

188 FERC ¶ 61,065
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Willie L. Phillips, Chairman;
Mark C. Christie and David Rosner.

ISO New England Inc.

Docket No. ER24-138-000

ORDER ON COMPLIANCE FILING

(Issued July 25, 2024)

1. On October 18, 2023, ISO New England Inc. (ISO-NE), joined by the New England Power Pool (NEPOOL) Participants Committee (together, Filing Parties), submitted proposed revisions to sections 2.1(f), 2.1(g), and 2.2 of Attachment D¹ to ISO-NE's Transmission Markets, and Services Tariff (Tariff)² to comply with the requirements of Order No. 895, a final rule addressing credit-related information sharing between organized wholesale electric markets,³ i.e., Regional Transmission Organizations (RTO)/Independent System Operators (ISO).⁴ As discussed below, we find that Filing Parties' proposed revisions comply with the requirements of Order No. 895. Accordingly, we accept Filing Parties' proposed Tariff revisions, effective July 26, 2024.

I. Background

2. On June 15, 2023, pursuant to section 206 of the Federal Power Act,⁵ the Commission amended section 35.47 of the Commission's regulations to require that RTOs/ISOs have tariff provisions that permit them to share among themselves market

¹ ISO-NE states that Attachment D to the Tariff is referred to as the Information Policy.

² ISO-NE, Tariff, attach. D (Information Policy) (24.0.0).

³ *Credit-Related Info. Sharing in Organized Wholesale Elec. Mkts.*, Order No. 895, 183 FERC ¶ 61,193 (2023).

⁴ See 18 C.F.R. § 35.46 (2023).

⁵ 16 U.S.C. § 824e.

participants' credit-related information for the purpose of credit risk management and mitigation.⁶

3. In the final rule, the Commission found that it is unjust and unreasonable for RTOs/ISOs to be unable to share with each other credit-related information and that tariff provisions that prohibit or otherwise limit an RTO/ISO from sharing with each other credit-related information are unjust and unreasonable. The Commission reasoned that such tariff provisions can hinder an RTO's/ISO's ability to evaluate a market participant's creditworthiness and respond to credit events, and thus, in turn, can hinder its ability to prevent or mitigate default by market participants. The Commission further reasoned that, because the costs of such defaults typically are borne by non-defaulting market participants, an RTO's/ISO's lack of access to credit-related information may lead to unjust and unreasonable rates for its market participants.⁷

4. To address limitations to RTOs'/ISOs' access to potentially relevant credit-related information, the Commission adopted regulations that require each RTO/ISO to have tariff provisions that: (1) permit RTOs/ISOs to share with each other credit-related information; (2) permit RTOs/ISOs to use market participant credit-related information received from other RTOs/ISOs to the same extent and for the same purpose as information received from their own market participants; and (3) require that an RTO/ISO that receives credit-related information from another RTO/ISO keep that information confidential as it would any other credit-related information received directly from one of its own market participants.⁸ The Commission required each RTO/ISO to submit a compliance filing consistent with the regulations adopted in the final rule.⁹

II. Filing

5. Filing Parties state that the proposed revisions comply with the requirements of Order No. 895. First, Filing Parties explain that the proposed revisions to section 2.2 of the Information Policy permit ISO-NE to share with other RTOs/ISOs information related to the creditworthiness of a market participant or its affiliates, a non-market participant transmission customer or its affiliates, or an applicant or its affiliates.¹⁰ Second, Filing Parties explain that the proposed revisions to section 2.1(f) of the Information Policy permit

⁶ Order No. 895, 183 FERC ¶ 61,193 at P 19; *see also id.* PP 3-14 (setting forth history of Commission action on public utility credit policies).

⁷ *Id.* PP 15-18.

⁸ *Id.* PP 19-20.

⁹ *Id.* P 88.

¹⁰ Transmittal at 4-5.

ISO-NE to use credit-related information about a market participant, an applicant, or their respective affiliates received from other RTOs/ISOs to the same extent and for the same purposes as ISO-NE uses credit-related information about its own market participants, non-market participant transmission customers, and applicants.¹¹ Third, Filing Parties explain that the proposed revisions to section 2.1(f) of the Information Policy require ISO-NE to keep such credit-related information confidential by revising the definition of “Confidential Information” in the Information Policy to include any credit-related information received by ISO-NE from another RTO/ISO about a market participant, applicant, or their respective affiliates for the purpose of credit risk management and mitigation.¹²

III. Notice and Responsive Pleadings

6. Notice of Filing Parties’ compliance filing was published in the *Federal Register*, 88 Fed. Reg. 73,010 (Oct. 24, 2023), with interventions and protests due on or before November 8, 2023. A timely motion to intervene was filed by Massachusetts Electric Company and Nantucket Electric Company.

IV. Discussion

A. Procedural Matters

7. Pursuant to Rule 214 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2023), Massachusetts Electric Company and Nantucket Electric Company’s timely, unopposed motion to intervene serves to make them parties to this proceeding.

B. Substantive Matters

8. As discussed below, we find that Filing Parties’ proposed Tariff revisions comply with the requirements of Order No. 895. Accordingly, we accept the proposed Tariff revisions, effective July 26, 2024.¹³

¹¹ *Id.* at 5.

¹² *Id.* at 6. Filing Parties further note that, in addition to new subsection 2.1(f), the proposed revisions also update section 2.1(g), which provides a list of the types of information that are defined as “Confidential Information,” to include appropriate references to the market participants or applicants to become market participants of another RTO/ISO. *Id.* at 6 n.21.

¹³ We choose to set a common effective date of July 26, 2024, for all the Order No. 895 compliance filings, which is the day after the issuance date of our orders accepting these compliance filings. Commission staff will reset the effective date for the tariff record

9. We find that Filing Parties' proposed Tariff revisions comply with the requirements in Order No. 895 to have tariff provisions that permit the sharing of market participants' credit-related information with other RTOs/ISOs for the purpose of credit risk management and mitigation.¹⁴ Specifically, Filing Parties' proposed Tariff revisions comply with the three requirements set forth in section 35.47 of the Commission's regulations.¹⁵ First, we find that the proposed Tariff revisions will permit ISO-NE to share credit-related information about its market participants with other RTOs/ISOs. Second, we find that the proposed Tariff revisions will permit ISO-NE to use market participant credit-related information received from another RTO/ISO to the same extent and for the same purposes as information received from its own market participants. Third, we find that the proposed Tariff revisions will require that ISO-NE treat as confidential any credit-related information received from other RTOs/ISOs as it would any other credit-related information received directly from one of its own market participants.

The Commission orders:

Filing Parties' proposed Tariff revisions are hereby accepted, effective July 26, 2024, as discussed in the body of this order.

By the Commission. Commissioner See is not participating.
Commissioner Chang is not participating.

(S E A L)

Debbie-Anne A. Reese,
Acting Secretary.

in eTariff to July 26, 2024. *See, e.g., Duke Energy Carolinas, LLC*, 182 FERC ¶ 61,119, at P 9 n.15 (2023).

¹⁴ Order No. 895, 183 FERC ¶ 61,193 at PP 19-20.

¹⁵ 18 C.F.R. § 35.47(h) (2023); Order No. 895, 183 FERC ¶ 61,193 at P 20.