

188 FERC ¶ 61,010  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

ISO New England Inc.  
New England Power Pool

Docket No. ER24-1978-000

ORDER ACCEPTING TARIFF REVISIONS, SUBJECT TO CONDITION, AND  
DIRECTING COMPLIANCE

(Issued July 8, 2024)

1. On May 9, 2024, as supplemented on June 20, 2024, pursuant to section 205 of the Federal Power Act (FPA)<sup>1</sup> and section 35.13 of the Commission's regulations,<sup>2</sup> ISO New England Inc. (ISO-NE), joined by the New England Power Pool (NEPOOL) Participants Committee and the Participating Transmission Owners Administrative Committee (PTO AC), on behalf of the Participating Transmission Owners (PTO) (collectively, Filing Parties), submitted revisions to the ISO-NE Transmission, Markets and Services Tariff (Tariff) to establish, as part of an optional, longer-term transmission planning process, mechanisms to enable the New England states to develop policy-based transmission facilities in connection with transmission studies that consider transmission planning horizons longer than the five-to-ten year period provided by the Tariff, as well as the associated cost allocation methods for the resulting transmission facilities.<sup>3</sup>
2. On June 20, 2024, ISO-NE submitted additional information explaining that due to administrative errors, the proposed tariff records in this proceeding contain changes that were accepted by the Commission but that are not currently in effect. ISO-NE proposes to correct these errors either in a ministerial filing after the issuance of an order in this proceeding or in response to a compliance directive in an order in this proceeding.
3. As discussed below, we accept Filing Parties' proposed Tariff revisions, effective July 9, 2024, as requested. In addition, we accept ISO-NE's proposal to correct the tariff records in this proceeding and direct ISO-NE to make a compliance filing within 30 days

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<sup>1</sup> 16 U.S.C. § 824d.

<sup>2</sup> 18 C.F.R. § 35.13 (2023).

<sup>3</sup> See App.

of the date of this order to remove the previously accepted Tariff language that is not currently in effect and was inadvertently included in this filing.

## **I. Background**

4. Order No. 1000 required public utility transmission providers to, among other things, amend their open access transmission tariffs to describe procedures for the consideration of transmission needs driven by public policy requirements established by local, state, or federal laws or regulations in the local and regional transmission planning processes.<sup>4</sup> Additionally, Order No. 1000 required that the regional transmission planning process must have a regional cost allocation method or methods for the cost of new transmission facilities selected in a regional transmission plan for purposes of cost allocation.<sup>5</sup>

5. Transmission planning in ISO-NE is governed by Attachment K of the ISO-NE Tariff. Section 3.1(ii) provides that ISO-NE's Regional System Plan<sup>6</sup> must "provide the projected annual and peak demands for electric energy for a five- to ten-year horizon, the needs for resources over this period and how such resources are expected to be provided."<sup>7</sup>

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<sup>4</sup> *Transmission Plan. & Cost Allocation by Transmission Owning & Operating Pub. Utils.*, Order No. 1000, 136 FERC ¶ 61,051 (2011), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh'g & 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>5</sup> Order No. 1000, 136 FERC ¶ 61,051 at P 5 ("A 'transmission facility selected in a regional transmission plan for purposes of cost allocation' is one that has been selected, pursuant to a Commission-approved regional transmission planning process, as a more efficient or cost-effective solution to regional transmission needs."); *id.* P 11 ("The regional transmission plan must also include a clear cost allocation method or methods that identify beneficiaries for each of the transmission facilities selected in a regional transmission plan for purposes of cost allocation.").

<sup>6</sup> Regional System Plan is the plan developed under the process specified in Attachment K of the Tariff. *See* ISO-NE, Transmission, Markets and Services Tariff (abbreviated as ISO-NE Transmission, Markets and Services Tariff), § I.2, I.2 (Rules of Construction; Definitions) (152.0.0).

<sup>7</sup> ISO-NE, ISO-NE Transmission, Markets and Services Tariff, § II, attach. K (Regional System Planning Process) (28.1.0) § 3.1(ii).

6. In February 2022, Filing Parties filed, and the Commission accepted, Tariff revisions implementing the first phase of the Longer-Term Transmission Planning (LTTP) procedures (LTTP Phase 1).<sup>8</sup> Currently, LTTP Phase 1 provides an optional, non-Order No. 1000 long-term regional transmission planning process for the New England states to advance policy-based objectives.<sup>9</sup> The New England states, through the New England States Committee on Electricity (NESCOE), may request that ISO-NE perform a scenario-based transmission planning study (Longer-Term Transmission Study) that may extend beyond the ten-year planning horizon of ISO-NE's regional transmission planning process on a routine basis. In its request for a Longer-Term Transmission Study, NESCOE must specify the state-identified requirements underlying the request, the study objective, and the scenarios, assumptions, and timeframes that the New England states have developed to be used in the study. The results of the Longer-Term Transmission Study provide an overview of transmission system limitations, the high-level transmission infrastructure needed to address those limitations, and, if requested, associated cost estimates for the transmission facilities required to solve the longer-term issues identified in the study based on the scenarios and timeframes identified by NESCOE in its request. The results of a Longer-Term Transmission Study may provide a state or states a more accurate gauge from ISO-NE, as the transmission planner, of the estimated scope and, if requested, cost of the facilities needed to facilitate certain state public policies. Transmission solutions identified in a Longer-Term Transmission Study are not selected for regional cost allocation in the regional transmission planning process.<sup>10</sup>

## II. Filings

7. On May 9, 2024, Filing Parties proposed Tariff revisions to create a competitive solicitation process through which transmission developers can propose transmission projects to address the transmission needs identified in the Longer-Term Transmission

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<sup>8</sup> See *ISO New England, Inc.*, 178 FERC ¶ 61,137 (2022) (February 2022 Order).

<sup>9</sup> Filing Parties note that, prior to the implementation of LTTP Phase 1, ISO-NE's transmission planning process did not provide for "recurring performance of state-requested transmission analysis based on state-developed scenarios, inputs and assumptions, and time horizon," and that while such a construct would not "fit within the Order No. 1000 required planning processes," the Commission had also previously found that complementary, optional processes to those required by Order No. 1000 were acceptable. Filing Parties May 9, 2024 Filing, Transmittal at 5 (citing *ISO New England Inc.*, 143 FERC ¶ 61,150, at PP 108, 121 (2013) (May 2013 Order)).

<sup>10</sup> See February 2022 Order, 178 FERC ¶ 61,137 at P 15 n.22.

Study (LTTP Phase 2 Changes).<sup>11</sup> Filing Parties state that since implementing LTTP Phase 1 in February 2022, ISO-NE has concluded its first Longer-Term Transmission Study, the 2050 Transmission Study.<sup>12</sup> Consistent with section 16 of Attachment K, the 2050 Transmission Study identified potential transmission needs and representative transmission solutions, as well as cost estimates, to reliably serve peak loads in 2035, 2040, and 2050.<sup>13</sup> Filing Parties state that the Tariff revisions proposed here enable the New England states, through NESCOE, to act on the Longer-Term Transmission Study findings. Under the proposed Tariff revisions, ISO-NE will evaluate those transmission projects and identify a preferred Longer-Term Transmission Solution<sup>14</sup> for NESCOE's consideration. If NESCOE allows the preferred Longer-Term Transmission Solution to move forward, then ISO-NE will include the project in the Regional System Plan (RSP) and RSP Project List<sup>15</sup> as a Longer-Term Transmission Upgrade<sup>16</sup> and allocate the costs

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<sup>11</sup> The proposed LTTP Phase 2 Changes refer to project proposals as Longer-Term Proposals. Filing Parties propose to define a Longer-Term Proposal in the Tariff as “a proposal submitted by a Qualified Transmission Project Sponsor pursuant to Section 16.4(b) of Attachment K to the [Tariff].” *See* ISO-NE, ISO-NE Transmission, Markets and Services Tariff, § I.2, I.2 (Rules of Construction; Definitions) (161.0.0).

<sup>12</sup> Filing Parties May 9, 2024 Filing, Transmittal at 7 & n.28 (citing ISO-NE, 2050 Transmission Study Final Report, 2024\_02\_14\_pac\_2050\_transmission\_study\_final.pdf (iso-ne.com) (last visited June 20, 2024)).

<sup>13</sup> *Id.* at 7.

<sup>14</sup> Filing Parties propose to define a Longer-Term Transmission Solution as “the Longer-Term Proposal identified as the preferred solution pursuant to section 16 of Attachment K to the OATT.” *See* ISO-NE, ISO-NE Transmission, Markets and Services Tariff, § I.2, I.2 (Rules of Construction; Definitions) (161.0.0).

<sup>15</sup> RSP Project List is defined in Section 1 of Attachment K to the Tariff. *See* ISO-NE, ISO-NE Transmission, Markets and Services Tariff, § I.2, I.2 (Rules of Construction; Definitions) (152.0.0). In accordance with Section 1 of Attachment K to the Tariff, RSP Project List is defined as “a cumulative list reflecting the regulated transmission solutions proposed in response to Needs Assessments (the “RSP Project List”).”

