Facilities], and distribution facilities that are subject to the Tariff.” As relevant here for a new DER, Filing Parties state that, if a distribution facility is subject to the Tariff, then that new DER may be required to interconnect through the ISO-NE interconnection process.

3. Filing Parties state that the current process for determining whether a new DER must interconnect through the ISO-NE interconnection process first involves determining if the line to which the new DER seeks to interconnect is a Pool Transmission Facility or Non-Pool Transmission Facility, in which case, all interconnections always proceed through the ISO-NE interconnection process.⁵ Interconnections of DERs to distribution facilities are further reviewed to determine if there is wholesale activity on the line—if an existing generator on the line participates in ISO-NE’s energy or capacity markets, then, pursuant to the “first use” test in Order Nos. 2003 and 2006, the new DER must interconnect through the ISO-NE process. More specifically, Filing Parties state that, in Order Nos. 2003 and 2006, the Commission adopted standard interconnection procedures and agreements that apply when an interconnection customer “that plans to engage in a sale for resale in interstate commerce or to transmit electric energy in interstate commerce”⁶ requests interconnection to a public utility’s transmission system or distribution system that is

⁴ Pool Transmission Facilities are “the transmission facilities owned by PTOs that meet the criteria specified in section II.49 of the OATT.” ISO New England Inc., ISO New England Inc. Transmission, Markets and Services Tariff, § I.2.2 Definitions (144.0.0). Pool Transmission Facilities are generally the “networked” portion of the transmission system. Non-Pool Transmission Facilities are generally radial transmission facilities. See Transmittal, Attachment (Affidavit of Alan McBride) at 4 (McBride Aff.).

⁵ Transmittal at 6-7.

⁶ *Id.* at 12 (citing *Participation of Distributed Energy Res. Aggregations in Mkts. Operated by Reg’l Transmission Orgs. & Indep. Sys. Operators*, Order No. 2222, 172 FERC ¶ 61,247, at P 91 (2020), *order on reh’g*, Order No. 2222-A, 174 FERC ¶ 61,197, *order on reh’g*, Order No. 2222-B, 175 FERC ¶ 61,227 (2021) (citing *Standardization of Generator Interconnection Agreements & Proc.*, Order No. 2003, 104 FERC ¶ 61,103, at P 804; *Reform of Generator Interconnection Proc. & Agreements*, Order No. 845, 163 FERC ¶ 61,043 (2018), *errata notice*, 167 FERC ¶ 61,123, *order on reh’g*, Order No. 845-A, 166 FERC ¶ 61,137 (2019), *errata notice*, 167 FERC ¶ 61,124, *order on reh’g*, Order No. 845-B, 168 FERC ¶ 61,092 (2019))).

used either to transmit electric energy in interstate commerce or to sell electric energy at wholesale in interstate commerce pursuant to a Commission-filed OATT.⁷ Filing Parties explain that RTOs/ISOs, including ISO-NE, apply a “first use” test, under which the first interconnection to a distribution facility for the purpose of making wholesale sales is not subject to Commission jurisdiction because the distribution facility is not used to transmit electric energy in interstate commerce or subject to wholesale open access under an OATT.⁸ Therefore, Filing Parties explain that, under current procedure, the resource making the first interconnection does not use the ISO-NE’s interconnection process and instead uses a state process, whereas subsequent resources that interconnect to the same distribution facility must use the ISO-NE process, unless they qualify for an exemption.

4. Lastly, Filing Parties explain that interconnections of DERs to distribution facilities are also reviewed to determine if the DER qualifies for any exceptions that would exempt a new DER from ISO-NE’s process. Filing Parties state that such an exemption would apply if: (i) the new DER is a retail customer whose energy will be consumed onsite; (ii) the generating facility will not make any interstate wholesale sales of electricity; or (iii) the DER is a qualifying facility under the Public Utility Regulatory Policies Act (PURPA) whose owner intends to sell 100% of its output to the interconnected utility under a PURPA contract.⁹ Filing Parties note that an additional exemption will be applied to interconnections of DERs pursuant to the modifications made to the Tariff under Order No. 2222.¹⁰

5. Filing Parties state that, regardless of the interconnection process, a new DER must go through ISO-NE’s Proposed Plan Application process to determine whether a new resource could have an adverse impact on the reliability or operating characteristics of the ISO-administered system or any other affected system.¹¹ Filing Parties explain that the Proposed Plan Application process applies to new or increased generation that is greater than or equal to 5 MW, or, in cases where interconnection will impact the

⁷ *Id.* (citing Order No. 2222, 172 FERC ¶ 61,247 at P 91 (citing Order No. 2003, 104 FERC ¶ 61,103 at P 804; *Standardization of Small Generator Interconnection Agreements & Proc.*, Order No. 2006, 111 FERC ¶ 61,220, *order on reh’g*, Order No. 2006-A, 113 FERC ¶ 61,195 (2005), *order granting clarification*, Order No. 2006-B, 116 FERC ¶ 61,046 (2006); Order No. 845, 163 FERC ¶ 61,043)).

