

Owners believe that the following goals must be satisfied:

1. The consistent implementation of a standard market design in the Northeast region (i.e., New England, New York and PJM).
2. A wholesale electricity market in the Northeast region, consisting of a single day-ahead market, a single or closely coordinated dispatch, and a common or compatible technology platform (the “Single Market”), which should be implemented with guidance from properly selected consultants.
3. Oversight of the Northeast electricity market by one or more Independent Market Monitors.
4. A framework that provides for the voluntary formation of one or more Independent Transmission Companies (“ITCs”).
5. The incorporation of the best practices currently in effect in the ISO markets into the Northeast standard market design and a common or compatible technology platform.
6. The maintenance of system reliability, including the special reliability rules now in effect in the control areas in the Northeast.
7. Elimination of pancaked inter-control area embedded cost transmission charges in the Northeast, provided that transmission revenue recovery is adequately maintained.
8. A Transmission Operating Agreement between any RTO that is formed and the Transmission Owners that join it, that clearly defines the rights and responsibilities of each particular party.

The Transmission Owners have been responsive to the Commission's policy initiatives designed to increase competition in the wholesale electricity market and to foster greater efficiency in the electricity industry, and share the Commission's conviction that a more competitive electricity industry will provide significant benefits to the public, in the form of lower electricity prices, increased reliability and new and innovative services.

The Transmission Owners have endeavored to play a positive role in the development of competitive market structures in the Northeast region. Currently, the Commission is involved in the development of a standard market design for competitive wholesale markets that would apply across the country, and is considering how to foster the formation of RTOs that would most

effectively implement that standard market design. A great deal of time and effort has been expended in the consideration of the best way to structure one or more RTOs in the Northeast region. Until recently, the primary focus of that consideration has been the size and scope of a Northeast RTO.

While the size and scope of an RTO is an important consideration, it also is important not to lose sight of some of the basic objectives which the Commission seeks to achieve through the formation of an RTO. In any market formation process, due consideration must be given to transition mechanisms to provide benefits to customers throughout the regions within the RTO.

Thus, the Transmission Owners respectfully request that the Commission act in accordance with these comments and approve an action plan to develop the Single Market in the Northeast, consistent with the provisions of Section III of this document. Specifically, the Commission should direct the three Northeast ISOs to undertake a commitment to achieve the following goals:

1. Prompt resolution of all existing seams issues;
2. Development and implementation of a detailed standard market design for the entire Northeast region; and
3. Development of a coordinated action plan to implement a Single Market in the Northeast region.

II. BACKGROUND

A. The Transmission Owners

Transmission Owners own virtually all of the bulk power transmission system in the New York control area and a significant portion of the bulk power system in the New England control area. The Commission encouraged the Transmission Owners to form Independent System Operators (“ISOs”) as a way to comply with requirements of Order No. 888.² In response, the Transmission Owners submitted plans to establish the New York ISO (the “NYISO”) and, through the New England Power Pool (“NEPOOL”), to establish the New England ISO (“ISO-New England”) and jurisdictional Transmission Owners transferred operational control over designated transmission facilities to the ISOs pursuant to Section 203 filings to the Commission and comparable state filings.³

B. The Northeast RTO Mediation Efforts

The Commission's Order No. 2000⁴ on the formation of RTOs imposed further responsibilities on the Transmission Owners. The Commission's order required utilities that are members of an existing ISO, such as the Transmission Owners, to make a filing by January 15,

² *Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Order No. 888*, FERC Stats. & Regs. [Regs. Preambles 1991-1996] ¶ 31,036 (1996), *Order No. 888-A, on reh'g*, FERC Stats. & Regs. [Regs. Preambles 1996-2000] ¶ 31,048 (1997), *Order No. 888-B, on reh'g*, 81 FERC ¶ 61,248 (1997), *Order No. 888-C, on reh'g*, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part, Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd, New York v. FERC*, 122 S. Ct. 1012 (Mar. 4, 2002).

³ The non-jurisdictional Transmission Owners, LIPA and New York Power Authority, transferred operational control or operational coordination of designated transmission facilities to the NYISO by vote of their respective Boards of Trustees.

⁴ *Regional Transmission Organizations, Order No. 2000*, FERC Stats. & Regs. [Regs. Preambles 1996-2000] ¶ 31,089 (1999), *order on reh'g, Order No. 2000-A*, FERC Stats. & Regs. [Regs. Preambles 1996-2000] ¶ 31,092 (2000), *aff'd sub nom. Public Utility District No. 1*
(continued . . .)

2001 to:

explain the extent to which the transmission entity in which it participates meets the minimum characteristics and functions for an RTO, and either propose to modify the existing institution to the extent necessary to become an RTO, or explain the efforts, obstacles and plans with respect to conforming to these characteristics and functions.

