

112 FERC ¶ 61,273
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Nora Mead Brownell, and Suedeen G. Kelly.

Boston Edison Company

Docket No. EL02-123-007

ORDER CONDITIONALLY ACCEPTING AND CLARIFYING
COMPLIANCE FILING

(Issued September 15, 2005)

1. On March 8, 2005, the Commission issued an order in Docket No. EL02-123-006 that accepted, subject to revisions, Boston Edison Company's second, revised compliance filing stating rates, terms and conditions for local network service (LNS) to the Towns of Wellesley (Wellesley) and Concord (Concord), Massachusetts.¹ That order required Boston Edison to file a third, revised compliance filing that incorporated certain revisions as well as revisions required in the contemporaneous order on rehearing in Docket No. EL02-123-005, *et al.*² On April 19, 2005, Boston Edison filed its third, revised compliance filing, which Concord protested. This order conditionally accepts the third, revised compliance filing and requires minor revisions, subject to leave of court.³

I. Boston Edison's April 19 Compliance Filing and Notice

2. Boston Edison's *pro forma* LNS service agreement is Attachment F of its Open Access Transmission Tariff (OATT).⁴ Boston Edison's third compliance filing consists of Wellesley's and Concord's service agreements with Appendix A (specifications for LNS service) and Appendix B (application for LNS service).

¹ *Boston Edison Co.*, 110 FERC ¶ 61,262 (2005).

² *Boston Edison Co.*, 110 FERC ¶ 61,261 (2005).

³ *Boston Edison v. FERC*, Case No. 04-2590 (1st Cir. 2004).

⁴ Original Sheet Nos. 200-13.

3. Notice of the compliance filing was published in the *Federal Register*, 70 Fed. Reg. 22,304 (2005), with interventions and protests due on or before May 10, 2005. On May 10, 2005, Concord filed a protest with respect to the correctness of information Boston Edison included in Concord's Appendix B and comments requesting clarification of Appendix B's rate change provision and service agreement section 4(c).

II. Discussion

4. Boston Edison's April 19 filing generally complies with our two March 8, 2005 orders and is conditionally accepted subject to the revisions required by this order.

A. Concord's Appendix B

5. Appendix B is intended, as stated in the April 19 compliance filing, to include information from Concord "in support of the applicant's request for Network Transmission Service under the Company's Tariff No. 8." Boston Edison's Appendix B states that Concord anticipates LNS load of 30 MVA at Maynard over the next 10 years. Concord contends that its LNS load currently exceeds 30 MVA and may be expected to reach 60 MVA at Maynard. It is important for the service agreement to reflect currently forecasted LNS service. Boston Edison must revise its Appendix B to reflect 60 MVA.

6. Appendix B's paragraphs 16 and 17 require, respectively, attachments evidencing Concord's corporate viability and other unspecified information related to the application. Concord contends that, since Boston Edison has not included such attachments in its filing, the Commission should require Boston Edison to designate both questions as "not applicable" or to file the requested information. Boston Edison must revise its responses to incorporate the appropriate response to paragraphs 16 and 17.

7. The second paragraph of paragraph 19 provides that

Applicant understands that the Company shall have the right, at any time, unilaterally to file for a change in any of the provisions of this Schedule in accordance with section 205 of the Federal Power Act and the Commission's regulations.

8. Concord argues, however, that Boston Edison does not have the unilateral right to file any change in the LNS service agreement that would reduce or eliminate Concord's 26 MVA exemption from LNS charges acknowledged in section 9 of its service agreement. Concord proposes language that would deny Boston Edison the right to file for changes in "rates, or terms and conditions of LNS service to the extent that such change is unlawful or would modify in any way the rights of Concord" pursuant to its agreements with Boston Edison.

9. Our prior orders in this proceeding recognized Concord's contractual right to a prospective exemption from full LNS charges for the first 26 MVA.⁵ Boston Edison's pending compliance filing incorporates that exemption. If, in the future, Boston Edison should file proposed revisions to its LNS service agreement, such filing would be subject to the Commission's regulatory review under section 205. Given that Boston Edison's future section 205 filing may, in fact, not propose to nullify Concord's right to an LNS exemption up to 26 MVA, there is no reason to require Boston Edison at the current time to incorporate Concord's proposed language.

B. Concord's Service Agreement Termination Provision

10. Service agreement section 4(c) provides

The Company or the Transmission Customer may terminate the current LNS service (*i.e.*, local network service under this Service Agreement) upon two years advance written notice.

11. Concord asks the Commission to clarify that, if the Commission's orders in this proceeding are affirmed on judicial appeal, Boston Edison would be precluded from filing a notice of termination in order to charge Concord for the first 26 MVA of LNS service. In a prior order, the Commission required a two-year notice of termination because the Towns need service over 115 kV, non-Pool Transmission Facilities (PTF) to access the New England Power Pool's PTF facilities.⁶ Termination, like any other proposed rate change under section 205, would be subject to Commission review; Boston Edison would have to comply with the requirements of section 35.15 of the Commission's regulations.⁷ The Commission would address any proposed termination at that time.

C. Wellesley's Service Agreement

12. An incorrect reference appears in Wellesley's service agreement. In Attachment 1 (delivery points) to Wellesley's service agreement Appendix A (specifications for LNS

⁵ *Boston Edison Co.*, 107 FERC ¶ 61,248 at Ordering Paragraph (B)(2), *reh'g denied and compliance filing accepted subject to revisions*, 108 FERC ¶ 61,276 at P 34 (2004).

⁶ *Boston Edison Co.*, 108 FERC ¶ 61,276 at P 22 (2004).

⁷ 18 C.F.R. § 35.15 (2005).

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service), Boston Edison refers to delivery points as set forth in Transmission Service Agreement Appendix A and in Article 9(*iv*) of Appendix A. Boston Edison must correct the reference to read Article 9(*vi*) of Appendix A.

The Commission orders:

(A) Boston Edison's April 19, 2005 compliance filing is hereby conditionally accepted and clarified as discussed in the body of this order.

(B) Within 30 days from the date of issuance of this order, Boston Edison is hereby directed to file a fourth, revised compliance filing consistent with the discussion in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.