<sup>16</sup> Filing Parties propose to define a Longer-Term Transmission Upgrade as “an addition, modification, and/or upgrade to the New England Transmission System that meets the voltage and non-voltage criteria for Longer-Term Transmission Upgrade PTF classification specified in the [Tariff] and has been included in the Regional System Plan and RSP Project List as a Longer-Term Transmission Upgrade pursuant to the procedures described in Section 16 of Attachment K of the [Tariff].” *See* ISO-NE, ISO-NE Transmission, Markets and Services Tariff, § I.2, I.2 Rules of Construction; Definitions

of that project across the ISO-NE region on a load ratio share basis (unless NESCOE identifies an alternative cost allocation method for the project).<sup>17</sup> Similarly, Filing Parties propose to establish Local Longer-Term Transmission Upgrades,<sup>18</sup> the costs of which will be allocated pursuant to Schedule 21 of the Tariff.<sup>19</sup>

8. Filing Parties submitted revisions to Attachment K of ISO-NE's Tariff to incorporate what Filing Parties refer to as follow-on studies (i.e., more detailed studies that analyze specific scenarios, and other specific information that is requested by NESCOE),<sup>20</sup> a core process,<sup>21</sup> and a supplemental process<sup>22</sup> as part of the LTTP. Filing Parties propose to revise section 16.3 of Attachment K to allow NESCOE to request that ISO-NE conduct follow-on studies based on the results of a Longer-Term Transmission Study. Filing Parties state that the follow-on studies will help the New England states, through NESCOE, narrow the areas of potential consideration that could be included in a request for proposals (RFP). Filing Parties state that a follow-on study follows a process that closely mirrors the initial Longer-Term Transmission Study process and provides

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(161.0.0).

<sup>17</sup> Filing Parties May 9, 2024 Filing, Transmittal at 33.

<sup>18</sup> Filing Parties propose to define a Local Longer-Term Transmission Upgrade as “any addition, modification, and/or upgrade to the New England Transmission System with a voltage level below 115 kV that is required in connection with the construction of a Longer-Term Transmission Upgrade approved for inclusion in the Regional System Plan pursuant to Section 16 of Attachment K to the [Tariff].” *See* ISO-NE, ISO-NE Transmission, Markets and Services Tariff, § I.2, I.2 (Rules of Construction; Definitions) (161.0.0).

<sup>19</sup> *See* ISO-NE, ISO-NE Transmission, Markets and Services Tariff, § II, attach. K (Regional System Planning Process) (30.0.0), § 16.7.

<sup>20</sup> Filing Parties May 9, 2024 Filing, Transmittal at 7-8; *id.* attach. 3, Joint Testimony of Brent K. Oberlin and Marianne L. Perben (Oberlin/Perben Test.) at 11-12; ISO-NE, ISO-NE Transmission, Markets and Services Tariff, § II, attach. K (Regional System Planning Process) (30.0.0), §§ 16.3-16.8.

<sup>21</sup> Filing Parties May 9, 2024 Filing, Transmittal at 7-10; ISO-NE, ISO-NE Transmission, Markets and Services Tariff, § attach. K (Regional System Planning Process), §§ 16.4-16.7.

<sup>22</sup> Filing Parties May 9, 2024 Filing, Transmittal at 10-11; ISO-NE, ISO-NE Transmission, Markets and Services Tariff, § II, attachment K (Regional System Planning Process) (30.0.0), § 16.8.

ample opportunity for stakeholder engagement. Filing Parties add that, as in the case of the initial Longer-Term Transmission Study, ISO-NE will post the results of a follow-on study on its website and hold a Planning Advisory Committee meeting for input on the results. Subsequently, Filing Parties explain that, as needed, ISO-NE will prepare and post a final follow-on study report on its website.<sup>23</sup> The results of the Longer-Term Transmission Study and any follow-on studies provide information that the New England states can use to determine what longer-term needs they would like to solicit proposals to address. The New England states can direct ISO-NE, through NESCOE, to include the longer-term needs they choose in an RFP in order to solicit proposals to address those needs.<sup>24</sup>

#### A. Core Process

9. Filing Parties state that the proposed “core process” mirrors the competitive solution development process for Public Policy Transmission Upgrades in section 4A of Attachment K.<sup>25</sup> Filing Parties explain, however, that the core process is an optional process that goes beyond the Order No. 1000 requirements and constitutes an open, transparent, informative, and consultative process designed to provide ample stakeholder engagement opportunities throughout the evaluation and potential selection of proposals in connection with the findings of a Longer-Term Transmission Study or a follow-on study.<sup>26</sup>

10. Filing Parties state that the core process includes the following components: (1) RFP determination; (2) RFP issuance; and (3) project selection.<sup>27</sup> Filing Parties also

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<sup>23</sup> Filing Parties May 9, 2024 Filing, Transmittal at 16-17.

<sup>24</sup> Oberlin/Perben Test. at 13-14.

<sup>25</sup> See May 2013 Order, 143 FERC ¶ 61,150 at P 67 (“In brief, under Filing Parties’ proposed new section 4A in Attachment K, NESCOE and the states determine the specific transmission projects for which proposals are solicited, make the decision about which transmission projects are placed into the regional system plan, and provide which states are allocated costs for those transmission projects and the methodology by which those costs will be allocated.”). The Commission found that ISO-NE’s proposed public policy transmission planning process and proposed cost allocation method for Public Policy Transmission Upgrades, while not compliant with Order No. 1000, represent a just and reasonable alternative voluntary process that will not conflict with or otherwise replace the required Order No. 1000 process. *Id.* P 121.

<sup>26</sup> Filing Parties May 9, 2024 Filing, Transmittal at 16.

<sup>27</sup> *Id.* At 8. ISO-NE, ISO-NE Transmission, Markets and Services Tariff, § II,

include provisions regarding cost allocation, which would occur in conjunction with project selection.<sup>28</sup> Notably, Filing Parties attest that, for preferred Longer-Term Transmission Solutions with a benefit-to-cost ratio greater than 1.0, the cost allocation method under the core process includes an *ex ante* cost allocation method, whereby all costs will be allocated to the entire ISO-NE footprint on a load ratio share basis.<sup>29</sup> In addition to the default *ex ante* cost allocation method, Filing Parties explain that the core process also provides NESCOE the opportunity to request an alternative cost allocation method.<sup>30</sup> To the extent that NESCOE requests an alternative cost allocation method, Filing Parties state that such method will be filed with the Commission for approval.

11. According to Filing Parties, the core process begins with the potential identification of longer-term needs in connection with the findings in a completed Longer-Term Transmission Study or follow-on study and a determination of whether to pursue a competitive solicitation for transmission solutions to meet the identified needs. Filing Parties state that section 16.4(a) of Attachment K provides that NESCOE, with ISO-NE's technical assistance, may identify longer-term needs and request that ISO-NE issue one or more RFPs to address the NESCOE-identified needs.<sup>31</sup> Under the proposal, ISO-NE, at its sole discretion, may also identify for NESCOE's consideration known

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attach. K (Regional System Planning Process) (30.0.0), § 16.4.

<sup>28</sup> Filing Parties May 9, 2024 Filing, Transmittal at 8. ISO-NE, ISO-NE Transmission, Markets and Services Tariff, § II, Schedule 12C (Determination Localized Costs On-After 1/1/04) (3.0.0), § 10.

<sup>29</sup> Filing Parties state this proposed cost allocation method is identical to ISO-NE's Order No. 1000 regional cost allocation method for Regional Benefit Upgrades. Filing Parties May 9, 2024 Filing, Transmittal at 3, 10, 33. Regional Benefit Upgrades are transmission upgrades that: (i) are rated 115kV or above; (ii) meet all of the non-voltage criteria for Pool Transmission Facility classification specified in the Tariff; and (iii) are included in the Regional System Plan as either a Reliability Transmission Upgrade or a Market Efficiency Transmission Upgrade identified as needed pursuant to Attachment K of the Tariff. *See Oberlin/Perben Test.* at 44-45.

<sup>30</sup> Filing Parties May 9, 2024 Filing, Transmittal at 16-18. ISO-NE, ISO-NE Transmission, Markets and Services Tariff, § II, attach. K (Regional System Planning Process) (30.0.0), § 16.4(i).

<sup>31</sup> Filing Parties May 9, 2024 Filing, Transmittal at 16-18. ISO-NE, ISO-NE Transmission, Markets and Services Tariff, § II, attach. K (Regional System Planning Process) (30.0.0), § 16.4(a).

non-time-sensitive reliability and market efficiency needs that could be combined with longer-term needs in an RFP that allows a single solution to fulfill multiple needs.

12. Filing Parties state that, if NESCOE provides a written list to ISO-NE of specific longer-term needs that NESCOE may be interested in including in one or more RFPs, ISO-NE must post the list on its website, and NESCOE must present the list to stakeholders for their input at a Planning Advisory Committee meeting. After receiving stakeholder input, NESCOE may request that ISO-NE issue an RFP inviting any Qualified Transmission Project Sponsor<sup>32</sup> (Qualified Sponsor) to submit a Longer-Term Proposal offering a comprehensive solution that must address all of the needs identified in the RFP. Filing Parties state that the RFP will specify the deadline for submittals, which will be no less than 60 days from the date of posting of the RFP. Filing Parties add that a Qualified Sponsor may submit an individual or joint Longer-Term Proposal(s), and for joint proposals, all parties must be Qualified Sponsors.

13. Filing Parties state that ISO-NE will identify the Longer-Term Transmission Solution that offers the best combination of electrical performance, cost, future system expandability, and feasibility to comprehensively address all of the needs in the timeframes specified in the RFP.<sup>33</sup> Filing Parties explain that ISO-NE will evaluate the Longer-Term Proposals based on factors,<sup>34</sup> as well as financial

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<sup>32</sup> Qualified Transmission Project Sponsor refers to an entity that ISO-NE has determined to meet all of the criteria necessary to be eligible to propose projects in the competitive solicitation process. *See* ISO-NE, ISO-NE Transmission, Markets and Services Tariff, § II, attach. K (Regional System Planning Process) (30.0.0), §§ 4B.2 & 4B.3.

<sup>33</sup> Filing Parties May 9, 2024 Filing, Transmittal at 21-22. ISO-NE, ISO-NE Transmission, Markets and Services Tariff, § II, attach. K (Regional System Planning Process), § 16.4(h). Filing Parties assert that “[r]equiring complete solutions increases the likelihood of the process successfully leading to development of transmission solutions, rather than having the process terminate because the submitted Longer-Term Proposals cannot be combined in a manner that addresses the identified needs.” *See* Filing Parties May 9, 2024 Filing, Transmittal at 18 n.44 (quoting Oberlin/Perben Test. at 16-17).

