

AVANGRID, Inc. and subsidiaries

Description of transmission ROE complaints

(i) FERC Docket EL11-66-000

On September 30, 2011, certain complainants¹ filed a complaint under Section 206 of the Federal Power Act (FPA) against certain electrical transmission owners in New England (NETOs),² including CMP and The United Illuminating Company (UI), contending that the then-existing 11.14% base ROE as reflected in the ISO-NE Open Access Transmission Tariff (OATT) was unjust and unreasonable. On June 19, 2014, the Commission issued Opinion No. 531, affirming in part and reversing in part an initial decision addressing the complaint, and adopting a two-step, constant growth discounted cash flow methodology for determining the base ROE for electric transmission public utilities. Since the parties to the proceeding did not litigate one of the inputs to the two-step methodology (the proper forecasted Gross Domestic Product (GDP) percentage), the Commission instituted a paper hearing and reopened the record to provide participants an opportunity to submit briefing on that issue. On October 16, 2014, the Commission issued Opinion No. 531-A, in which it determined the GDP percentage for use in the two-step methodology, that the NETOs' existing 11.14% base ROE was unjust and unreasonable, that a just and reasonable base ROE for the NETOs was 10.57%, and that the

¹ The complainants in the case are the Attorney General of the Commonwealth of Massachusetts, Connecticut Public Utilities Regulatory Authority, Massachusetts Department of Public Utilities, New Hampshire Public Utilities Commission, Attorney General of the State of Connecticut, Connecticut Office of Consumer Counsel, Maine Office of the Public Advocate, New Hampshire Office of the Consumer Advocate, Rhode Island Division of Public Utilities and Carriers, Vermont Department of Public Service, Massachusetts Municipal Wholesale Electric Company, Associated Industries of Massachusetts, The Energy Consortium, Power Options, Inc., and the Industrial Energy Consumer Group.

² The respondents in the case are Bangor Hydro Electric Co., Central Maine Power Co., New England Power Co., d/b/a National Grid, New Hampshire Transmission LLC d/b/a NextEra, Northeast Utilities Service Co., NSTAR Electric and Gas Corp., The United Illuminating Co., Unitil Energy Systems, Inc. and Fitchburg Gas and Electric Light Co., Vermont Transco, LLC, and ISO New England, Inc.

total ROE (base ROE plus ROE incentive adders) for any project could not exceed 11.74%. By the same order, the Commission directed the NETOs to make refunds with interest for the 15 month refund period for this complaint. On March 3, 2015, the Commission issued Opinion No. 531-B, denying all requests for rehearing. An appeal of the Commission's order was filed with the United States Court of Appeals for the District of Columbia Circuit (the D.C. Circuit) on May 1, 2015.³

On April 14, 2017, the D.C. Circuit granted the petition for review, vacating the Commission's Opinion Nos. 531, 531-A, and 531-B, and remanding the case for additional proceedings consistent with the D.C. Circuit's opinion. The D.C. Circuit held that the Commission:

1. Erred in not first making an explicit finding that the NETOs' then-existing base ROE of 11.14% was unjust and unreasonable before setting the new base ROE rate of 10.57%, as required by Section 206 of the FPA; and
2. Failed to establish a rational connection between the record evidence and its decision that 10.57% was a just and reasonable base ROE for the NETOs.

On June 5, 2017, the NETOs submitted a filing with the Commission in Docket Nos. EL11-66 and ER15-414 documenting the reinstatement of their transmission rates under the ISO-NE OATT to the *status quo ante* effective on the date of Court's mandate, consistent with the D.C. Circuit's April 14, 2017 opinion. The Court's mandate issued on June 8, 2017. The filing clarified that the NETOs do not intend to commence billing under the reinstated rates until 60 days after the Commission has a quorum.

³ *Emera Maine, f/k/a Bangor Hydro-Electric Company, et al. v. FERC*, Case No. 15-1118 (consolidated with Case Nos. 15-1119 and 15-1121).

(ii) FERC Docket EL13-33-000

On December 27, 2012, a second, related, complaint for a subsequent rate period was filed by certain complainants⁴ against the NETOs,⁵ including CMP and UI, contending that the then-existing 11.14% base ROE as reflected in ISO-NE's OATT was unjust and unreasonable. On June 19, 2014, the Commission accepted the second complaint, established a refund effective date of December 27, 2012, and set the matter for hearing using the methodology established in the first complaint, as described in section (i) above. The Commission has since consolidated this action with a third complaint in Docket No. EL14-86-000.

(iii) FERC Docket EL14-86-000

On July 31, 2014, a third, related, complaint was filed for a subsequent rate period by certain complainants⁶ against the NETOs,⁷ including CMP and UI, contending that the then-existing 11.14% base ROE and the maximum project ROE, including ROE incentives earned by

⁴ The complainants in the case were Environment Northeast; Greater Boston Real Estate Board; National Consumer Law Center; and NEPOOL Industrial Customer Coalition.

