

Explanation of Inapplicability
of Amendments to Sections 30.2 and 30.3 of Pro Forma OATT and
Related OASIS Posting Requirement Pursuant to Order No. 890

The Federal Energy Regulatory Commission’s (“Commission”) Order No. 890 revised the Commission’s regulations and the pro forma open access transmission tariff (“OATT”) to ensure that transmission services are provided in on a just and reasonable and non-discriminatory basis. Among others, Order No. 890 revised the pro forma OATT’s Sections 30.2 and 30.3, which govern the designation termination of Network Resources, respectively. As amended by Order No. 890, these provisions require that such actions be posted on OASIS. To this end, the Commission’s regulations have been revised to reflect this Open Access Same-Time Information Systems (“OASIS”) posting requirement. *See* 18 C.F.R. Part 37.6 (e)(1)(i) (2007). For the reasons detailed below, the concepts of designation and termination of designation (*i.e.*, undesignation) do not apply to ISO New England Inc.’s (“ISO-NE”) organized market structure. ISO-NE is participating in the North America Electric Reliability Corporation (“NERC”) and North America Energy Standard Board (“NAESB”) Order No. 890 processes, and will seek any appropriate waivers in that process in accordance with Order No. 890. Until such waivers are in place, ISO-NE herein explains the reason the OASIS requirements associated with the designation and termination of Network Resources are inapplicable to ISO-NE.

In Order No. 890, the Commission recognized that the concerns regarding undue discrimination or preferences, and the corresponding reforms adopted, might not apply to all of the OATTs of independent system operators and regional transmission organizations (“ISO/RTOs”) with organized electricity markets, such as in New England. Specifically, Order No. 890 states:

We also recognize, as we did in the NOPR, that some of the changes adopted in the Final Rule may not be as relevant to ISO/RTO transmission providers as they are to non-independent transmission providers. For example, many ISOs and RTOs use bid-based locational markets and financial rights to address transmission congestion, rather than the first-come, first-served physical rights model set forth in the pro forma OATT. As we indicated in the NOPR, nothing in this rulemaking is intended to upset the market designs used by existing ISOs and RTOs.¹

The Commission reiterates this statement throughout the Order with respect to specific requirements, particularly, with regards to the concepts relating to the designation of network resources.² Order No. 890 recognizes that “Day 2 RTOs do not use the physical rights model contemplated under the pro forma OATT and, hence not all the provisions discussed here are directly applicable to Day 2 markets.”³

¹ Order No. 890 at P 158.

² *See id.* at PP 1432-1591, and PP 378-386.

³ *Id.* at P 1590.

The ISO-NE OATT has differed from the Commission’s pro forma OATT in its Commission-approved major features since its inception. Specifically, the OATT for regional transmission service in New England does not employ a system of pro forma OATT-type physical rights, advanced reservations and point-to-point transmission service for the vast majority of transactions over the regional network transmission service in New England. Since the establishment of the OATT in New England in March of 1997, the primary form of transmission service over the regional network, high-voltage transmission facilities of the New England Transmission Owners (known as “Pool Transmission Facilities” or “PTF”) has been Regional Network Service (“RNS”). RNS is the service over the PTF provided by the ISO to Network Customers to serve their Regional Network Load. RNS does not use advance reservations, does not distinguish between “firm” and “non-firm” service, and does not have any unauthorized use penalties associated with it. Instead, it allows Network Customers who have designated load for RNS to utilize the PTF to serve their load from Network Resources. Access to those transmission facilities that are not defined as part of the PTF in New England (Merchant Transmission Facilities Service provided under Schedule 18, Other Transmission Service provided under Schedules 20A and 20B, and Local Service provided under Schedule 21) is available to allow the transmission customer to utilize those transmission facilities to serve their load from Network Resources or allow power from the Network Resources to be delivered to the PTF and load.

In New England, Network Customers participating in the New England markets have access through RNS to all Network Resources.⁴ Generating resources that participate in the New England markets are automatically designated as Network Resources.⁵ This market design eliminates the need for action by the Network Customer to designate or undesignate Network Resources. In addition, off-system energy from resources external to New England under the current market design is delivered via hourly bilateral import transactions. As described in the ISO Available Transfer Capability Information Document (“ATCID”), posted on OASIS, market participants submit offers to supply energy over the external interfaces to the New England real-time market (import transaction), and those offers are scheduled hourly along with the dispatch of internal generation in an economic manner according to the filed market rules. With respect to the New England external interfaces where ATC values are posted on OASIS, the concept of Network Resources does not impact the ATC associated with regional transmission service over the PTF.

Without any action required or information gathered with respect to designation or undesignation of Network Resources under the New England market, and with no impact on ATC with respect to energy delivery from off-system resources via external transactions, no posting of designated and undesignated Network Resources on OASIS or

⁴ ISO-NE OATT, Section II.1.83

⁵ ISO-NE OATT, Section II.17.1. In the ISO-NE interconnection process accepted by the Commission in Order No. 2003 proceedings, the Commission has recognized that due to the single Minimum Interconnection Standard utilized for interconnection analyses, there are not two (i.e., Energy and Network) categories of resources in New England. *See New England Power Pool*, 109 FERC ¶61,155 at P 42 (2004).

otherwise is warranted for New England. Of noteworthy, Section II.17 of the ISO-NE OATT contains designation and termination provisions that are similar to those contained in the Commission's *pro forma* OATT. The undesignation and termination provided in that section, however, are not necessary or utilized.⁶

For convenience, a list of all Network Resources in New England can be found on the ISO's website at: <http://www.iso-ne.com/system-planning/system-plans-studies/celt>.

⁶ See e.g., Order No. 890-A at P 534, n. 209 (acknowledging that many of the ISO/RTOs' "pro forma OATTs were developed to layer energy markets and financial transmission rights on top of the existing pro forma OATT physical rights system.").