<sup>34</sup> ISO-NE, ISO-NE Transmission, Markets and Services Tariff, § II, attach. K (Regional System Planning Process) (30.0.0), § 16.4(h). These factors may include, but are not limited to: (1) life-cycle cost, including all costs associated with right of way acquisition, easements, and associated real estate; (2) system performance; (3) cost cap or cost containment provisions; and (4) in-service date of the project or portion(s) thereof.



benefits.<sup>35</sup> Filing Parties propose that, in order to be eligible for consideration as the preliminary preferred Longer-Term Transmission Solution, the Longer-Term Proposal must provide a benefit-to-cost ratio greater than 1.0.<sup>36</sup> Filing Parties state that where at least one Longer-Term Proposal meets the needs identified in the RFP and the benefit-to-cost ratio requirement, ISO-NE must submit the preliminary preferred Longer-Term Transmission Solution to stakeholders for their input.<sup>37</sup>

14. Filing Parties state that, after receipt and consideration of stakeholder input on any preliminary preferred Longer-Term Transmission Solution that ISO-NE identified, ISO-NE will select and include in a report the preferred Longer-Term Transmission Solution, together with an explanation as to why the solution is preferred, and post the report on ISO-NE's website. Within 30 days of that posting, NESCOE may submit a written communication requesting that (a) ISO-NE terminate the process or (b) ISO-NE continue the process but specifying an alternative cost allocation method to recover the incremental costs to address longer-term needs beyond those necessary to address any reliability or economic needs included in the longer-term RFP(s). If NESCOE specifies an alternative cost allocation method, it must be submitted to the Commission for review and approval. Alternatively, if ISO-NE does not receive a written communication from NESCOE requesting that ISO-NE terminate the process within the 30-day period, ISO-NE will notify the Qualified Sponsor that proposed the preferred Longer-Term Transmission Solution that its transmission project has been selected for development, and ISO-NE will include the project as a Longer-Term Transmission Upgrade in the Regional System Plan or RSP Project List, as it is updated from time to time in

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<sup>35</sup> ISO-NE, ISO-NE Transmission, Markets and Services Tariff, § II, attach. K (Regional System Planning Process) (30.0.0), § 16.4(h). These financial benefits may include, but are not limited to: (1) production cost and congestion savings; (2) avoided capital cost of local resources needed to serve demand; (3) avoided transmission investment; (4) reduction in losses; and (5) reduction in expected unserved energy.

<sup>36</sup> For the purposes of the benefit-to-cost ratio, financial benefits will be equal to the present value of all financially quantifiable benefits provided by the project projected for the first 20 years of the project's life and project costs will be set equal to the present value of the annual revenue requirements projected for the first 20 years of the project's life. *See Oberlin/Perben Test.* at 32-33. *See also* ISO-NE, ISO-NE Transmission, Markets and Services Tariff, § II, attach. K (Regional System Planning Process) (30.0.0), § 16.4(h).

<sup>37</sup> ISO-NE, ISO-NE Transmission, Markets and Services Tariff, § II, attach. K (Regional System Planning Process) (30.0.0), § 16.4(h).

accordance with Attachment K.<sup>38</sup> In the absence of a NESCOE-requested alternative cost allocation method, all of the costs of a Longer-Term Transmission Upgrade will be allocated across all six New England states based on their respective load ratio share, pursuant to the proposed default *ex ante* cost allocation method.<sup>39</sup>

15. Filing Parties state that where the default *ex ante* cost allocation method applies, ISO-NE will notify the Qualified Sponsor that proposed the selected Longer-Term Proposal, as well as any PTO responsible for corollary upgrades, that the Qualified Sponsor's project has been selected for development and include the project in the Regional System Plan and RSP Project List as a Longer-Term Transmission Upgrade. Filing Parties further explain that the Qualified Sponsor whose project was selected (or each Qualified Sponsor in the case of joint proposals) will have thirty days from ISO-NE's notification to submit its executed Selected Qualified Transmission Project Sponsor Agreement, in the form contained in Attachment P to the Tariff.<sup>40</sup>

16. Where NESCOE requests an alternative cost allocation method, Filing Parties state that ISO-NE will include the selected project in the Regional System Plan and RSP Project List following the Commission's acceptance of that alternative cost allocation method. Filing Parties state that if NESCOE requests an alternative cost allocation method for a Longer-Term Transmission Upgrade, only those costs associated with meeting reliability and/or market efficiency needs would be allocated under the default *ex ante* cost allocation method on a load share ratio basis across all six New England states,<sup>41</sup> while the incremental costs associated with meeting any longer-term needs beyond those necessary to address any reliability or market efficiency needs included in the RFP would be allocated to the New England state or states that voluntarily assume

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<sup>38</sup> See ISO-NE, ISO-NE Transmission, Markets and Services Tariff, § II, attach. K (Regional System Planning Process) (30.0.0), § 16.5(a).

<sup>39</sup> See ISO-NE, ISO-NE Transmission, Markets and Services Tariff, § II, Schedule 12 (Transmission Cost Allocation On/After Jan 1 2004) (8.0.0), § B.10(a).

<sup>40</sup> Filing Parties May 9, 2024 Filing, Transmittal at 27-28.

<sup>41</sup> For Longer-Term Transmission Upgrades that meet the benefit-to-cost ratio threshold, "only the portion of the costs associated with addressing any combined reliability and/or market efficiency needs identified in the request for proposal(s) issued pursuant to Section 16.4(a) of Attachment K to this [], as calculated by the ISO, shall be allocated in the same manner as Regional Benefit Upgrades." ISO-NE, ISO-NE Transmission, Markets and Services Tariff, § II, Schedule 12 (Transmission Cost Allocation On/After Jan 1 2004) (8.0.0), § B.10(a); see Filing Parties May 9, 2024 Filing, Transmittal at 33.

those costs.<sup>42</sup> According to Filing Parties, sections 16.5(a) and (b) of Attachment K build additional process steps before ISO-NE proceeds with the inclusion of the selected project in the Regional System Plan and RSP Project List and the execution of the Selected Qualified Transmission Project Sponsor Agreement. Specifically, Filing Parties attest that section 16.5(a) provides for ISO-NE to notify the Qualified Sponsor and any PTO responsible for corollary upgrades that the project has been selected by ISO-NE in a similar manner as described above under the default *ex ante* cost allocation; however, ISO-NE will also provide the Qualified Sponsor(s) and any PTO responsible for corollary upgrades with NESCOE's written communication reflecting the requested alternative cost allocation method and allowing the Qualified Sponsor and/or PTO to proceed with the necessary FPA section 205 filing to effect the alternative cost allocation method. Following a Commission order accepting the alternative cost allocation method, Filing Parties state that NESCOE would have thirty days to confirm that it wishes to proceed with or terminate the process. According to Filing Parties, if NESCOE does not terminate the process, then the provisions described above regarding the inclusion of the project in the Regional System Plan and RSP Project List as a Longer-Term Transmission Upgrade and execution of the Selected Qualified Transmission Project Sponsor Agreement will apply.<sup>43</sup>

17. Filing Parties also attest that under section 16.5(c) of Attachment K, if ISO-NE finds, after consultation with the Qualified Sponsor, that the Qualified Sponsor is failing to pursue approvals or construction in a reasonably diligent fashion or that the Qualified Sponsor is unable to proceed with the project due to forces beyond its reasonable control, ISO-NE will prepare a report, including a proposed course of action.<sup>44</sup> Filing Parties state that ISO-NE will file such report with the Commission.

## **B. Supplemental Process**

18. Filing Parties state that, if none of the Longer-Term Proposals has a benefit-to-cost ratio greater than 1.0, ISO-NE will not identify a preliminary preferred Longer-Term Transmission Solution but will make a recommendation on a Longer-Term Proposal. Filing Parties explain that ISO-NE will present its findings to and receive comments on such findings from stakeholders. Filing Parties add that ISO-NE is obligated to provide and post responses to written comments on its website. If, after considering stakeholder input, ISO-NE determines that no Longer-Term Proposal meets the benefit-to-cost ratio threshold, ISO-NE will cancel the RFP after 15 days from its posting of responses to

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<sup>42</sup> See Filing Parties May 9, 2024 Filing, Transmittal at 30.

<sup>43</sup> *Id.* at 28.

<sup>44</sup> *Id.* at 29. ISO-NE, ISO-NE Transmission, Markets and Services Tariff, § II, attach. K (Regional System Planning Process) (30.0.0), § 16.5(c) and § 16.8(c).

stakeholder comments unless ISO-NE receives a written communication from NESCOE: either (a) accepting the Longer-Term Proposal recommended by ISO-NE, identifying the New England states (individually or jointly) that have agreed to voluntarily fund the costs of that Longer-Term Proposal in excess of those eligible for treatment as Regional Benefit Upgrades pursuant to Schedule 12 of the Tariff, and identifying the manner in which those excess costs shall be allocated among the New England states identified in the communication, or (b) identifying up to three Longer-Term Proposals for which NESCOE seeks further analysis.<sup>45</sup> If NESCOE accepts ISO-NE's recommended Longer-Term Proposal, then that transmission project becomes the preferred Longer-Term Proposal, and ISO-NE will notify the Qualified Sponsor that proposed the preferred Longer-Term Proposal that its project that has been selected for development as the preferred Longer-Term Transmission Solution.<sup>46</sup>

19. Under the supplemental process, for Longer-Term Proposals that do not meet the greater than 1.0 benefit-to-cost ratio threshold, the portion of the costs of those projects up to the Longer-Term Proposal's calculated benefit-to-cost ratio of 1.0 will be allocated to all six New England states based on their respective load ratio share, pursuant to the proposed default *ex ante* cost allocation method. The remaining costs in excess of the 1.0 benefit-to-cost ratio threshold will be allocated among the one or more New England states that elect to voluntarily fund those remaining costs. As with the alternative cost allocation method described above under the core process, Filing Parties state that this supplemental process cost allocation will also be filed with the Commission for approval.<sup>47</sup>

20. Filing Parties state that they propose to incorporate additional revisions in the ISO-NE Tariff that are necessary to support their proposal, as well as additional

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<sup>45</sup> Filing Parties May 9, 2024 Filing, Transmittal at 26, 29-30. ISO-NE, ISO-NE Transmission, Markets and Services Tariff, § II, attach. K (Regional System Planning Process) (30.0.0), § 16.4(j).