⁸ *Id.* at 12-13.

⁹ *Id.* at 7-8.

¹⁰ *Id.* at 15. *See* Order No. 2222, 172 FERC ¶ 61,247.

¹¹ Transmittal at 8-9 (citing Tariff, § I.3.9).

regional transmission system, greater than 1 MW but less than 5 MW. Filing Parties state that if a generator owner is not a market participant, then the PTO that is processing the interconnection must make the Proposed Plan Application submittal to ISO-NE on the generator's behalf, supported by a transmission study to ensure there is no significant adverse reliability effects. Filing Parties state that the PTO is responsible for conducting the transmission study and that, once it is complete, the PTO must present the results, including identified upgrades, to the NEPOOL Reliability Committee for an advisory vote, after which ISO-NE will issue a determination approving or denying the Proposed Plan Application. Filing Parties emphasize that the same evaluation standards are used for generation that is proceeding through the ISO-NE interconnection queue and for generation that is seeking Proposed Plan Application approval after completing the state interconnection process.

6. Filing Parties explain that, because some DERs interconnect through the ISO-NE process and some interconnect through an applicable state process, there are coordination problems and inefficiencies that sometimes result in adverse outcomes for DER developers, such as having to recomplete the interconnection process if it is determined that a different jurisdiction's process applies.¹² Filing Parties continue that, because ISO-NE has no visibility into the distribution system, regardless of the interconnection process, the PTOs are responsible for maintaining the models for the distribution system and studying distribution impacts and thus are responsible for determining whether a new DER must follow ISO-NE's process or the applicable state process. Filing Parties state that the mechanisms and assumptions that the PTOs use to determine the proper interconnection process vary, the administrative burden is great, the complexity is rising, and the errors are rising.

II. Filing

7. Filing Parties state that the Tariff revisions are being submitted under the "independent entity variation standard" of review established in Order No. 2003,¹³ and the Commission's "regional differences" standard. ISO-NE states that, in accordance with Order No. 2003, a Regional Transmission Owner (RTO) or an Independent System Operator (ISO) proposing variations to the pro forma interconnection procedures must

¹² *Id.* at 9-11.

¹³ *Standardization of Generator Interconnection Agreements & Proc.*, Order No. 2003, 104 FERC ¶ 61,103 (2003), *order on reh'g*, Order No. 2003-A, 106 FERC ¶ 61,220, *order on reh'g*, Order No. 2003-B, 109 FERC ¶ 61,287 (2004), *order on reh'g*, Order No. 2003-C, 111 FERC ¶ 61,401 (2005), *aff'd sub nom; Nat'l Ass'n of Reg. Util. Comm'rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007), *cert. denied*, 552 U.S. 1230, (Feb. 25, 2008).

demonstrate that the variations from the pro forma interconnection procedures and agreement are just and reasonable and not unduly discriminatory, and would accomplish the purposes of Order No. 2003 and any other applicable final interconnection rules.¹⁴ Filing Parties state that the Tariff revisions were supported in both the NEPOOL stakeholder process and received unanimous support from the PTO AC.¹⁵

8. Filing Parties propose to revise the definition of Administered Transmission System in Schedules 22, 23, and 25 of the OATT by removing the term “distribution facilities that are subject to the Tariff,” which will have the effect of requiring that new DERs interconnecting to distribution facilities always proceed through the applicable state interconnection process.¹⁶ As a result, Filing Parties state that the analysis that is currently conducted to determine if a DER must go through the ISO-NE interconnection process will no longer be needed. Filing Parties therefore propose to remove the description of that analysis from the schedules. Filing Parties continue that to transition to the new approach, under which all DERs will interconnect through a state interconnection process, ISO-NE is adding new provisions to Schedules 22 and 23 that explain the options for interconnection customers who submitted interconnection requests before the effective date of the Tariff revisions. Filing Parties emphasize that the Proposed Plan Application process is not changing and that new DERs will continue to be subject to that process.¹⁷

