

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

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| Communication of Operational Information |) | |
| Between Natural Gas Pipelines and Electric |) | Docket No. RM13-17-000 |
| Transmission Operators |) | |
| |) | |

COMMENTS OF THE NEW ENGLAND STATES COMMITTEE ON ELECTRICITY

Pursuant to the Federal Energy Regulatory Commission’s (“Commission” or “FERC”) Notice of Proposed Rulemaking issued on July 18, 2013 (the “NOPR”),¹ the New England States Committee on Electricity (“NESCOE”) hereby submits comments on the Commission’s proposal to revise its regulations to provide express authorization for the exchange of non-public, operational information between interstate natural gas pipelines and electric transmission operators.²

I. DESCRIPTION OF COMMENTER

NESCOE is the Regional State Committee for New England. It is governed by a board of managers appointed by the Governors of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont and is funded through a regional tariff that ISO New England Inc. (“ISO-NE”) administers.³ NESCOE’s mission is to represent the interests of the citizens of the New England region by advancing policies that will provide electricity at the

¹ *Communication of Operational Information Between Natural Gas Pipelines and Electric Transmission Operators*, 144 FERC ¶ 61,043 (July 18, 2013).
² In the NOPR, the Commission appears to use the phrase “electric transmission operators” as shorthand for language in the proposed rule that would apply to a “public utility that owns, operates, or controls facilities used for the transmission of electric energy in interstate commerce.” NESCOE adopts the same shorthand phrase in this pleading.
³ *ISO New England Inc.*, 121 FERC ¶ 61,105 (2007).

lowest reasonable cost over the long-term, consistent with maintaining reliable service and environmental quality. These comments represent the collective view of the six New England states.

II. COMMUNICATIONS

Pursuant to Rule 203 of the Commission’s Rules of Practice and Procedure,⁴ the person to whom correspondence, pleadings, and other papers in regard to this proceeding should be addressed and whose name is to be placed on the Commission’s official service list is designated as follows:

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III. COMMENTS

A. Brief Description of the Proposed Rule

The Commission proposes in the NOPR to revise Parts 38 and 284 of its regulations to provide explicit authority to electric transmission operators and interstate natural gas pipelines to share non-public, operational information with each other on a voluntary basis.⁵ In so doing, the Commission intends to remove barriers to the sharing of such information during both emergency situations and day-to-day operations.⁶ The proposed rule also seeks to address industry uncertainty, whether “real or perceived,” regarding the sharing of this confidential information and provide assurances that an exchange between pipeline and electric system

⁴ 18 C.F.R. § 385.203 (2012).

⁵ NOPR at PP 1, 10, 22.

⁶ *Id.* at P 10. *See also id.* at P 23.

operators would not violate the Commission’s rules against undue discrimination or preference or constitute an unjust or unreasonable practice.⁷

The proposed rule reflects a “permissive approach” to this information exchange.⁸ In this manner, transmission operators would be accorded “significant flexibility” to determine whether and what operational information “would promote reliable service on their systems[.]”⁹ While not prescribing the exact categories of information that may be shared, the Commission provides illustrative examples and clarifies that it intends “non-public, operational information” to mean “information dealing with actual, anticipated, or potential effects on the ability to provide electric and gas service based on the respective operator’s experience and understanding of the operational and customer demands on their respective system.”¹⁰ This could include information relative to generators, pipelines or transmission.¹¹ The Commission may revisit the voluntary nature of this information exchange if it ultimately “proves inadequate to promote reliable service or operational planning” on the respective systems.¹²

The proposed rule incorporates limits on subsequent disclosure through a “No-Conduit Rule,” which would prohibit public utilities and gas pipelines from sharing the non-public, operational information received with third parties or affiliates (e.g., employees serving in a marketing function).¹³ The NOPR states that a violation of the No-Conduit rule potentially

⁷ *Id.* In addition to the proposed revisions to the Commission’s regulations, the NOPR states that any conflicting tariff provisions governing electric transmission or pipeline practices would need to be changed pursuant to a filing with the Commission to allow this information exchange. *Id.* at P 10.

⁸ *Id.* at P 11.

⁹ *Id.*

¹⁰ *Id.* at P 23.

¹¹ *Id.*

¹² *Id.* at P 11.

¹³ *Id.* at PP 1, 26.

exposes the disclosing party to the enforcement provisions of the Federal Power Act and Natural Gas Act.¹⁴

B. Removing Barriers to Gas-Electric Industry Communication is a Common Sense and Potentially Cost-Effective Response to System Operational Challenges

By clarifying the authority of gas and electric system operators to share non-public information, the proposed rule leverages a communications gap to capture a reliability benefit without the need for costly infrastructure. Instead, the proposed rule attempts to remove certain impediments to, as well as encourage, the free flow of information between system operators. These changes should translate into a greater ability of both pipeline and electric transmission operators to understand the range of conditions that could impact reliable operations on their respective systems.