<sup>46</sup> Filing Parties May 9, 2024 Filing, Transmittal at 30; ISO-NE, ISO-NE Transmission, Markets and Services Tariff, § II, attach. K (Regional System Planning Process) (30.0.0), § 16.8.

<sup>47</sup> ISO-NE, ISO-NE Transmission, Markets and Services Tariff, § II, attach. K (Regional System Planning Process) (30.0.0), § 16.8. Filing Parties state that ISO-NE will proceed in accordance with section 16.8 once ISO-NE has received NESCOE's confirmation that it wishes to proceed with the process within thirty days of a Commission order on the filing, made pursuant to section 205 of the FPA, submitted to put in place the method for allocating the excess costs among the states that agree to fund the remaining costs.

conforming or ministerial revisions. First, Filing Parties propose to incorporate Local Longer-Term Transmission Upgrade, Longer-Term Proposal, Longer-Term Transmission Solution, and Longer-Term Transmission Upgrade as new defined terms to support their addition to Attachment K. Second, Filing Parties propose revisions throughout the Tariff to incorporate the new terms into relevant existing provisions of the Tariff.<sup>48</sup> Finally, Filing Parties state that they propose clean up revisions.<sup>49</sup>

### C. Tariff Records

21. On June 20, 2024, ISO-NE filed additional information to supplement the record in this proceeding, explaining that it inadvertently included tariff language unrelated to the proposed LTTP Phase 2 Changes in the instant filing.<sup>50</sup> Specifically, ISO-NE explains that section I.I.2 of its Tariff<sup>51</sup> proposes to revise the defined term “Regulation Resources” that the Commission accepted as part of ISO-NE’s Order No. 841 Compliance.<sup>52</sup> In addition, ISO-NE states that section I.I.2 of its Tariff contains the defined term “Storage as Transmission-Only Asset (SATOA)” and “Real-Time SATOA

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<sup>48</sup> Filing Parties May 9, 2024 Filing, Transmittal at 36-39. ISO-NE, ISO-NE Transmission, Markets and Services Tariff, §§ II.8, II.8 (Billing & Invoicing; Accounting) (4.0.0); II.46, II.46 (General) (5.0.0); II.49, II.49 (Definition of PTF) (2.0.0); Schedule 12 (Transmission Cost Allocation On/After Jan 1 2004) (8.0.0); Schedule 12C (Determination Localized Costs On-After 1/1/04) (3.0.0); Schedule 14A (Recovery of Longer-Term Transmission Upgrades by Costs) (0.0.0); attach. K (Regional System Planning Process) (30.0.0); attach. N (Procedures for Regional System Plan Upgrades) (4.0.0); attach. O (NTDOA) (7.0.0); attach. P (Selected Qualified Transmission Project Sponsor Agreement) (2.0.0); III.12, III.12 (Calculation of Capacity Requirements) (26.0.0).

<sup>49</sup> Filing Parties May 9, 2024 Filing, Transmittal at 36 & n.85.

<sup>50</sup> ISO-NE June 20, 2024 Filing, Transmittal at 1-3.

<sup>51</sup> See ISO-NE, ISO-NE Transmission, Markets and Services Tariff, § I.2, I.2 (Rules of Construction; Definitions) (161.0.0).

<sup>52</sup> ISO-NE June 20, 2024 Filing, Transmittal at 2 (citing *ISO New England*, 169 FERC ¶ 61,140, at PP 226, 230-231 (2019) (order accepting, in relevant part, proposed revisions to revise the defined term “Regulation Resources” effective January 1, 2024, as part of ISO-NE’s Order No. 841 compliance); and *ISO New England Inc.*, Docket No. ER24-115-000 (Dec. 11, 2023) (unpublished letter order accepting ISO-NE’s proposal to defer the effective date of, as relevant to the instant proceeding, revisions to section I.I.2. of the ISO-NE, ISO-NE Transmission, Markets and Services Tariff that the Commission accepted as part of ISO-NE’s Order No. 841 compliance).

Obligation” which were accepted by the Commission.<sup>53</sup> ISO-NE states that the inclusion of these changes is an error because neither of these revisions will be in effect on the requested effective date of the instant proceeding. ISO-NE acknowledges the need to correct these errors and offers that it could do so by either submitting a ministerial filing to update the Commission’s eTariff eViewer record with the correct Section I.2.2 for this filing following the Commission’s issuance of an order in this proceeding or the Commission could include an obligation in its order accepting the proposal in the instant proceeding.<sup>54</sup> ISO-NE asserts that the ministerial filing would be similar in form and content to the ministerial filing that it recently submitted in Docket No. ER24-2270-000.<sup>55</sup>

### III. Notice of Filing and Responsive Pleadings

22. Notice of the filing was published in the *Federal Register*, 89 Fed. Reg. 42,872 (May 16, 2024), with interventions and protests due on or before May 30, 2024. Acadia Center; Advanced Energy United; American Clean Power Association; Brookfield Renewable Trading and Marketing LP; Calpine Corporation; Conservation Law Foundation; Environmental Defense Fund; LSP Holdings II, LLC; Massachusetts Department of Public Utilities; Massachusetts Office of the Attorney General; Narragansett Electric Company; National Grid; NESCOE; New Hampshire Transmission, LLC; NRG Business Marketing LLC; Public Citizen Inc.; Public Systems;<sup>56</sup> RENEW Northeast, Inc. (RENEW); and Sustainable FERC Project & Natural

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<sup>53</sup> ISO-NE June 20, 2024 Filing, Transmittal at 2-3 (citing *ISO New England Inc.*, 185 FERC ¶ 61,044 (2023)). ISO-NE explains that the Commission issued an order accepting the SATOA Filing, subject to ISO-NE submitting a further filing providing the actual effective date no less than 30 days prior to the date the proposed Tariff revisions are to be implemented. *Id.* at 2.

<sup>54</sup> *Id.* at 4.

<sup>55</sup> *Id.* at 4. ISO-NE offers that its currently effective version of this same tariff record reflects certain newly defined terms from its Day-Ahead Ancillary Services Filing, ER24-275-000, which the Commission accepted but are not effective until March 1, 2025. ISO-NE’s states that it has submitted a ministerial filing in Docket No. ER24-2270-000, to reflect that the new defined terms for the Day-Ahead Ancillary Services Filing are not yet in effect. *Id.* at 3.

<sup>56</sup> Public Systems consist of Connecticut Municipal Electric Energy Cooperative, Massachusetts Municipal Wholesale Electric Company, New Hampshire Electric Cooperative, Inc., and Vermont Public Power Supply Authority.

Resources Defense Council filed timely motions to intervene. The Maine Public Utilities Commission filed a notice of intervention.

23. Advanced Energy United, Joint Commenters,<sup>57</sup> NESCOE, Public Interest Organizations (PIO),<sup>58</sup> Public Systems, and RENEW filed comments.

24. On June 14, 2024, ISO-NE filed an answer (Answer).

25. The majority of commenters generally support the proposed LTTP Phase 2 Changes.<sup>59</sup> NESCOE strongly supports the LTTP Phase 2 Changes, explaining that they are the culmination of a multi-year collaborative process between ISO-NE, the New England States, and stakeholders.<sup>60</sup> NESCOE asserts that the proposal will capture the benefits of competitive dynamics for consumers, ensure that costs are commensurate with consumer benefits and are fairly allocated, and create a process that solves the region's needs and provides opportunities for stakeholder feedback at every step of the way. Public Systems argue that the proposed LTTP Phase 2 Changes, which would enable consideration of transmission solutions over a longer time horizon than allowed for under ISO-NE's existing Order No. 1000 transmission planning process, would improve the existing transmission planning process in New England and are a meaningful step towards the more comprehensive planning approach envisioned by the Commission in Order No. 1920.<sup>61</sup> RENEW and Advanced Energy United state that the Commission should accept the proposed LTTP Phase 2 Changes without modification as an important step forward for the New England region that avoids the shortfalls of ISO-NE's existing Order No. 1000 public policy process.<sup>62</sup> RENEW further contends that the proposed cost allocation revisions and the role of the New England states in determining whether to

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<sup>57</sup> Joint Commenters are New Hampshire Transmission, LLC, and LSP Transmission Holdings, LLC.

<sup>58</sup> PIOs consist of Sustainable FERC, Natural Resources Defense Council, Acadia Center, Conservation Law Foundation, Earthjustice, Sierra Club, and Union of Concerned Scientists. Earthjustice, Sierra Club, and Union of Concerned Scientists did not move to intervene in this proceeding.

<sup>59</sup> Advanced Energy United, NESCOE, Public Systems, PIOs, and RENEW.

<sup>60</sup> NESCOE Comments at 4-5.

<sup>61</sup> Public Systems Comments at 7-8 (citing *Building for the Future Through Elec. Reg'l Transmission Planning & Cost Allocation*, Order No. 1920, 187 FERC ¶ 61,068 (2024), *reh'g pending*).