9. Finally, Filing Parties propose to modify Schedules 22, 23, and 25 of the OATT to establish the order in which interconnection requests submitted in the state process will be included in the interconnection analysis conducted by ISO-NE in preparation for its Forward Capacity Auction.¹⁸ Filing Parties explain that those details are needed to determine the order of testing for deliverability and the identification of upgrades (if needed). Filing Parties also propose to modify Schedules 22 and 25 to specify that the base cases used in ISO-NE’s interconnection studies must include generation projects not participating in ISO-NE’s interconnection process but expected to achieve Proposed Plan Application approval within 90 days of the base cases’ creation, provided that certain information has been furnished to ISO-NE.¹⁹ Filing Parties explain that this

¹⁴ Transmittal at 4-5.

¹⁵ *Id.* at 19.

¹⁶ *Id.* at 10-11.

¹⁷ *Id.* at 11.

¹⁸ *Id.* at 18.

¹⁹ *Id.* at 19.

Tariff provision will provide certainty to owners of projects that are going through the state interconnection queue.

10. In addition, Filing Parties state that the Commission, in Order No. 2222, explained that, when it issued Order Nos. 2003 and 2006, it anticipated that the standard interconnection procedures and agreement terms would rarely apply to distributed generation.²⁰ Filing Parties explain, however, that the Commission stated further that renewable portfolio standards, state policies promoting distributed generation, and decreases in capital costs have driven a substantial increase in small generator interconnection requests and that such growth could increase the number of distribution-level interconnections subject to the Commission's jurisdiction.²¹ Filing Parties explain that given these concerns, notwithstanding the principles of Order Nos. 2003 and 2006, in Order No. 2222, the Commission explicitly declined to exercise its jurisdiction over the interconnections of DERs to distribution facilities for the purpose of participating in RTO/ISO markets exclusively as part of a DER aggregation.²² Filing Parties state that the Commission explained in Order No. 2222 that the Commission does not believe that requiring standard interconnection procedures and agreement terms for these interconnections is necessary to advance the objectives of Order Nos. 2003, 2006, and 845, which established standard interconnection procedures and agreements in order pursue the goals of those Orders. Order No. 2222 stated that some of those goals were to prevent undue discrimination, preserve reliability, increase energy supply, lower wholesale prices for customers by increasing the number and types of new generation that would compete in the wholesale electricity market, reduce interconnection time and costs, and facilitate development of non-polluting alternative energy sources.²³ Filing Parties add that the Commission recognized that state and local authorities, which have traditionally regulated DER interconnections, have the requisite experience, interest, and capacity to oversee these distribution-level interconnections.²⁴ Filing Parties state that in Order No. 2222, the Commission thus found that a DER interconnecting through a DER aggregation would not constitute a first interconnection for the purpose of making wholesale sales under the "first use" test, but that the standard interconnection procedures and agreement terms originally established in Order Nos. 2003 and 2006, and later amended by Order No. 845, continue to apply to

²⁰ *Id.* at 13 (citing Order No. 2222, 172 FERC ¶ 61,247 at PP 91, 95).

²¹ *Id.* at 13-14 (citing Order No. 2222, 172 FERC ¶ 61,247 at P 95).

²² *Id.* (citing Order No. 2222, 172 FERC ¶ 61,247 at P 96).

²³ *Id.* at 14 (citing Order No. 2222, 172 FERC ¶ 61,247 at P 96).

²⁴ *Id.* (citing Order No. 2222, 172 FERC ¶ 61,247 at P 96).

interconnections of DERs that participate in RTO/ISO markets independent of a DER aggregation.²⁵

11. Filing Parties argue that the same concerns regarding renewable portfolio standards, state policies promoting distributed generation, and decreases in capital costs that have driven a substantial increase in small generator interconnection requests, which the Commission articulated regarding DER aggregations, also exist for individual DERs in New England.²⁶ Therefore, Filing Parties explain that the instant proposal revises Schedules 22, 23, and 25 of the OATT to apply only the state interconnection process to all DER interconnection requests. Filing Parties claim that applying only the state interconnection process to all DERs will remove uncertainty regarding whether DER interconnections are subject to Commission jurisdiction or state jurisdiction and will eliminate the coordination problems and inefficiencies that exist today and will worsen in the future. Filing Parties argue that because new DERs will continue to be subject to ISO-NE's Proposed Plan Application process, the objective in Order Nos. 2003, 2006, and 845 to preserve reliability will continue to be met under the Filing Parties' proposal to have all new DERs interconnect through a state process. Filing Parties claim that because using only the state interconnection process provides DER developers with flexibility and removes what they have identified as a barrier to DER development, the Filing Parties' proposal also advances the other objectives of Order Nos. 2003, 2006, and 845, i.e., preventing undue discrimination, increasing energy supply, lowering wholesale prices for customers by increasing the number and types of new generation that would compete in the wholesale electricity market, reducing interconnection time and costs, and facilitating development of non-polluting alternative energy sources. Filing Parties add that the Commission's justifications for allowing DER aggregations to go through the applicable state interconnection process in Order No. 2222 also supports allowing individual DERs to go through the applicable state interconnection process and that the proposal is consistent with the Commission's stated goals in its recent Notice of Proposed Rulemaking outlining improvements to generator interconnection procedures.²⁷

