

**Comments on Shared Tariff Filing Issue by
New England Participating Transmission Owners**

To: NAESB WEQ / WGQ Executive Committees

From: New England Participating Transmission Owners

Subject: eTariff Open Issue – Shared Tariff Filing Rights

Date: February 26, 2008

I. Introduction

The New England Participating Transmission Owners (“PTOs”) identified below¹ submit the following comments regarding the proposed eTariff Definitions and Standards and the eTariff

¹ The PTOs are transmission owners providing transmission service on an open access basis under Section II of the ISO New England Transmission, Markets and Services Tariff (“ISO-NE OATT”). Pursuant to the terms of the Transmission Operating Agreement (“TOA”) among the PTOs and ISO-NE, the PTOs own, physically operate and maintain Transmission Facilities in New England and ISO-NE is authorized to exercise operating authority over all of the Transmission Facilities of the PTOs. The PTOs include: Bangor Hydro-Electric Company; Town of Braintree Electric Light Department; NSTAR Electric Company; Central Maine Power Company; Central Vermont Public Service Corporation; Connecticut Municipal Electric Energy Cooperative; The City of Holyoke Gas and Electric Department; Florida Power & Light Company – New England Division; Green Mountain Power Corporation; Massachusetts Municipal Wholesale Electric Company; New England Power Company d/b/a National Grid; New Hampshire Electric Cooperative, Inc.; Northeast Utilities Service Company on behalf of its affiliates: The Connecticut Light and Power Company, Western Massachusetts Electric Company, Public Service Company of New Hampshire, Holyoke Power and Electric Company and Holyoke Water Power Company; Taunton Municipal Lighting Plant; Town of Norwood Municipal Light Department; Town of Reading Municipal Light Department; The United Illuminating Company; Until Energy Systems, Inc. and Fitchburg Gas and Electric Light Company; Vermont Electric Cooperative, Inc.; Vermont Electric Power Company, Inc.; Vermont Transco, LLC; and Vermont Public Power Supply Authority. The PTOs sponsoring these comments are: New England Power Company d/b/a/ National Grid; The United Illuminating Company; NSTAR Electric Company; Until Energy Systems, Inc. and Fitchburg Gas and Electric Light Company; Florida Power & Light Company – New England Division; Central Vermont Public Service Corporation ; and Northeast Utilities Service Company on behalf of its affiliates: The Connecticut Light and Power Company, Western Massachusetts Electric Company, Public Service Company of New Hampshire, Holyoke Power and Electric Company and Holyoke Water Power Company.

Implementation Guide developed through the NAESB process at the request of the Federal Energy Regulatory Commission (“FERC” or “Commission”).

These comments are intended to elaborate on and support comments submitted to this Committee by ISO New England (“ISO-NE”) on February 8, 2008. As described by ISO-NE’s comments, during the course of developing the NAESB standards, an issue was identified concerning the process for submitting changes through eTariff by entities that have shared tariff filing rights. Despite discussion and debate on the issue and the best efforts of PTO participants, the issue was not resolved as part of the NAESB eTariff process.

The PTOs file these comments to make the NAESB Executive Committee aware of this unresolved issue and to request that the Executive Committee forward this information to FERC as part of the NAESB record. It is imperative that the record in this matter identify that this issue remains unresolved and, as such, reflects an impediment to the implementation of the Commission’s proposed eTariff procedures. The PTOs believe that it is important to raise this issue in order to provide a basis for the PTOs, ISO-NE and others to seek an ultimate resolution of the issue before FERC if no further resolution is afforded by the NAESB process.²

Representatives of some of the PTOs have actively participated in the NAESB eTariff meetings and conferences over the past several months and have consistently raised the shared tariff filing issue in New England as an issue that needs to be resolved. Most recently, on January 25, 2008, a PTO representative from National Grid made a presentation which is noted in the Chair’s Comments on the eTariff Subcommittee Recommendations to the WEQ and WGQ Executive Committees. As noted in the Chair’s Comments at page 3, a serious concern has been raised with regard to the shared filing rights issue which has not been resolved to date in the NAESB process.

II. Description of the Issue

A. Shared Filing Rights

Electric transmission service in New England is governed by Section II of the ISO-NE Transmission, Markets and Services Tariff (“ISO-NE OATT”), which was approved by FERC as part of the FERC authorization of RTO operation in New England. The right to make ISO-NE OATT tariff filings before FERC under Section 205 of the Federal Power Act (“Section 205 rights”) is shared among ISO-NE, the PTOs, the Schedule 20A Service Providers (“SSPs”), Maine Electric Power Company (“MEPCO”), and Cross Sound Cable (“CSC”). Currently 10 PTOs, 9 SSPs, MEPCO and CSC have either joint or exclusive Section 205 rights over tariff amendments in New England, depending on the section of the tariff and the type of tariff change being proposed.

For example, the split of Section 205 rights among the PTOs and ISO-NE is governed by the Transmission Operating Agreement (“TOA”), which contains detailed delineations of these

² See *Standards for Business Practices and Communication Protocols for Public Utilities*, 115 FERC ¶ 61, 102, at p. 10 (2006).

shared rights.³ Specifically, under Section 3.04 of the TOA, the PTOs, acting individually, have authority to make tariff filings in several areas, including the right to establish and revise their own revenue requirements; the rates, terms and conditions for transmission service under the PTOs Local Service Schedules; and the rates or charges for recovery of a PTOs investment in new transmission facilities. The PTOs, acting jointly, have authority to make tariff changes that revise rates and charges under the ISO-NE OATT for Regional Transmission Service, and the rates, terms and conditions relating to Local Service and incentive rates. The SSPs, MEPCO and CSC have similar Section 205 rights to amend their respective sections of the ISO-NE OATT. ISO-NE has the authority under Section 205 of the Federal Power Act to submit tariff filings to revise the terms and conditions of Regional Transmission Service under the ISO-NE OATT, all market rules, and its own administrative services tariff.

B. The Issue with Shared Filing Rights and eTariff

Currently there are limitations in the proposed process for filing of an eTariff that would prohibit individual Section 205 rights holders from submitting an eTariff filing. This occurs because the currently proposed eTariff process:

1. Requires that each Tariff on file with FERC be submitted by a single Tariff Submitter associated with a single Company Identifier;
2. Does not allow tariff filings by shared 205 rights holders in a single Tariff, and;
3. Lacks the access control functionality necessary to allow a Tariff Owner to authorize tariff changes for multiple filers under one Tariff or Rate Schedule.

This eTariff process basically prohibits the entities in New England with shared tariff filing rights from exercising those Section 205 rights and being able to file revisions to their sections of the Tariff as specified in the FERC-approved TOA and other applicable FERC-approved agreements among parties in New England. This is not an administrative issue, but rather one that has serious legal implications, not only for the PTOs and other Section 205 rights holders, but also for other stakeholders in New England, such as state agencies, that have notification and participation rights in the tariff revision process, as set forth in the TOA and other applicable agreements.

III. PTO Proposed Solution

The currently proposed eTariff filing process does not resolve the issues raised herein by the PTOs. Accordingly, the PTOs request that NAESB include documentation on this issue in its package to FERC, identifying the shared filing rights issue as an outstanding issue that must be resolved prior to the issuance of a final rule on eTariff filings. The PTOs recommend that FERC address this issue by setting a compliance deadline for parties with shared tariff filing rights to develop procedures to implement any final eTariff rules in a reasonable way that accommodates the shared filing rights issue, as identified herein.

³ See e.g., *ISO New England Inc.*, 106 FERC ¶ 61, 280 (2004).