<sup>62</sup> Advanced Energy United Comments at 12; RENEW Comments at 1-3.

move forward with a solicitation for a selected project will enable the region to advance only projects that receive adequate regional support among states and stakeholders.<sup>63</sup>

26. More specifically, regarding transparency and stakeholder engagement opportunities, PIOs and Advanced Energy United assert that the financial benefit metrics, evaluation criteria, and results of the competitive solicitation will be analyzed by ISO-NE and shared with stakeholders, which PIOs argue will ensure that the benefits of projects selected will outweigh the costs.<sup>64</sup> Further, Advanced Energy United states that the proposed LTTP Phase 2 Changes require that ISO-NE post the list of specific needs that NESCOE identifies as potentially to be included in an RFP and hold a meeting of the Planning Advisory Committee in order to allow for stakeholder review of and input on those needs. Advanced Energy United argues that this will be critical to delivering the most comprehensive and well-informed set of needs before issuing an RFP.<sup>65</sup>

27. PIOs and Advanced Energy United support the cost allocation methods included in the proposed LTTP Phase 2 Changes. PIOs state that, together, the *ex ante* cost allocation method and the mechanism for alternative cost allocation methods described by the supplemental process ensure that transmission projects meet state and ISO-NE objectives in a cost-effective manner and that the cost of transmission projects would be shared equitably by beneficiaries.<sup>66</sup> Similarly, Advanced Energy United argues that the *ex ante* cost allocation method under the core process is equitable and consistent with “beneficiary pays” principles. Further, Advanced Energy United contends that the alternative cost allocation method provides states with flexibility to take into account specific preferences or circumstances in determining how to allocate costs. Lastly, Advanced Energy United argues that the cost allocation method under the supplemental process addresses instances where some states may value benefits not captured in the benefit-to-cost ratio, and allows such states to pay the incremental cost of such projects rather than taking on the full cost when other states also benefit.<sup>67</sup>

28. Some commenters raise concerns with specific aspects of the competitive solution development process. Specifically, Advanced Energy United, Joint Commenters, and RENEW highlight that Filing Parties’ proposal does not permit partial solutions to address longer-term needs, and instead requires a Qualified Sponsor to provide in its

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<sup>63</sup> RENEW Comments at 2-3.

<sup>64</sup> Advanced Energy United Comments at 4; PIOs Comments at 7.

<sup>65</sup> Advanced Energy United Comments at 6.

<sup>66</sup> PIOs Comments at 7.

<sup>67</sup> Advanced Energy United Comments at 8-9.



proposal a comprehensive solution that addresses all of the needs identified in the RFP.<sup>68</sup> Advanced Energy United and RENEW argue that this makes it virtually impossible for nonincumbent transmission developers to compete without partnering with an incumbent transmission owner. Beyond these specific disadvantages to nonincumbent transmission developers, Joint Commenters argue that this aspect of the proposed LTTP Phase 2 Changes makes the submittal of a comprehensive solution that relies on upgrades on at least two different transmission owners' systems unworkable for any – incumbent or nonincumbent – Qualified Sponsor, without a prior joint partnership.<sup>69</sup>

29. Advanced Energy United states that the proposed LTTP Phase 2 Changes make it very difficult for nonincumbent transmission developers to offer any solutions that require new equipment on an incumbent transmission owner's existing system. According to Advanced Energy United, this is because Qualified Sponsors cannot leverage the rights-of-way of incumbent transmission owners because they are prohibited from identifying or installing new equipment needed for upgrades on existing lines without partnering with the incumbent transmission owner.<sup>70</sup> Advanced Energy United argues that incumbent transmission owners have no incentive or requirement to provide such assistance to Qualified Sponsors, and as such, this will limit the range of proposals submitted and lead to the selection of facilities that may not reflect the best and least-cost solutions available.<sup>71</sup> RENEW offers similar concerns, stating that competitive transmission developers will be hindered in submitting comprehensive solutions, as "Section 16.4(c) of the Tariff provides that neither the submission of a project by a [Qualified Sponsor] nor the selection of a project submitted by a [Qualified Sponsor] for inclusion in the RSP Project List alters a PTO's use and control of its existing right-of-way or require that a PTO relinquish such rights."<sup>72</sup> According to RENEW, this provision would prohibit a Qualified Sponsor from identifying new equipment on an incumbent transmission owner's property and limits a Qualified Sponsor's ability to only identify partial solutions to an identified need, which will invalidate its submission for not being comprehensive.<sup>73</sup>

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<sup>68</sup> *Id.* at 10; Joint Commenters Comments at 2; RENEW Comments at 4.

<sup>69</sup> Joint Commenters Comments at 11-12.

<sup>70</sup> Advanced Energy United Comments at 10.

<sup>71</sup> *Id.* at 10-11.

<sup>72</sup> RENEW Comments at 4 (citing Filing Parties May 9, 2024 Filing, Transmittal at 18).

<sup>73</sup> *Id.* at 4.

30. Joint Commenters contend that proposed section 16.4 of ISO-NE's Attachment K includes restrictions that are "materially identical" to the requirements for proposed solutions that were included in section 4.3 of its Attachment K at the time of the Boston Request for Proposals (Boston RFP) issued in late 2019.<sup>74</sup> Specifically, Joint Commenters state that section 16.4(c) provides that "neither the submission of a project by a [Qualified Sponsor] nor the selection of a project submitted by a [Qualified Sponsor] for inclusion in the RSP Project List alters a PTO's use and control of its existing right-of-way or require that a PTO relinquish such rights."<sup>75</sup> Further, Joint Commenters assert that section 16.4(d)(v) requires a Qualified Sponsor to provide "right, title, and interest in rights of way, substations, and other property or facilities, if any, that would contribute to the proposed solution or the means and timeframe by which such would be obtained."<sup>76</sup> Lastly, Joint Commenters state that, according to proposed Section 16.4(f)(iii) of Attachment K, ISO-NE would review the Longer-Term Proposal to determine if the proposed solution "is technically practicable and indicates possession of, or an approach to acquiring, the necessary rights of way, property and facilities that will make the proposal reasonably feasible in the required timeframe."<sup>77</sup> Joint Commenters argue that, together, these provisions only allow for a Qualified Sponsor's proposed solution to require an incumbent transmission owner to build "upgrade(s) located on or connected to a PTO's existing transmission system where the [Qualified Sponsor] is not the PTO for the existing element(s)."<sup>78</sup>

31. Joint Commenters state that, in response to a lessons learned exercise conducted by ISO-NE following the Boston RFP, ISO-NE proposed, and the Commission accepted, revisions to section 4.3 of Attachment K to implement changes that allow Qualified Sponsors to propose solutions that address a subset of the identified transmission needs.<sup>79</sup>

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<sup>74</sup> The Boston RFP refers to the competitive transmission solicitation issued on December 20, 2019 to address the reliability need created by the Mystic 8 and 9 generators. According to Joint Commenters, because the Boston RFP required comprehensive solutions to the solicitation, it "resulted in the disqualification of 22 of the 36 Phase 1 submittals and ultimately prompted ISO-NE to revise its rules for future reliability solicitations to allow the submission of partial solutions by non-incumbent transmission developers." Joint Commenters Comments at 2.

<sup>75</sup> *Id.* at 8 (citing Filing Parties May 9, 2024 Filing, Transmittal at 18).

<sup>76</sup> *Id.* at 8.

<sup>77</sup> *Id.* at 8.

<sup>78</sup> *Id.* at 9 (citing Oberlin/Perben Test. at 19).

<sup>79</sup> *Id.* at 10 (citing February 2022 Order, 178 FERC ¶ 61,137 at P 26).

Joint Commenters also note that in its order accepting the revisions to ISO-NE's competitive transmission planning process, the Commission found that the revisions "enhance the competitive transmission planning process in New England" and encouraged "ISO-NE to continue to pursue improvements to the competitive transmission solicitation process as it gains additional experience."<sup>80</sup> Joint Commenters argue that, rather than incorporating the competitive process improvements for reliability and market efficiency transmission upgrades accepted by the Commission following the Boston RFP, the instant proposal introduces the same language, and the same competitive barriers, that ISO-NE and stakeholders previously worked to address.<sup>81</sup> Joint Commenters assert that this will result in a conditional, joint ownership right of first refusal for the benefit of New England's incumbent transmission owners, a result that would not be in the public interest.<sup>82</sup> Joint Commenters further claim that rules that restrict the universe of potential solutions to be identified can lead to unjust and unreasonable rates.<sup>83</sup> Joint Commenters ask that the Commission take their comments into consideration when evaluating the proposed LTTP Phase 2 Changes;<sup>84</sup> RENEW requests that the Commission accept the proposal as filed, but argues that further improvements are necessary and should be developed in a third phase;<sup>85</sup> and Advance Energy United asks the Commission to accept the revisions, as they are urgently needed, but urges ISO-NE, NESCOE, the Participating Transmission Owners Administrative Committee, and NEPOOL to continue to work on additional necessary enhancements.<sup>86</sup>

32. In its Answer, ISO-NE asserts that, to the extent that the comments by Joint Commenters, RENEW, and Advanced Energy United seek to replace the proposed Longer-Term Proposal requirements with an entirely different approach under which Qualified Sponsors could submit partial solutions, or to alter a PTO's use and control of an existing right-of-way, these arguments must be rejected as a matter of law for two reasons. First, ISO-NE states that under section 205 of the FPA, the Commission must

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<sup>80</sup> *Id.* at 10 (citing February 2022 Order, 178 FERC ¶ 61,137 at P 26).

<sup>81</sup> *Id.* at 10.

<sup>82</sup> *Id.* at 2.

<sup>83</sup> *Id.* at 11 (citing Order No. 1000, 136 FERC ¶ 61,051 at P 284 (finding that rules restricting potential solutions "may result in the failure to consider more efficient or cost-effective solutions...."))).

<sup>84</sup> *Id.* at 14.

<sup>85</sup> RENEW Comments at 2.

