

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

ISO New England Inc., New England)	Docket Nos. ER24-2007-000
Power Pool Participants Committee, and)	ER24-2009-000
Participating Transmission Owners)	
Administrative Committee)	

**MOTION FOR LEAVE TO ANSWER AND ANSWER
OF ISO NEW ENGLAND INC.**

Pursuant to Rules 101(e), 212, and 213 of the Federal Energy Regulatory Commission (“Commission”) Rules of Practice and Procedure,¹ ISO New England Inc. (“ISO”)² submits this Motion for Leave to Answer and Answer (“Answer”) to the Motion for Leave to Intervene Out-of-Time and Protest of Allco Finance Limited (“Allco”) filed on September 30, 2024, in the above-captioned proceedings.³ The Late Intervention and Protest challenges the proposed Tariff revisions that the ISO, the Participating Transmission Owners Administrative Committee (“PTO AC”), and the New England Power Pool Participants

¹ 18 C.F.R. §§ 385.101(e), 385.212, 385.213.

² Capitalized terms used but not otherwise defined in this filing have the meanings ascribed thereto in Section I.2.2 of the ISO New England Transmission, Markets, and Services Tariff (“Tariff”). Section II of the Tariff contains the Open Access Transmission Tariff (“OATT”). The OATT contains the Interconnection Procedures: Schedule 22 of the OATT contains the Large Generator Interconnection Procedures (“LGIP”) and Large Generator Interconnection Agreement (“LGIA”), Schedule 23 of the OATT contains the Small Generator Interconnection Procedures (“SGIP”) and Small Generator Interconnection Agreement (“SGIA”), and Schedule 25 of the OATT contains the Elective Transmission Upgrade Interconnection Procedures (“ETU IP”) and Elective Transmission Upgrade Interconnection Agreement (“ETU IA”).

³ Motion for Leave to Intervene Out-of-Time and Protest of Allco Finance Limited, Docket Nos. ER24-2007-000, ER24-2009-000 (Sept. 30, 2024) (“Late Intervention and Protest”).

Committee (“NEPOOL,” and together, the “Filing Parties”) filed with the Commission on May 14, 2024⁴ to comply with Order Nos. 2023 and 2023-A.⁵

Allco submitted the Late Intervention and Protest nearly four months after the Commission’s deadline for such interventions and makes no attempt to satisfy the Commission’s requirements for late intervention.⁶ In addition, Allco’s Late Intervention and Protest has nothing to do with the Tariff rules proposed in the Order No. 2023 Compliance Filings. This is because Allco’s claims relate to a proposed generating facility seeking to interconnect to Eversource Energy Company’s (“Eversource”) distribution system, and distribution system interconnections are not subject to the ISO’s existing or proposed Interconnection Procedures.⁷ Proposed distribution interconnections, however, must be evaluated to ensure no adverse impacts on the transmission system pursuant to the Transmission Operating Agreement (“TOA”)⁸ between the ISO and the Participating Transmission Owners (“PTO”) and Section I.3.9 of the Tariff, and neither the TOA nor

⁴ *ISO New England Inc.*, Revisions to the ISO New England Inc. Transmission, Markets and Services Tariff in Compliance with Order Nos. 2023 and 2023-A, Docket No. ER24-2009-000 (May 14, 2024); *ISO New England Inc.*, Errata to Revisions to the ISO New England Inc. Transmission, Markets and Services Tariff in Compliance with Order Nos. 2023 and 2023-A, Docket No. ER24-2009-000 (May 31, 2024) (together, the “Order No. 2023 Compliance Revisions”); *ISO New England Inc.*, Revisions to Section II of the ISO New England Inc. Transmission, Markets and Services Tariff Related to Compliance with Order Nos. 2023 and 2023-A, Docket No. ER24-2007-000 (May 14, 2024) (together with the Order No. 2023 Compliance Revisions, the “Order No. 2023 Compliance Filings”).

⁵ *Improvements to Generator Interconnection Procedures and Agreements*, Order No. 2023, 184 FERC ¶ 61,054, *limited order on reh’g*, 185 FERC ¶ 61,063 (2023), *order on reh’g & clarification*, Order No. 2023-A, 186 FERC ¶ 61,199 (2024), *appeals pending*, Petition for Review, *Advanced Energy United v. FERC*, Nos. 23-1282, et al. (D.C. Cir. Oct. 6, 2023). For purposes of this Answer, PJM refers to Order No. 2023, as modified by Order No. 2023-A, as the “Final Rule.”

⁶ 18 C.F.R. § 385.214(d)(1)(i)-(iv).