Order No. 2000 at 30,994-95.

In response to Order No. 2000, the New York Transmission Owners made a joint filing with the NYISO ("Joint NYISO Filing") requesting that the Commission grant RTO status to the NYISO.⁵ The New England Transmission Owners made a joint filing with ISO-New England ("Joint New England Filing") seeking a determination that a hybrid transmission entity consisting of ISO-New England and an ITC would satisfy the RTO requirements of Order No. 2000.⁶ On July 12, 2001, the Commission denied the Joint NYISO Filing and found that the NYISO does not meet RTO requirements for several reasons, but primarily because it does not meet the size and scope requirement.⁷ On the same day, the Commission found that the proposed hybrid New England RTO would satisfy some, but not all, of the requirements of Order No. 2000, primarily because it would not satisfy the size and scope requirements.⁸ In its July 12 orders, the Commission expressed its expectation that the formation of a Northeast RTO would provide

v. *FERC*, 272 F.3d 607 (D.C. Cir. 2001).

⁵ *New York Independent System Operator, Inc., et al.*, "Order No. 2000 Compliance Filing," Docket No. RT01-95-000 (Jan. 16, 2001).

⁶ *Bangor Hydro-Electric Co., et al.*, "Joint Petition for Declaratory Order to Form the New England Regional Transmission Organization," Docket No. RT01-86-000 (Jan. 16, 2001).

⁷ *New York Independent System Operator, Inc., et al.*, 96 FERC ¶ 61,059 at 61,184, 61,189-90 (July 12, 2001) ("NYISO RTO Order"), *reh'g pending* (Sept. 10, 2001).

⁸ *Bangor Hydro-Electric Co., et al.*, 96 FERC ¶ 61,063 (July 12, 2001), *reh'g pending* (Sept. 10, 2001).

increased reliability and lower wholesale electricity prices.⁹ It is evident from the Commission's order that it believes that these benefits will be delayed, perhaps significantly, if RTOs or ISOs are permitted to develop incompatible structures and systems.¹⁰ The order also noted that trading among the three Northeastern ISOs is significant and growing; that there is a natural market that spans the entire Northeast region; and that the viability of this natural market could be hampered by the balkanized set of market rules that have developed in the Northeast ISOs since their inception.¹¹

Subsequent to the July 12 orders, the Transmission Owners actively participated in the Commission directed RTO mediation process designed to develop a plan for the formation of a Northeast RTO that would encompass the New York, New England and PJM.¹²

C. Subsequent Activities By the Transmission Owners To Further RTO Development

After the RTO mediation process, the Transmission Owners engaged in direct discussions with PJM, ISO-New England and the NYISO to determine whether the concerns raised by the Transmission Owners in the RTO mediation process could be effectively addressed. Significant progress was made in those discussions on substantive issues related to the formation of an RTO. However, subsequent discussions among the three Northeast ISOs failed to achieve an agreement on a common plan for the formation of an RTO. The three ISOs abandoned the effort to form a single Northeast RTO.

In January of this year, the NYISO and ISO-New England announced a plan to establish a

⁹ NYISO RTO Order at 61,185.

¹⁰ *See, e.g.*, NYISO RTO Order at 61,185.

¹¹ NYISO RTO Order at 61,189-90.

¹² *See Regional Transmission Organizations*, "Order Initiating Mediation," Docket No. RT01-99-000, 96 FERC ¶ 61,065 (July 12, 2001).

common market, and explore the establishment of an RTO, that would encompass New York and New England but not PJM (the "NERTO" proposal). A process was established to develop a plan for the formation of the NERTO, in parallel with an analysis of whether the proposal for an RTO encompassing only New York and New England would provide sufficient benefits. The Transmission Owners urged the two ISOs to demonstrate the merits of the NERTO proposal, and they agreed to actively participate in the NERTO development process. In this filing, the Transmission Owners do not take a position on the merits of the NERTO proposal, which will be addressed if and when the NERTO proposal is submitted to the Commission.

III. GOALS AND OBJECTIVES FOR ANY NORTHEAST RTO STRUCTURE

The Transmission Owners believe that there are certain goals and objectives that must be achieved by any Northeast RTO that is formed irrespective of the scope and governance of that RTO. To be clear, this filing does not advocate any specific size, scope or governance structure for an RTO in the Northeast, nor the number of RTOs that would be appropriate.

A. Standard Market Design

Irrespective of the structure of a Northeast RTO, all three ISOs must develop and implement a standard market design for the entire Northeast region as promptly as possible. We appreciate the Commission's effort to establish a standard market design for the entire country. Commission approval of a standard market design, however, may not be sufficient to ensure a seamless electricity market throughout the Northeast region. It is crucial that the standard market design be implemented throughout the region in a consistent manner. A consistent implementation of a detailed standard market design will not happen automatically or easily. It will be necessary to have a strong commitment by each of the three existing ISOs to work closely together to develop a common or compatible technology platform, implementation procedures and market rules. In the absence of such a coordinated effort by the three Northeast ISOs, there

is a substantial risk that there will be similar but separate markets being operated in parallel, with limited efficiency and the likelihood that impediments to efficient trading will continue.