<sup>86</sup> Advance Energy United Comments at 2.

accept the proposed LTTP Phase 2 Changes if it finds them just and reasonable, regardless of whether an intervenor suggests or prefers a different approach. Second, ISO-NE states that the proposed LTTP Phase 2 Changes do not include any changes or modifications to the ISO-NE Tariff or the Transmission Owners Agreement regarding the use of PTOs' rights-of-way. Therefore, ISO-NE contends that any concerns with the existing arrangement are beyond the scope of this proceeding.<sup>87</sup> As a result, ISO-NE requests that the Commission reject the arguments advanced by Joint Commenters, RENEW, and Advanced Energy United and accept the proposed LTTP Phase 2 Changes as filed without suspension, hearing, or condition.<sup>88</sup>

#### IV. Discussion

##### A. Procedural Matters

33. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2023), the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

34. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2023), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We accept ISO-NE's Answer because it has provided information that assisted us in our decision-making process.

##### B. Substantive Matters

35. As discussed below, we find that Filing Parties' proposed LTTP Phase 2 Changes are just and reasonable and not unduly discriminatory or preferential, and we accept them effective July 9, 2024, as requested, subject to a further compliance filing to correct errors in the proposed tariff record.

36. The proposed revisions to section 16 of Attachment K of the Tariff amend ISO-NE's supplementary transmission planning mechanism for ISO-NE to conduct voluntary, state-requested, scenario-based transmission analyses to identify high-level transmission infrastructure that could meet state-identified energy policies, mandates, or legal requirements.<sup>89</sup> The proposed Tariff revisions in the LTTP Phase 2 Changes include a competitive solicitation process whereby the New England states, through

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<sup>87</sup> ISO-NE Answer at 4-6.

<sup>88</sup> *Id.* at 9.

<sup>89</sup> February 2022 Order, 178 FERC ¶ 61,137 at P 15.

NESCOE, will be able to identify, select,<sup>90</sup> and allocate the costs of Longer-Term Transmission Solutions necessary to address public policy needs over a longer transmission planning horizon than that provided for in ISO-NE's existing regional transmission planning process. We find that this transmission planning process, as expanded through the proposed LTTP Phase 2 Changes, supplements ISO-NE's existing regional transmission planning processes under Order No. 1000 and is consistent with other supplementary processes to existing Order No. 1000 regional transmission planning and cost allocation processes approved by the Commission.<sup>91</sup> We agree that the core process of the proposed LTTP Phase 2 Changes mirrors ISO-NE's existing competitive solution development process for Public Policy Transmission Upgrades, which relies on NESCOE and the New England states to determine such upgrades.<sup>92</sup> As the Commission found with respect to ISO-NE's existing Public Policy Transmission Upgrades process, we find that the proposed LTTP Phase 2 Changes represent a just and reasonable alternative voluntary process that will not conflict with or otherwise replace ISO-NE's Order No. 1000 regional transmission planning process.<sup>93</sup>

37. We find that the proposed default *ex ante* regional cost allocation method included in the proposed LTTP Phase 2 Changes, which allocates the costs of Longer-Term Transmission Upgrades across all six New England states based on their respective load

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<sup>90</sup> While Filing Parties use the terms “select” and “selection” throughout the transmittal letter and in the proposed Tariff language to describe transmission projects planned through the proposed LTTP process, we note that Filing Parties propose this process as an optional process that goes beyond Order No. 1000's requirements. See Filing Parties May 9, 2024 Filing, Transmittal at 3, 6, and 16. As such, under Filing Parties' proposal, these transmission projects would not be selected in the regional transmission plan for purposes of cost allocation pursuant to an Order No. 1000-compliant regional transmission planning process.

<sup>91</sup> See May 2013 Order, 143 FERC ¶ 61,150 at PP 108, 121, *order on reh'g*, 150 FERC ¶ 61,209 (2015); *PJM Interconnection, L.L.C.*, 174 FERC ¶ 61,090, at PP 2-3 (2021) (accepting PJM's State Agreement Approach).

<sup>92</sup> May 2013 Order, 143 FERC ¶ 61,150 at P 121. See also ISO-NE, ISO-NE Transmission, Markets and Services Tariff, § II, attach. K (Regional System Planning Process) (28.1.0), § 4A.

<sup>93</sup> May 2013 Order, 143 FERC ¶ 61,150 at P 121 (“Filing Parties' proposed public policy transmission planning process and proposed cost allocation method for Public Policy Transmission Upgrades, while not compliant with Order No. 1000, represent a just and reasonable alternative voluntary process that will not conflict or otherwise replace the process that the Filing Parties must submit to comply with Order No. 1000.”).

ratio share, is just and reasonable and not unduly discriminatory or preferential, and consistent with Commission precedent. Filing Parties propose that, for this *ex ante* regional cost allocation method to apply to a Longer-Term Transmission Upgrade, ISO-NE must first determine that the transmission project that is chosen by NESCOE meets a benefit-to-cost ratio threshold of at least 1.0. The Commission has found that a benefit-to-cost ratio threshold of 1.0 is just and reasonable because it ensures that the benefits of a transmission project will be at least equal to the cost of that project.<sup>94</sup> The Commission has also found that it is just and reasonable to allocate the costs of transmission facilities that provide regionwide benefits on a load ratio share basis, which allocates costs in a manner that is at least roughly commensurate with benefits, in accordance with the longstanding cost causation principle.<sup>95</sup> Filing Parties state that their proposed default *ex ante* regional cost allocation method for Longer-Term Transmission Upgrades is identical to ISO-NE's Order No. 1000 regional cost allocation method for Regional Benefit Upgrades<sup>96</sup> and that Longer-Term Transmission Upgrades eligible for the default *ex ante* cost allocation will demonstrate broad regional benefits.<sup>97</sup> We find that, like Regional Benefit Upgrades, Longer-Term Transmission Upgrades will provide regional benefits.<sup>98</sup>

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<sup>94</sup> See, e.g., *Midwest Indep. Transmission Sys. Operator, Inc.*, 133 FERC ¶ 61,221, at P 214 (2010) (finding that the use of a benefit-to-cost ratio of 1.0 is just and reasonable “because it ensure[s] that the multiple economic benefits to all users is at least equal to the costs allocated to all users over the 20 years of service that are evaluated”).

<sup>95</sup> See May 2013 Order, 143 FERC ¶ 61,150 at P 354 (finding “that by allocating the costs of Regional Benefit Upgrades, which provide benefits throughout the New England region, on a load-ratio share basis to all load within the New England region, ISO-NE's regional cost allocation method for Regional Benefit Upgrades allocates the costs of such upgrades in a manner that is at least roughly commensurate with the estimated benefits”); see also *N.Y. Indep. Sys. Operator, Inc.*, 184 FERC ¶ 61,059, at PP 16, 47 (2023) (noting, *inter alia*, the New York Public Service Commission's view that allocating Niagara Mohawk's Project costs on a load ratio basis “spreads costs in a manner roughly commensurate with benefits,” and finding that “it is just and reasonable and not unduly discriminatory or preferential to allocate the costs of the Project on a volumetric load-ratio share basis”).

<sup>96</sup> Filing Parties May 9, 2024 Filing, Transmittal at 3, 10, 33.

<sup>97</sup> *Id.* at 3, 23.

<sup>98</sup> See Oberlin/Perben Testimony at 45 (stating that Filing Parties' proposal to allocate the costs of Longer-Term Transmission Upgrades “to all states based on usage of the highly integrated system is just and reasonable”).

38. We further find that the proposal to allow the New England states, through NESCOE, to propose an alternative cost allocation method for a Longer-Term Transmission Upgrade to be filed with the Commission is just and reasonable because it provides for only those costs of a Longer-Term Transmission Upgrade associated with meeting reliability and/or market efficiency needs to be allocated under the default *ex ante* cost allocation method on a load share ratio basis across all six New England states,<sup>99</sup> while the incremental costs associated with meeting any longer-term needs beyond those necessary to address any reliability or market efficiency needs included in the RFP would be allocated to the New England state or states that voluntarily assume those costs. Further, we note that when a state or states voluntarily agree to an alternative cost allocation method, the relevant Qualified Sponsor must file such cost allocation method with the Commission for approval.<sup>100</sup>

39. Next, we find the supplemental process in the proposed LTTP Phase 2 Changes, which can be used when no Longer-Term Proposal is found to have a benefit-to-cost ratio of greater than 1.0, and the associated cost allocation method to be just and reasonable and not unduly discriminatory or preferential. We find that the supplemental process provides NESCOE with an avenue to select Longer-Term Transmission Solutions that address its respective states' public policy needs. Moreover, we find that Filing Parties' proposal to allocate on a load ratio share basis only those costs equal to the Longer-Term Transmission Upgrade's benefits identified by ISO-NE<sup>101</sup> ensures that those costs are allocated in a manner that is at least roughly commensurate with benefits. We further find that Filing Parties' proposal to allocate the costs in excess of those benefits to only the state or states that voluntarily agree to assume those costs is just and reasonable. Further, similar to the alternative cost allocation method under the core process described above, when a state or states agree to voluntarily fund Longer-Term Transmission

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<sup>99</sup> For Longer-Term Transmission Upgrades that meet the benefit-to-cost ratio threshold, "only the portion of the costs associated with addressing any combined reliability and/or market efficiency needs identified in the request for proposal(s) issued pursuant to Section 16.4(a) of Attachment K to this [], as calculated by the ISO, shall be allocated in the same manner as Regional Benefit Upgrades." ISO-NE, ISO-NE Transmission, Markets and Services Tariff, § II, Schedule 12 (Transmission Cost Allocation On/After Jan 1 2004) (8.0.0), § B.10(a); *see* Filing Parties May 9, 2024 Filing, Transmittal at 33.

<sup>100</sup> Filing Parties May 9, 2024 Filing, Transmittal at 35; Oberlin/Perben Testimony at 43-46.

<sup>101</sup> *See supra* note 35.