⁷ See Revisions to ISO New England Inc. Transmission, Markets and Services Tariff to Modify the Process for Interconnection of New Distributed Energy Resources and Improve Coordination of Interconnection Studies of ISO New England Inc. and New England Power Pool, Docket No. ER22-2226-000 (June 29, 2022) (“DER Revisions”). The DER Revisions were accepted by the Commission on August 26, 2022. *ISO New England Inc.*, 180 FERC ¶ 61,129, at PP 17-21 (2022).

⁸ *Transmission Operating Agreement*, ISO New England Inc. (Nov. 2, 2015), https://www.iso-ne.com/static-assets/documents/regulatory/toa/v1_er07_1289_000_toa_composite.pdf.

Section I.3.9 are modified in the Order No. 2023 Compliance Filings.⁹ Allco's issues with Eversource's study timelines and charges for Allco's proposed distribution project do not excuse the tardiness of its Late Intervention and Protest, and the issues are beyond the scope of this proceeding. Accordingly, the Commission should deny Allco's late intervention and reject its protest.

I. MOTION FOR LEAVE TO ANSWER THE LATE INTERVENTION AND PROTEST

The ISO moves for leave to answer Allco's Late Intervention and Protest and provides such answers below.¹⁰ While an answer to a protest is not a matter of right under the Commission's regulations,¹¹ the Commission has found good cause to permit answers in various circumstances, including where the answer would assure a complete record in the proceeding,¹² lead to a better understanding of the issues in the proceeding,¹³ permit the issues to be narrowed or clarified,¹⁴ aid in the disposition of the issues raised by the protests,¹⁵ or otherwise assist the Commission in its decision-making process.¹⁶ This Answer achieves these purposes. It clarifies the issues presented in Allco's Late Intervention

⁹ See DER Revisions at 8-9 (describing the Section I.3.9 process).

¹⁰ See *infra* sections II.A, II.B.

¹¹ 18 C.F.R. § 385.213(a)(2).

¹² See, e.g., *High Island Offshore Sys., L.L.C.*, 113 FERC ¶ 61,202, at P 8 (2005).

¹³ See, e.g., *CenterPoint Energy – Miss. River Transmission, LLC*, 141 FERC ¶ 61,080, at P 4 (2012).

¹⁴ See, e.g., *TransColorado Gas Transmission Co.*, 111 FERC ¶ 61,208, at P 4 (2005); *PJM Interconnection, L.L.C.*, 84 FERC ¶ 61,224, at 62,078 (1998).

¹⁵ See, e.g., *Transcon. Gas Pipe Line Co.*, 140 FERC ¶ 61,251, at 62,258 n.6 (2012).

¹⁶ See, e.g., *S. Cal. Edison Co.*, 141 FERC ¶ 61,100, at P 5 (2012); *ISO New Eng. Inc.*, 140 FERC ¶ 61,177, at P 6 (2012); *E. Shore Nat. Gas Co.*, 181 FERC ¶ 61,233, at P 9 n.17 (2022) (accepting an answer “[t]o the extent that [it] is an answer to the protest . . . because it provides information that has assisted us in our decision-making process”); *Tri-State Generation & Transmission Ass’n*, 179 FERC ¶ 61,118, at P 34 (2022) (accepting an answer to a protest because it “provided information that assisted us in our decision-making process”); *Energy Harbor Corp.*, 186 FERC ¶ 61,129, at P 38 (2024); *Grand River Dam Auth.*, 186 FERC ¶ 61,045, at P 30, *order on reh’g*, 187 FERC ¶ 61,211 (2024).

and Protest in an effort to assist the Commission in its decision-making, particularly given the lateness of the intervention and protest, and the need for a prompt order addressing the Order No. 2023 Compliance Filings. Therefore, good cause exists to accept this Answer.¹⁷

II. ANSWER

A. The Commission Should Deny Allco's Late Intervention for Failure to Show Good Cause.

The Commission should deny Allco's request to intervene out-of-time because it fails to satisfy the Commission's standard.¹⁸

Under the Commission's Rule 214(b), a party seeking late intervention must "show good cause why the time limitation should be waived."¹⁹ When determining whether to permit a party to intervene after the comment deadline, the Commission considers certain factors.²⁰ These factors include: (1) whether the movant demonstrates "good cause for failing to file the motion within the time prescribed;" (2) whether the intervention will disrupt the proceeding; (3) whether the movant's interest is not adequately represented by other parties to the proceeding; and (4) whether the intervention will prejudice existing parties.²¹ Recognizing repeated failures to meet intervention deadlines by parties seeking to

¹⁷ While the Commission would normally grant a motion to intervene with no opposition filed within fifteen days after the motion to intervene is filed, per Rule 214(c)(1), that rule pertains to motions to intervene that are "timely," and the Commission must expressly grant out-of-time interventions. 18 C.F.R. § 385.214(c). Allco's Late Intervention and Protest is not timely. Given that, the Commission should accept the ISO's argument here to reject the substantially late filed motion to intervene and not grant party status to Allco. The ISO also seeks waiver of the Commission's Rule 213(d) to allow answer to the Late Intervention and Protest, recognizing that the 15-day answer period has elapsed by two days as the ISO worked to ascertain and respond to the relevant facts for the basis of the Late Intervention and Protest. 18 C.F.R. § 385.213(d).