In its orders in response to the RTO filings by the three Northeast ISOs, the Commission recommended that the "best practices" currently in effect in the ISO markets should be incorporated into the Northeast RTO. The best practices now in effect in the NYISO, ISO-New England and PJM should be incorporated into the common market design to be adopted for the entire Northeast region. In addition, flexibility should be provided to allow the achievement of the objective of a specified best practice by alternative means, or to allow omission of a specified best practice if, in the context of the overall market, its implementation would not be cost effective. However, the omission of a best practice should not be permitted if doing so would adversely affect reliability or result in significant cost shifting among market participants.

B. Single Market for the Northeast Region With A Compatible Technology Platform

The development of a Single Market among PJM, New York and New England should include the following steps:

Step 1: Elimination of seams that impede reliability, competition, efficiency and liquidity;

Step 2: Development of common market products, rules and procedures; and

Step 3: Development of a common or compatible software platform for the energy markets, leading to a single commitment and single or closely coordinated dispatch in the Northeast region.

A primary objective for the Northeast should be a Single Market for the entire Northeast region. A commitment to achieve such a Single Market should be made by each of the three Northeast ISOs and it should be clear and unequivocal. The three ISOs should support this commitment with a detailed implementation plan designed to achieve a Single Market for the

Northeast region as quickly as possible.

Furthermore, the three ISOs should coordinate their technology efforts to avoid needlessly duplicative investments and unnecessary delays. This coordinated technology effort need not interfere with efforts to address problems that have been identified in the current ISO markets, provided that such efforts are cost effective in the context of developing a Single Market in the Northeast.

During the Commission's RTO mediation process, a consensus developed that a single market design and a common or compatible technology platform should be established for the entire Northeast region. In his report, the mediator suggested that the different proposals with respect to the development of a Single Market in the Northeast could be reconciled.¹³ It is respectfully submitted that the goal of developing a Single Market for the entire Northeast region continues to be in the public interest and should be pursued deliberately by the three Northeast ISOs, regardless of the geographical scope of any RTO.

Additionally, in his report on the Commission's Northeast RTO mediation process, the mediator strongly recommended an up-front, independent technology assessment as part of a plan to implement a common market in the Northeast.

Accordingly, it is my strong recommendation that independent, *non-vendor*, experts be involved in the technology assessment from the outset. These experts should be involved in both the IT and applications technologies assessments, and should be required to demonstrate that they have no financial interest whatsoever in the outcomes of those assessments. This will assure that the RTO has the advantage of continuing and unbiased expert opinions with respect to software provider representations and capabilities throughout the assessment process and beyond.

¹³ *Regional Transmission Organizations*, "Administrative Law Judge Mediator's Report to the Commission," issued by The Honorable H. Peter Young, Docket No. RT01-99-000, 96 FERC ¶ 63,037 at 65,250 (Sept. 17, 2001) ("Mediator's Report").

Mediator's Report at 65,251 (emphasis in original).

The Transmission Owners support the mediator's recommendation for such a technology assessment.

C. Single Market Action Plan

The Transmission Owners believe that a coordinated effort among the three Northeast ISOs must be promptly undertaken to develop and implement a Single Market (the “Single Market Action Plan”). This Single Market Action Plan should include the creation of a Northeast CEO Committee, comprised of the CEOs of the three Northeast ISOs, and a Northeast Stakeholder Working Group, comprised of stakeholders in the three ISOs and representatives of state regulatory agencies. The CEO Committee should be given the responsibility to develop, in close coordination with the Stakeholder Working Group, a detailed implementation plan with specific milestones and timeframes to develop the Single Market for the Northeast region.

Any Commission-approved Single Market Action Plan should include:

- a) the assignment of direct responsibility to each ISO to achieve the objectives of the plan;
- b) active stakeholder involvement in the process including the assignment of direct responsibility to specific stakeholder committees to ensure timely stakeholder review and input on all issues; and
- c) regular reports to the Commission on the progress of the joint ISO effort.

The plans developed by the joint efforts of the CEO Committee and Stakeholder Working Group should be forwarded to the senior stakeholder committee and board of each ISO for review and approval. Provisions should be made for joint meetings among the senior stakeholder committees when that would be helpful in expediting the process. If the stakeholder/ISO process

does not result in a resolution of Single Market issues, the Commission should allow all parties to pursue, consistent with the Commission's Rules of Practice and Procedure, Commission sponsored mediation or alternative dispute resolution with respect to a significant dispute over an issue relating to the development and implementation of the Single Market including access to a settlement judge or expedited Commission review in order to resolve the issue. Furthermore, the Commission may wish to consider establishing a specific process to address these issues should they become numerous. The Transmission Owners believe that this type of backstop process is important in ensuring that the Single Market be developed in a timely manner.