Upgrades under the supplemental process, the relevant Qualified Sponsor must file such cost allocation method with the Commission for approval.<sup>102</sup>

40. Finally, we find the proposed requirement that a Qualified Sponsor, including nonincumbent transmission developers, must submit a Longer-Term Proposal that comprehensively addresses all needs identified in the RFP is just and reasonable and not unduly discriminatory or preferential. We find persuasive Filing Parties' contention that the proposed LTTP Phase 2 Changes are intended to maximize the likelihood that Longer-Term Transmission Solutions are ultimately developed, reducing the likelihood that the process will terminate because submitted Longer-Term Proposals that each address only some of the transmission needs in the RFP cannot be combined in a manner that addresses all of the identified needs.<sup>103</sup> Even if, as alleged by commenters, this aspect of the proposal could make it more difficult for nonincumbent transmission developers to submit comprehensive proposals than it would be for incumbent transmission owners, such potential difficulty does not render the proposed LTTP Phase 2 Changes unjust and unreasonable or unduly discriminatory or preferential. While Joint Commenters allege that the proposed LTTP Phase 2 Changes would create a conditional, joint ownership right of first refusal, the only category of transmission projects for which the Commission has required transmission providers to eliminate a federal right of first refusal are certain regional transmission projects selected in the regional transmission plan for purposes of cost allocation under Order No. 1000.<sup>104</sup> As described above, Filing Parties' proposed LTTP Phase 2 Changes do not conflict with or replace ISO-NE's existing process to consider transmission needs driven by public policy requirements as part of its regional transmission planning process, as required by Order No. 1000. As a result, the process for planning Longer-Term Transmission Upgrades need not comply with the nonincumbent transmission developer reforms established in Order No. 1000, including the requirement to eliminate any federal right of first refusal. For this reason, we find arguments regarding the right of first refusal to be misplaced.

41. We also accept ISO-NE's proposal to correct section I.I.2 of its Tariff,<sup>105</sup> to remove the revisions to the definition of the term "Regulation Resources" and the addition of the terms "Storage as Transmission-Only Asset (SATO)" and "Real-Time SATOA Obligation" in Section I.2.2 that are not yet in effect and were included in error.

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<sup>102</sup> Filing Parties May 9, 2024 Filing, Transmittal at 36; Oberlin/Perben Testimony at 43-46.

<sup>103</sup> Oberlin/Perben Testimony at 16-17.

<sup>104</sup> Order No. 1000, 136 FERC ¶ 61,051 at P 313.

<sup>105</sup> See ISO-NE, ISO-NE Transmission, Markets and Services Tariff, § I.2, I.2 (Rules of Construction; Definitions) (161.0.0).



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Accordingly, we direct ISO-NE to submit a compliance filing within 30 days of the date of this order to correct this tariff record as proposed in ISO-NE's June 20, 2024 Filing.

The Commission orders:

(A) The LTTP Phase 2 Changes are hereby accepted, effective July 9, 2024, as requested, subject to condition, as discussed in the body of this order.

(B) ISO-NE is hereby directed to submit a compliance filing within 30 days of the date of issuance of this order, as discussed in the body of this order.

By the Commission. Chairman Phillips is concurring with a separate statement attached.

Commissioner Christie is concurring with a separate statement attached.

Commissioner See is not participating.

( S E A L )

Debbie-Anne A. Reese,  
Acting Secretary.

## Appendix

ISO New England Inc.  
ISO New England Inc. Transmission, Markets and Services Tariff  
*Accepted effective July 9, 2024*

I.2, I.2 Rules of Construction; Definitions (161.0.0)  
Section II TOC, Section II Table of Contents (15.0.0)  
II.8, II.8 Billing & Invoicing; Accounting (4.0.0)  
II.46, II.46 General (5.0.0)  
II.49, II.49 Definition of PTF (2.0.0)  
Schedule 12, Schedule 12 Transmission Cost Allocation On/After Jan 1 2004 (8.0.0)  
Schedule 12C, Schedule 12C Determination Localized Costs On-After 1/1/04 (3.0.0)  
Schedule 14A, Recovery of Longer-Term Transmission Upgrades by Costs (0.0.0).  
Attachment K, Attachment K Regional System Planning Process (30.0.0).  
Attachment N, Attachment N Procedures for Regional System Plan Upgrades (4.0.0).  
Attachment O- NTDOA, Attachment O- NTDOA (7.0.0).  
Attachment P, Selected Qualified Transmission Project Sponsor Agreement (2.0.0)  
III.12, III.12 Calculation of Capacity Requirements (26.0.0)

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

ISO New England Inc.  
New England Power Pool

Docket No. ER24-1978-000

(Issued July 8, 2024)

PHILLIPS, Chairman, *concurring*:

1. I applaud ISO-NE and the New England states for working together and with stakeholders to voluntarily develop a long term, regional transmission planning process, which goes a long way toward meeting the requirements of Order No. 1920.
2. ISO-NE's proposal includes many of the significant components of Order No. 1920, such as multi-factor planning on at least a 20-year time horizon, an *ex ante* default cost allocation method, the option for states to agree on alternative cost allocation methods, and the option to voluntarily pay for the portion of a project that exceeds the identified benefit-cost ratio.
3. I emphasize also that the cost allocation method accepted herein is just and reasonable for the reason stated in the order – it allocates costs roughly commensurate with benefits, the core and long-applied standard for cost allocation – and not merely because states have agreed to it. Indeed, if states request an alternative cost allocation method, it will still need to be filed by the project sponsor and approved as just and reasonable by the Commission.
4. Both this proposal and PJM's State Agreement Approach are supplemental filings submitted under FPA section 205, outside the scope of compliance with Order No. 1000. Order No. 1920 does not affect supplemental planning processes like these. Moreover, nothing in Order No. 1920 prohibits transmission providers from breaking out the costs of different benefits of Long-Term Regional Transmission Facilities and allocating them accordingly, so long as those costs are allocated roughly commensurate with benefits.

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5. Again, I commend the New England region for identifying a critical need and proactively taking action to plan and build the infrastructure needed to ensure reliability and affordability in the years ahead.

For these reasons, I respectfully concur.

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Willie L. Phillips  
Chairman

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

ISO New England Inc.  
New England Power Pool

Docket No. ER24-1978-000

(Issued July 8, 2024)

CHRISTIE, Commissioner, *concurring*:

1. I concur in today's order because the role of the states in longer-term planning and cost allocation of public policy projects in a multi-state region in this proposal exemplifies what the Commission should approve and encourage. As we approve this proposal, it is indeed ironic to observe the stark contrast between this proposal and the state role allowed in the long-term transmission planning and cost allocation rule that a 2-1 majority of this Commission approved on May 13<sup>th</sup>, known as Order No. 1920, from which I dissented.<sup>1</sup> The state role in this proposal is utterly contrary to the insufficient one allowed in Order No. 1920, which does not require that states consent to planning and selection criteria, does not require that states consent to an *ex ante* cost allocation formula, and does not even require that transmission providers have to file a state-agreed alternative to an *ex ante* formula.<sup>2</sup>

2. To develop this proposal, the New England states worked with ISO-NE. In fact, the New England States Committee on Energy (NESCOE), "the Regional State Committee for New England, representing the collective positions of the six New England states in regional electricity matters,"<sup>3</sup> notes that after its Vision Statement was

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<sup>1</sup> *Building for the Future Through Electric Regional Transmission Planning and Cost Allocation*, Order No. 1920, 187 FERC ¶ 61,068 (2024) (Order No. 1920) (Christie, Comm'r, dissenting) (Order No. 1920 Dissent) (available at <https://www.ferc.gov/news-events/news/e-1-commissioner-christie-dissent-transmission-planning-and-cost-allocation-rule>).

<sup>2</sup> With due respect to the Chairman, the statement in his concurrence that the ISO-NE proposal that we approve today "includes many of the significant components" of Order No. 1920 simply misses the point. In terms of the *actual* state role and *actual* state authority permitted in Order No. 1920, there exists a chasm between ISO-NE's proposal and Order No. 1920 that is long and wide, as detailed herein and in my dissent to Order No. 1920.

<sup>3</sup> NESCOE May 30, 2024 Comments (NESCOE Comments) at 1 n.1.

issued in late 2020 requesting that the ISO do so,<sup>4</sup> ISO-NE began to work with the New England states and stakeholders to develop a longer-term, optional regional transmission planning process.<sup>5</sup> Important to my concurring here is that the New England states, through NESCOE, strongly support this proposal:

NESCOE strongly supports the Filing and respectfully requests that the Commission approve the [Longer-Term Transmission Planning (LTTP)] Phase 2 Changes. The LTTP Phase 2 Changes are the culmination of *a multi-year collaborative process* between ISO-NE, the New England states, and stakeholders.<sup>6</sup>

3. The LTTP Phase 2 revisions accepted by today's order are just and reasonable because the proposal began with "a state-led process"<sup>7</sup> and creates for the states a central decision-making role in that process.<sup>8</sup> At a high-level, as ISO-NE explains, the revisions

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<sup>4</sup> That Vision Statement, among other things, "set out the states' transmission planning recommendations, which included a request that [ISO-NE] revise the Tariff to incorporate a longer-term regional transmission planning process authorizing the ISO's performance of *state-requested studies that could inform the region of the amount and type of infrastructure needed to meet the states' clean energy goals based on state-identified scenarios, assumptions and inputs on a routine basis.*" ISO-NE Transmittal at 4 (emphasis added) (footnote omitted).

<sup>5</sup> NESCOE Comments at 2.

<sup>6</sup> *Id.* at 4 (emphasis added). I also note that Public Systems, which include political subdivisions of Connecticut (Connecticut Municipal Electric Energy Cooperative) and Massachusetts (Massachusetts Municipal Wholesale Electric Company) and a state created, joint action agency (Vermont Public Power Supply Authority), as well as a consumer-owned electric distribution cooperative (New Hampshire Electric Cooperative, Inc.), also support the LTTP Phase 2 revisions and request that the Commission accept them. Public Systems May 30, 2024 Comments *passim*.