III. Notice of Filing and Responsive Pleadings

12. Notice of Filing Parties' filing was published in the *Federal Register*, 87 Fed. Reg. 40,229 (Jul. 6, 2022), with interventions and protests due on or before July 20, 2022. Calpine Corporation, Borrego Solar Systems, Inc., National Grid, NRG Power

²⁵ *Id.* (citing Order No. 2222, 172 FERC ¶ 61,247 at P 97).

²⁶ *Id.* at 14-16.

²⁷ *Id.* at 16 (citing *Improvements to Generator Interconnection Proc. & Agreements*, 179 FERC ¶ 61,194 (2022)).

Marketing LLC, and Eversource Energy Service Company each submitted timely motions to intervene. Solar Energy Industries Association (SEIA), ENGIE North America Inc. (ENGIE), and Advanced Energy Economy (AEE) each filed timely motions to intervene and comments in support of the Tariff revisions. On August 4, 2022, ISO-NE filed an answer in response to SEIA's comments.

A. Comments and ISO-NE Answer

13. SEIA, ENGIE, and AEE assert that Filing Parties' proposal reduces uncertainty regarding the interconnection process for DERs by clarifying that all DERs will be subject to the applicable state process.²⁸ Additionally, SEIA, ENGIE, and AEE emphasize the growth of DERs in New England with distribution-level interconnections, creating unique concerns for the region that are resolved by this filing.²⁹ AEE claims that exempting all new interconnecting DERs from the ISO-NE interconnection procedures will not hamper ISO-NE's ability to study the reliability impact of new DERs because the Proposed Plan Application process applies to all DERs, regardless of the interconnection process.³⁰ AEE also supports the revisions that clarify the order in which interconnection requests will be included in interconnection studies.

14. SEIA states that the Filing Parties' Tariff revisions would not abrogate the Commission's jurisdiction under the Federal Power Act (FPA), and requests clarification that individual DERs would still be entitled to seek dispute resolution through the RTO's/ISO's dispute resolution process, the Commission's Dispute Resolution Service, or complaints filed pursuant to FPA section 206, consistent with the Commission's jurisdiction over wholesale sales.³¹ ISO-NE states in response that it supports SEIA's request that the Commission clarify that individual DERs are entitled to seek dispute resolution through the RTO's/ISO's dispute resolution process, the Commission's Dispute Resolution Service, or complaints filed pursuant to FPA section 206, but for

²⁸ SEIA Comments at 2; ENGIE Comments at 2; AEE Comments at 2-3.

²⁹ SEIA Comments at 3; ENGIE Comments at 2-4 (noting that ENGIE has dozens of ENGIE and ENGIE partner projects that have been disqualified from participating in ISO-NE's Forward Capacity Auction because the projects were erroneously advised by the PTOs to secure state interconnection agreements and then later informed that the projects' points of interconnection were Commission-jurisdictional); AEE Comments at 6.

³⁰ AEE Comments at 3.

³¹ SEIA Comments at 3-4 (citing Order No. 2222-A, 174 FERC ¶ 61,197 at P 70; *see also* Order No. 2222, 172 FERC ¶ 61,247 at P 299).

issues related to wholesale market participation, not for issues related to interconnection.³²

IV. Discussion

A. Procedural Matters

15. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2021), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

16. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2021), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We accept ISO-NE's answer filed in this proceeding because it has provided information that assisted us in our decision-making process.

B. Substantive Matters

17. We find the Filing Parties' proposed revisions to be just and reasonable, and not unduly discriminatory or preferential. We therefore accept Filing Parties' proposed revisions effective August 28, 2022, as requested.