The Transmission Owners believe that this process will result in the expeditious development of a Single Market in the Northeast.

D. Independent Market Monitor

The Single Market for the Northeast region (i.e., New York, New England and PJM) should be subject to independent market monitoring. Regardless of whether there are one or more RTOs in the Northeast, there should be a seamless market throughout the region, based on the same market design and consistent market rules and implementation procedures.

Any independent market monitor should have the responsibility to review the regional market to ensure that it is operating as intended, that seams do not develop and, if they do, that they are promptly remedied. Any independent market monitor also must be vigilant in detecting market flaws and any potential exercise of market power, and in proposing remedies to effectively address such circumstances.

E. Independent Transmission Companies

Any proposal to form a Northeast RTO must include a framework that provides for the voluntary formation of one or more ITCs in the Northeast region. In connection with any Commission order on a Northeast RTO, the Commission should approve a detailed framework

document that accommodates the voluntary formation of one or more ITCs by interested transmission owners. The framework document should include a clearly defined allocation of responsibilities between the RTO and ITCs,¹⁴ in accordance with the Commission's guidance.¹⁵ The development of one or more ITCs should be allowed to proceed in parallel with addressing market related issues.

F. Reliability

It is essential that the current levels of system reliability be maintained. Over a period of decades, the New York Power Pool (“NYPP”) and the New York Public Service Commission (“NYPSC”) developed a series of reliability rules, including local reliability rules, that are more specific or more stringent than those of NPCC and NERC, in order to address the special reliability needs of the New York control area. Similar local reliability rules have been established in New England. When the NYISO was formed, a separate entity, the New York State Reliability Council (“NYSRC”), was created with the narrowly defined responsibility to oversee the special reliability rules that had been developed by the NYPP and the NYPSC. It is important that the NYSRC, or some equally effective mechanism, be in place to ensure that the special reliability protections in effect in the Northeast region are not diminished.

G. Elimination of Pancaked Inter-Control Area Charges in the Northeast

The Commission has made clear its strong support for the elimination of pancaked inter-control area embedded cost transmission charges across a region that constitutes a natural market

¹⁴ The allocation of responsibilities between a Transmission Owner and any RTO it joins or between a Transmission Owner and any ITC it joins will be addressed in other documents.

¹⁵ See, e.g., *TRANSLink Transmission Company, LLC, et al.* 99 FERC ¶ 61,106 (2002); *Alliance Companies, et al.*, 99 FERC ¶ 61,105 (2002), which addressed an allocation of such functions in the Midwest.

for electricity, such as the Northeast region. Eliminating such pancaked inter-control area charges, however, is a complex undertaking and requires a joint effort among the Commission, transmission owners, state regulators and the ISOs or RTOs in the region. This effort need not be delayed and does not depend on the geographic scope of any RTO nor the number of RTOs in the region. The Transmission Owners would support the elimination of such inter-control area embedded cost transmission charges in the Northeast region, provided that each Transmission Owner's transmission revenue recovery is adequately maintained.

H. Transmission Operating Agreement

Any Northeast RTO structure must include a Transmission Operating Agreement acceptable to the Transmission Owners that provides for the following:

1. A clear definition of the relationship between the Transmission Owners and the particular RTO and the terms and conditions under which the Transmission Owners would voluntarily turn over to the RTO operational control of designated assets and systems pursuant to a Section 203 application, where applicable.¹⁶ These provisions must include a division of responsibilities between the RTO and Transmission Owners with respect to the operational control of transmission assets which includes the division of responsibilities currently in effect that is necessary to maintain reliability in New York City;
2. Clearly defined rights and obligations of Transmission Owners under the RTO transmission planning and expansion process; and
3. Provisions acceptable to the Transmission Owners that provide for recovery of transmission costs, including requirements that any tariff or rate design authority to be

¹⁶ The non-jurisdictional Transmission Owners, LIPA and New York Power Authority, have
(continued . . .)

transferred to an RTO be subject to conditions and mechanisms ensuring such recovery.

IV. CONCLUSION

By this filing, the Transmission Owners respectfully request that the Commission:

1. Adopt the recommendations and goals contained herein; and
2. Adopt the Single Market Action Plan described in Section III(C).

different requirements.

Respectfully submitted,

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Dated: July 2, 2002

Certificate of Service

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list in this proceeding in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure.

Dated at Washington, D.C. this 2nd day of July, 2002.

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