<sup>7</sup> ISO-NE Transmittal at 9.

<sup>8</sup> The LTTP Phase 2 is a continuation of the LTTP Phase 1 process accepted by the Commission on February 24, 2022, which began with NESCOE's 2020 Vision Statement and put the New England states at the forefront of this process. As ISO-NE describes it, the LTTP Phase 1 changes "incorporated in a new . . . *optional*, non-Order No. 1000 required *process for the New England states to advance policy-based objectives*. The LTTP Phase 1 Changes established the rules that enable the states to request that the ISO

set up a process by which “the New England states can request proposals for the development of transmission infrastructure needed to address the findings of an LTTS (or follow-on studies . . .), and advance their energy and environmental policy-based objectives.”<sup>9</sup>

4. To that end, let me highlight certain aspects of the LTTP Phase 2 revisions: (i) they address public policy projects; (ii) they address the process by which the states can move forward with Requests for Proposal (RFPs) to select transmission solutions for those policy objectives;<sup>10</sup> (iii) *the states* have—as part of what is known as the “core process” in LTTP Phase 2—agreed to the process for selecting projects as well as the default *ex ante* cost allocation formula (across all six states on a load share basis) or the states can also propose an alternative to the *ex ante* cost allocation if they wish;<sup>11</sup> and (iv) the states have agreed to a benefit-to-cost ratio to select a potential transmission solution, but one or more states may agree to pay the costs of a project that does not meet that ratio, as part of what is called the “supplemental process” in LTTP Phase 2.<sup>12</sup> Let me

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perform state-requested, scenario-based transmission planning studies that may extend beyond the ten-year planning horizon (. . . [Longer-Term Transmission Study (LTTS)]) on a routine basis. Under these procedures, *the New England states, through NESCOE, may request that the LTTS identify high-level transmission infrastructure (and, if requested, associated cost estimates) that could meet states’ energy policies, mandates or legal requirements (i.e., State-identified Requirements). As a state-led process, the procedures provide for the ISO to rely on the states to determine the range of scenarios, drivers, inputs, assumptions, and timeframes for use in the studies.*” *Id.* at 6 (footnote omitted) (emphases added).

<sup>9</sup> *Id.* at 8.

<sup>10</sup> *Id.* at 9 (“If NESCOE requests that [ISO-NE] issue a longer-term RFP, [ISO-NE], in consultation with NESCOE, will develop the RFP and issue it by posting a public notice on its website inviting Qualified Transmission Project Sponsors (“QTPS”) to submit Longer-Term Proposals (individually or jointly with other QTPSs), together with a \$100,000 deposit (per proposal), that comprehensively address all of the needs identified in the RFP.”).

<sup>11</sup> ISO-NE explains that this cost-allocation optionality is important to the states: “As this is a state-led process, this optionality is designed to provide the New England states the opportunity to negotiate and ultimately ensure their support for the Longer-Term Transmission Solution.” *Id.*

<sup>12</sup> This is referred to as the “supplemental process” in LTTP Phase 2 and is described as “an add-on to the core process that *enables the New England states to agree*

emphasize that this proposal will produce just and reasonable rates precisely because the states must agree to the cost allocation formula. The specific benefit-to-cost ratio referenced herein is just and reasonable because the states agreed to it<sup>13</sup>—not because of any intrinsic principle, set number, or mathematical formula—and because the states can select an alternative cost allocation methodology under the “core process” or, in part, in the “supplemental process” by agreeing to pay any excess to the benefit-to-cost ratio limit.

5. It is worth noting that various aspects of the LTTP Phase 2 are remarkably similar to PJM’s State Agreement Approach (SAA),<sup>14</sup> as ISO-NE also recognized.<sup>15</sup> The PJM SAA requires that states drive the process for planning and cost allocation of public policy projects, exactly as will happen here, and must agree to any ultimate cost allocation for public policy projects. Another irony to our approval of this proposal is that the PJM SAA will not be allowed in its current form under Order No. 1920.<sup>16</sup> Indeed, one may speculate that if Order No. 1920 takes effect in its current form, over time this very proposal we approve today will also not survive in its current form either because, as described below,<sup>17</sup> the obvious objective of Order No. 1920 is to force all projects, including public policy related projects, into the same bucket with other types of projects for planning and cost allocation purposes.

6. The core role of the New England states and the ability of those states to pursue their public policies through this process is paramount to the New England states’ support of this proposal. NESCOE makes clear:

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*to move forward with a transmission project where none of the proposals that meet the identified needs satisfy the Tariff-specified [benefit-to-cost] criterion . . . .” Id. at 8 (emphasis added).*

<sup>13</sup> This order recognizes that NESCOE “strongly supports” the LTTP Phase 2 proposal as it is “a culmination of a multi-year collaborative process between ISO-NE, the New England States, and stakeholders.” Order at P 25.

<sup>14</sup> See, e.g., *PJM Interconnection, L.L.C.*, 142 FERC ¶ 61,214, *order on reh’g*, 147 FERC ¶ 61,128 (2014).

<sup>15</sup> ISO-NE Transmittal at 35.

<sup>16</sup> Order No. 1920 Dissent at PP 11, 80.

<sup>17</sup> See *infra* at P 7.



*The central role of the states in the Phase 2 process underpins the unanimous state support for the project selection and cost allocation creation methodologies in the core and supplemental processes.*<sup>18</sup>

7. However, just eight weeks ago, the Commission issued Order No. 1920, a final rule which is utterly contrary to the proposed process accepted here today and which outlines a fundamentally smaller and less robust role for the states than the state role integral to this proposal. First, as I pointed out in my dissent to Order No. 1920, that final rule throws all transmission projects into the same bucket—those that solve specific reliability problems or reduce congestion costs along with those designed to promote public policies or corporate purchased-power preferences—and disguises their very different purposes by “re-labeling” *all* projects in the new bucket with the same name.<sup>19</sup> This device makes it impossible to break out the specific costs of public policy projects for purposes of cost allocation,<sup>20</sup> which the proposal we are approving today permits.

8. Moreover, Order No. 1920 requires the same *ex ante* cost allocation process to be applied to *all of the projects in the single bucket*.<sup>21</sup> Far from creating the single bucket required by Order No. 1920, the LTTP Phase 2 process accepted today recognizes that it is about addressing state public policies and provides cost allocation methodologies for that process. There are several important qualities of the LTTP Phase 2 process that would not be welcome in Order No. 1920’s world. First, it is very important to remember that in the LTTP Phase 2 proposal, the New England states led the charge to request that ISO-NE develop the process and those states actively participated in its development, which includes the default *ex ante* cost allocation. And, as noted above, NESCOE strongly supports the LTTP Phase 2 proposal.<sup>22</sup> Second, if NESCOE does not exercise its right to cancel a project upon ISO-NE’s identification of the preferred solution, NESCOE is *empowered to itself identify* for application an alternative cost allocation that it would submit to this Commission for approval. Finally, under the “supplemental process,” a state or states can agree to pay the costs in excess of the

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<sup>18</sup> NESCOE Comments at 4 (emphases added).

<sup>19</sup> *See, e.g.*, Order No. 1920, 187 FERC ¶ 61,068 at P 1474; Order No. 1920 Dissent at PP 6-7.

<sup>20</sup> Order No. 1920 Dissent at P 7.

<sup>21</sup> *See, e.g.*, Order No. 1920, 187 FERC ¶ 61,068 at P 1291; Order No. 1920 Dissent at P 9.

<sup>22</sup> *See supra* at P 2.

benefit-to-cost ratio limit, thereby continuing to pursue a project that is deemed to be important to that state or states. In sum, contrary to Order No. 1920, the LTTP Phase 2 process does not fit the “single bucket” mold.

9. Another contrast with today’s proposal is that Order No. 1920 determined that transmission providers may ignore any agreement or alternative proposed by the states.<sup>23</sup> As just outlined, NESCOE is entitled to propose an alternative cost allocation methodology in the core process and the states are entitled to agree to move forward pursuant to their own agreement in the “supplemental process.” Those cost allocations *cannot be ignored* here because NESCOE has the right to exercise them. So, for these reasons as well, LTTP Phase 2 stands in stark contrast to Order No. 1920.<sup>24</sup>

10. This proposal from ISO-NE, initiated and strongly supported by the New England states, is the type of planning and cost allocation construct for public policy projects that the Commission should encourage and approve. The very reasons this proposal deserves our approval, however, provide an indictment of Order No. 1920 and present a compelling case why Order No. 1920 needs major revisions. In another irony, the proposal from ISO-NE we approve today exemplifies the role of the states promised in the Notice of Proposal Rulemaking (in FERC lingo, the “NOPR”)<sup>25</sup> that preceded Order No. 1920. This proposal today also illustrates some of the major changes that should be made to Order No. 1920 for it to work. To begin with, Order No. 1920 must be amended

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<sup>23</sup> See, e.g., Order No. 1920, 187 FERC ¶ 61,068 at PP 1359, 1429; see also *id.* P 1356 n.2895 (citation omitted); Order No. 1920 Dissent at PP 76, 81.

<sup>24</sup> As I stated in my dissent to Order No. 1920: “[G]iven the final rule’s determinations undercutting the states’ role, I highly doubt that PJM’s [SAA] or other existing mechanisms involving the states in other RTOs will remain viable with respect to the cost allocation of Long-Term Regional Transmission Facilities.” Order No. 1920 Dissent at P 80.

<sup>25</sup> *Bldg. for the Future Through Elec. Reg’l Transmission Planning & Cost Allocation & Generator Interconnection*, Notice of Proposed Rulemaking, 179 FERC ¶ 61,028, at P 303 (2022).

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to allow long-term planning and cost allocation constructs such as this one and the PJM SAA—which has been used in PJM for a decade—to continue as preferred constructs to address public policy projects.

For these reasons, I respectfully concur.

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Mark C. Christie  
Commissioner

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