18. Order No. 2003 includes an "independent entity variation" standard that permits an RTO/ISO to propose for the Commission's consideration interconnection procedures that are responsive to specific regional needs.³³ Under this standard, the Commission affords an RTO/ISO greater flexibility than a non-independent transmission provider because an RTO/ISO does not own generation, and thus lacks the incentive to discriminate in favor of certain generation or to obstruct access to the grid by independent generators. The Commission has granted independent entity variations from the requirements of Order Nos. 2003 and 2006 where an RTO/ISO demonstrates that the proposed variation: (1) is just and reasonable, and not unduly discriminatory or preferential; and (2) accomplishes the purposes of the final rule.³⁴ We find that Filing Parties' proposed variations satisfy these criteria.

³² ISO-NE Answer at 2.

³³ See *ISO New England, Inc.*, 115 FERC ¶ 61,050, at P 12 (2006).

³⁴ See, e.g., *ISO New England, Inc.*, 164 FERC ¶ 61,222, at P 9 (2018) (citing Order No. 2003, 104 FERC ¶ 61,103 at PP 26, 827; *Midcontinent Indep. Sys. Operator, Inc.*, 154 FERC ¶ 61,247, at P 20 (2016); *Cal. Indep. Sys. Operator Corp.*, 140 FERC ¶ 61,070, at P 44 (2012)).

19. To the first requirement, we find that ISO-NE's proposal to exclude DERs from its interconnection procedures is just and reasonable because it would promote certainty in ISO-NE's interconnection process and reduce a significant burden on ISO-NE.

20. To the second requirement, we find that the Filing Parties' proposed edits accomplish the purposes of Order Nos. 2003 and 2006. Here, as in Order No. 2222,³⁵ an increase in distribution-level interconnections could create uncertainty as to whether certain interconnections are subject to Commission jurisdiction or state/local jurisdiction, and whether they would require the use of the Commission's standard interconnection procedures and agreement.³⁶ Additionally, the increase in interconnection requests from DERs could burden ISO-NE with an overwhelming volume of interconnection requests.³⁷ We also find that permitting DERs in ISO-NE to interconnect through the state interconnection process advances the objectives of Order Nos. 2003 and 2006 by increasing energy supply and lowering wholesale prices for customers by increasing the number and variety of new generation that will compete in the wholesale electricity market, while ensuring processes are in place to preserve reliability.³⁸

21. We grant SEIA's request for clarification to the extent that the Commission's jurisdiction over wholesale sales from DERs and their participation in the wholesale markets, and any potential use of "a Commission-jurisdictional wholesale distribution charge for the DERs' use of the distribution system for wholesale transactions" are not impacted by the Tariff revisions.³⁹ At the same time, we note that disputes related to state interconnection procedures that do not implicate these wholesale market issues will

³⁵ See Order No. 2222, 172 FERC ¶ 61,247 at P 95.

³⁶ Transmittal at 15 ("Notably, the large influx of distribution-level interconnections has already created uncertainty in New England as to whether certain interconnections are subject to Commission jurisdiction or state jurisdiction, and whether they would require the use of the ISO-NE interconnection process.").

³⁷ *Id.* ("that significant increase [in distribution-level interconnections] has already taken place in New England because of the great number of new individual DER projects seeking to interconnect as well as modifications to existing DERs (in the form of increased capacity/other physical changes, or a decision to participate in the ISO's markets after the DER is already in service), which also trigger the ISO's interconnection process. As such, ISO-NE does anticipate becoming burdened with an overwhelming volume of interconnection requests.").

³⁸ See Order No. 2003, 104 FERC ¶ 61,103 at P 1.

³⁹ SEIA Comments at 4.

be more appropriately resolved through a state process.⁴⁰ Further, as the Commission similarly stated in Order No. 2222, the Commission may revisit this independent entity variation in the future, should the Commission discover abuses of the distribution interconnection process or the rise of unnecessary barriers to the participation of distributed energy resources in RTO/ISO markets.⁴¹

The Commission orders:

The proposed Tariff revisions are hereby accepted for filing, effective August 28, 2022, as requested, as discussed in the body of this order.

By the Commission.

(S E A L)

Debbie-Anne A. Reese,
Deputy Secretary.

⁴⁰ See ISO-NE Answer at 2 (“[T]he ISO supports SEIA’s request that the Commission clarify that individual DERs are also entitled to seek dispute resolution through the RTO’s/ISO’s dispute resolution process, the Commission’s Dispute Resolution Service, or complaints filed pursuant to FPA Section 206 for issues related to wholesale market participation (*not for issues related to interconnection*).”) (emphasis added).

⁴¹ See Order No. 2222, 172 FERC ¶ 61,247 at P 101.