⁵ The respondents in the case were Bangor Hydro-Electric Company; Central Maine Power Company; New England Power Company d/b/a National Grid; New Hampshire Transmission LLC d/b/a NextEra; NSTAR Electric Company; Northeast Utilities Service Company; The United Illuminating Co.; Unitil Energy Systems, Incorporated and Fitchburg Gas and Electric Light Company; and Vermont Transco, LLC.

⁶ The complainants in the case are the Attorney General of the Commonwealth of Massachusetts; Connecticut Public Utilities Regulatory Authority; Massachusetts Municipal Wholesale Electric Company; New Hampshire Electric Cooperative, Incorporated; Massachusetts Department of Public Utilities; New Hampshire Public Utilities Commission; George Jepsen, Attorney General of the State of Connecticut; Connecticut Office of Consumer Counsel; Maine Office of the Public Advocate; New Hampshire Office of the Consumer Advocate; Rhode Island Division of Public Utilities and Carriers; Vermont Department of Public Service; Associated Industries of Massachusetts; The Energy Consortium; Power Options, Incorporated; Western Massachusetts Industrial Group; Environment Northeast; National Consumer Law Center; Greater Boston Real Estate Board; and Industrial Energy Consumer Group.

⁷ The respondents in the case are Bangor Hydro-Electric Company; Central Maine Power Company; New England Power Company d/b/a National Grid; New Hampshire Transmission LLC d/b/a NextEra; NSTAR Electric Company; Northeast Utilities Service Company; The United Illuminating Company; Unitil Energy Systems, Incorporated and Fitchburg Gas and Electric Light Company; and Vermont Transco, LLC.

the NETOs through transmission rates in the ISO-NE OATT were unjust and unreasonable. On November 24, 2014, the Commission accepted the third complaint, established a refund effective date of July 31, 2014, and consolidated the actions in this Docket No. EL14-86-000 with the second complaint in Docket No. EL13-33-000. The Commission issued an initial decision in the consolidated proceeding on March 22, 2016. The initial decision determined that: (1) for the 15-month refund period in the second complaint described in section (ii) above, the base ROE should be 9.59% and the ROE Cap (base ROE plus incentive ROEs) should be 10.42%, and (2) for the 15-month refund period in the third complaint described in this section (iii) and prospectively, the base ROE should be 10.90% and that the ROE Cap should be 12.19%. Parties filed exceptions to the initial decision and briefing opposing exceptions in April and May 2016, respectively. The Commission has not yet issued a final order.

(iv) FERC Docket EL16-64-000

On April 29, 2016, a fourth, related complaint (as amended by complainants' errata filing of May 24, 2016) was filed for a subsequent rate period by certain complainants⁸ against the NETOs,⁹ including CMP and UI, requesting the base ROE be 8.78% and ROE Cap be 11.38%.

The NETOs filed a response on June 3, 2016. On September 20, 2016, the Commission accepted

⁸ The complainants in the case are: The Eastern Massachusetts Consumer Owned Systems, including Belmont Municipal Light Department; Braintree Electric Light Department; Concord Municipal Light Plant; Georgetown Municipal Light Department; Groveland Electric Light Department; Hingham Municipal Lighting Plant; Littleton Electric Light & Water Department; Middleborough Gas & Electric; Middleton Electric Light Department; Reading Municipal Light Department; Rowley Municipal Lighting Plant; Taunton Municipal Lighting Plant; and Wellesley Municipal Light Plant.

⁹ The respondents in the case are Emera Maine; Central Maine Power Company; Eversource Energy Service Company and its operating power company affiliates the Connecticut Light and Power Company, Western Massachusetts Electric Company, Public Service Company of New Hampshire, and NSTAR Electric Company; New England Power Company d/b/a National Grid; New Hampshire Transmission LLC d/b/a NextEra; The United Illuminating Company; Fitchburg Gas and Electric Light Company; and Vermont Transco, LLC.

the fourth complaint, established a refund effective date of April 29, 2016, and set the matter for hearing. In an order issued on May 26, 2017, the presiding Chief Administrative Law Judge held that the proceeding in this Docket No. EL16-64 should continue pursuant to a revised procedural schedule that (1) contemplates issuance of an initial decision in March 2018; and (2) permits the litigants to supplement their testimony and address the issues raised in the D.C. Circuit's April 14, 2017 opinion, summarized above in section (i). On June 12, 2017, the NETOs filed a motion for reconsideration, or in the alternative, leave to seek an interlocutory appeal of the May 26, 2017 order.