¹⁸ 18 C.F.R. §§ 385.214(b)(3), (d).

¹⁹ 18 C.F.R. §§ 385.214(b)(3); *GridLiance West Transco LLC*, 160 FERC ¶ 61,002, at P 14 n.14 (2017) ("We remind parties that, pursuant to the Commission's regulations, late-filed motions to intervene must show good cause why the time limitation should be waived."), *reh'g denied*, 162 FERC ¶ 61,034 (2018).

²⁰ 18 C.F.R. § 385.214(d)(1).

²¹ 18 C.F.R. § 385.214(d)(1)(i)-(iv).

intervene late, the Commission previously has stated that it will be “less lenient” in granting late interventions and, in addition to showing good cause for why the time limitation should be waived, parties “should provide justification by reference to factors set forth in Rule 214(d) of the Commission’s Rules and Regulations.”²² Moreover, the Commission has clarified that “good cause must be established before the other factors in Rule 214(d) will be considered . . . while a movant *should* reference the other factors in Rule 214(d), a movant is *required* to establish good cause.”²³ The Commission previously has rejected motions to intervene for their failure to meet the intervention deadline,²⁴ and should do so here.

Allco provided no “good cause” for late intervention.²⁵ Allco fails to provide any justification for its failure to file an intervention by the Commission’s comment deadline for these proceedings or within any reasonable span of time since that date. The Late Intervention and Protest was filed 118 days after the Commission’s prescribed deadline for interventions in the proceedings.²⁶ Allco claims only to have been made aware of the effects of the Filing Parties’ Order No. 2023 Compliance Filings after receiving a “transmission-level system impact study” for its project from Eversource.²⁷ Allco does not explain how the “adverse effect” it alleges arises from the Order No. 2023 Compliance Filings, which are

²² *Tenn. Gas Pipeline Co.*, 162 FERC ¶ 61,167, at P 50 (2018).

²³ *Double E Pipeline*, 173 FERC ¶ 61,074, at P 25 (2020).

²⁴ *PacifiCorp*, 170 FERC ¶ 61,298, at P 19 (2020).

²⁵ 18 C.F.R. § 385.214(d)(1)(i). While the Late Intervention and Protest includes a cursory reference to “good cause,” the Commission should not consider the reference to provide justification for intervention as Allco states that “good cause” is due to “the significant adverse effect that the ISO’s new practices” will have on a project, when the ISO’s practices at issue are not in effect and will not impact the project Allco describes, as explained herein. Late Intervention and Protest at 4.

²⁶ Combined Notice of Filings #1, Docket Nos. ER24-2007-000, ER24-2009-000 (May 14, 2024) (setting a comment date of June 4, 2024).

²⁷ Late Intervention and Protest at 4.

not yet in effect.²⁸ Additionally, the Filing Parties filed the Order No. 2023 Compliance Filings on May 14, 2024, and received comments and protests on the filings²⁹ that the ISO answered.³⁰ The ISO then received an answer in response,³¹ which the ISO also answered.³² Interested parties had ample notice to intervene in a timely manner.

Further, Allco makes no reference to the other factors that the Commission considers for late intervention or Rule 214(d) specifically, as the Commission expects for such filings.³³ Allco's late intervention and protest will disrupt the proceeding and prejudice existing parties, including the ISO. As noted above, the ISO has responded to multiple rounds of answers. The Commission should not delay its order on the Order No. 2023 Compliance Filings to evaluate Allco's late protest, particularly given that the protest's primary arguments are about a project that is not subject to the ISO's interconnection

²⁸ Contrary to Allco's blanket allegations, the ISO has not "gone ahead anyway and implemented knee-buckling interconnection fees, costs and process on small State-jurisdictional solar projects." Late Intervention and Protest at 1. As noted above, as a result of the DER Revisions these projects are not subject to the Interconnection Procedures, which the Order No. 2023 Compliance Filings revise to comply with the Commission's Order Nos. 2023 and 2023-A. Further, the proposed rules are not being implemented at this time. See *Suspension of Ongoing Order No. 2023 Compliance Proposal Implementation Activities*, ISO New England Inc. (Sept. 5, 2024), https://www.iso-ne.com/static-assets/documents/100015/memo_re_order_2023_implementation.pdf.