NESCOE supports the proposed rule, which adds to the portfolio of potential cost-effective solutions being developed in New England to address reliability challenges, including the region's growing reliance on natural gas as a fuel supply for electric generation. For example, the Commission issued an order earlier this year accepting a New England Power Pool ("NEPOOL") proposal to modify the day-ahead market schedule timeline, which helps to coordinate the timing of the gas and electricity markets, provides generators with more lead time to procure any needed fuel supply, and allows ISO-NE increased flexibility to address reliability issues.¹⁵

More recently, ISO-NE and NEPOOL filed with the Commission proposed tariff revisions intended to provide resources with greater flexibility to modify energy market offers to

¹⁴ *Id.* at n. 52.

¹⁵ *ISO New England Inc. and New England Power Pool*, 143 FERC ¶ 61,065 (2013).

account for changing fuel costs and operating costs.¹⁶ As NESCOE noted in comments on these proposed market rule changes, increased offer flexibility provides an important mechanism for gas-fired resources to reflect in their offers the real-time costs of procuring fuel and should lead to improved market efficiency and reliability benefits.¹⁷

The proposed rule also builds on proactive efforts in New England last winter to facilitate the sharing of confidential information between pipeline and ISO-NE operators to provide ISO-NE with a greater ability to assess and respond to operational risks. In a January 23, 2013 order, the Commission accepted, on an interim basis, ISO-NE's proposed changes to the Information Policy contained in the tariff.¹⁸ Through the Information Policy changes, ISO-NE was accorded discretion, if necessary to ensure reliable operations, to share with pipelines confidential real-time and scheduled output of individual generating resources.¹⁹ Pipelines could then provide ISO-NE with information on gas availability to allow ISO-NE "to better anticipate and address potential reliability problems in the event that there is insufficient fuel for all gas-fired generators to meet their schedules."²⁰ These changes to the Information Policy were effective only through April 30, 2013 and, in response to concerns raised regarding the disclosure of proprietary

¹⁶ ISO New England Inc. and New England Power Pool Participants Committee, Energy Market Offer Flexibility Changes, Docket No. ER13-1877-000 (filed July 1, 2013).

¹⁷ Motion to Intervene and Comments of the New England States Committee on Electricity, Docket No. ER13-1877-000 (filed July 22, 2013), at 4.

¹⁸ *ISO New England Inc.*, 142 FERC ¶ 61,058 (2013) ("January 23 Order"). The Information Policy is included in the ISO-NE Transmission, Markets and Services Tariff at Attachment D.

¹⁹ *See id.* at P 3. *See also ISO New England Inc.*, Delegated Letter Order Accepting ISO New England Inc.'s 2/22/13 Filing of Information Policy in Compliance with the Commission's January 23, 2013 Order, Docket No. ER13-356-002 (Mar. 29, 2013) ("March 29 Order").

²⁰ January 23 Order at P 5.

information, certain conditions were established with respect to ISO-NE's exchange of information with pipelines.²¹

The proposed rule, if adopted by the Commission, should obviate the need for further interim measures in New England regarding the communication of operational information that is disclosed in the interest of promoting system reliability. In proposing to incorporate a No-Conduit Rule, the proposed rule also may help to address concerns raised regarding the disclosure of confidential and market sensitive resource information and recourses available to protect such information.

NESCOE also appreciates the Commission's willingness to "revisit the need to require certain communications or information sharing between transmission operators in the future" should the voluntary approach reflected in the proposed rule prove inadequate in promoting reliable operations.²² After a reasonable period of time following the adoption of a final rule, NESCOE encourages the Commission to undertake periodic assessments of the efficacy of the changes made and the extent to which impediments to communications and information sharing remain. If such evaluations indicate that the changes made are not proving effective, the Commission should revisit the issue and consider additional actions.

In response to the Commission's request for comment regarding communications between generators and electric transmission operators, NESCOE does not have sufficient information to weigh in on the merits of whether generators should be required to provide information regarding expected natural gas service disruptions or whether transmission operators must seek to include affected generators as part of a three-way communication with a pipeline

²¹ *Id.* at PP 19-20; March 29 Order. This included a requirement to provide affected generators with a summary of the information disclosed within 48 hours of such disclosure.

²² NOPR at P 11.

operator.²³ The record in this proceeding will undoubtedly bear out the implications of the proposal and the interests the Commission should balance in determining whether further regulations in this area are warranted.

NESCOE appreciates the Commission initiating this rulemaking and urges the adoption of a final rule before next winter. The implementation of these revisions in the near-term would provide regions like New England, which are actively addressing risks related to an increasing share of gas-fired capacity, with the certainty and flexibility to put in place what has the strong potential to be an effective and low cost reliability measure.

IV. CONCLUSION

For the reasons stated herein, NESCOE respectfully requests that the Commission consider its comments in this proceeding.

Respectfully submitted,

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²³ *Id.* at P 25.