²⁹ Motion to Intervene and Limited Protest of Longroad Energy Holdings, LLC, Docket Nos. ER24-2007-000, ER24-2009-000 (June 4, 2024); Comments of New Leaf Energy, Inc., Docket Nos. ER24-2007-000, ER24-2009-000 (June 4, 2024); Comments of the Clean Energy Associations, Docket Nos. ER24-2007-000, ER24-2009-000 (June 4, 2024); Comments of RENEW Northeast, Inc., Docket Nos. ER24-2007-000, ER24-2009-000 (June 4, 2024); Motion to Intervene and Protest of Glenvale LLC, Docket Nos. ER24-2007-000, ER24-2009-000 (June 4, 2024); Motion for Leave to Answer and Answer of Glenvale LLC, Docket Nos. ER24-2007-000, ER24-2009-000 (July 5, 2024); Motion for Leave to Answer and Answer of Longroad Energy Holdings, LLC, Docket Nos. ER24-2007-000, ER24-2009-000 (July 5, 2024).

³⁰ Motion for Leave to Answer and Answer of ISO New England Inc., Docket Nos. ER24-2007-000, ER24-2009-000 (June 20, 2024); Motion for Leave to Answer and Further Answer of ISO New England Inc., Docket Nos. ER24-2007-000, ER24-2009-000 (July 19, 2024).

³¹ Motion for Leave to Answer and Answer of Longroad Energy Holdings, LLC, Docket Nos. ER24-2007-000, ER24-2009-000 (Aug. 5, 2024).

³² Motion for Leave to Answer and Additional Answer of ISO New England Inc., Docket Nos. ER24-2007-000, ER24-2009-000 (Aug. 7, 2024).

³³ *Tenn. Gas Pipeline*, 162 FERC ¶ 61,167, at P 50 (describing how parties "should provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations").

procedures at issue. Moreover, accepting such an out-of-time intervention at this point may deprive interested parties of the ability to meaningfully address arguments in the protest. For these reasons, the Commission should deny the motion to intervene.

B. Allco's Arguments in Its Protest Are Beyond the Scope of These Proceedings, and Should Therefore Be Rejected.

To the extent the Commission is inclined to permit Allco's late intervention, it should reject the protest as beyond the scope of the above-captioned proceedings. As briefly noted above, Allco's protest relates to Eversource's study timelines and charges associated with Allco's proposed generating facility, which, as Allco describes, is interconnecting to the distribution system.³⁴ However, distribution interconnections are not subject to the ISO's Interconnection Procedures, which are the core rules that the Filing Parties have proposed to revise in the Order No. 2023 Compliance Filings, and are not yet in effect. Therefore, the study timelines and costs that Allco contests in its protest are not stemming from the ISO or its Interconnection Procedures.

For clarity, Allco's underlying issue is with Eversource's determination that it has to undertake the necessary studies to determine whether Allco's proposed generating facility adversely affects the transmission system consistent with the affected system coordination requirements in Article 2.06 of the TOA and Section I.3.9 of the Tariff. These rules, however, are not at issue in the instant proceedings.³⁵ Therefore, Allco's concerns related

³⁴ Late Intervention and Protest at 2.

³⁵ Note that while the Order No. 2023 Compliance Filings and conforming changes to ISO-NE Planning Procedure 5-6 included changes to the existing Affected System rules to account for the ISO's continuing obligation to act as an Affected System for distribution-interconnected resources, accomplished via Section I.3.9, primarily as a means to avoid delays to ongoing state interconnection studies, these rules are not yet in effect, and nothing prevents the state interconnection study work from continuing. *See Order Nos. 2023/2023-A Conforming Changes to ISO Planning Procedures: Affected System Operator (ASO) Study Coordination*, ISO New England Inc. (Sept. 2024), https://www.iso-ne.com/static-assets/documents/100015/september_aso_study_coordination_final.pdf (describing the study coordination protocols that the ISO will use following Commission acceptance of the Order No. 2023 Compliance Filings).

to Eversource's determinations in carrying out its obligations under these provisions are beyond the scope of these proceedings.

For these reasons, the Commission should reject Allco's protest.

III. CONCLUSION

For the reasons stated in this Answer, the ISO respectfully requests that the Commission grant its motion for leave to answer, reject Allco's Late Intervention and Protest, and promptly issue an order addressing the Order No. 2023 Compliance Filings.

Respectfully submitted,

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Dated: October 18, 2024

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C., this 18th day of October 2024.

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