UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

ISO New England Inc.	)	**Docket No. OA08-58**

NOTICE OF INTERVENTION AND COMMENTS
OF
THE MAINE PUBLIC UTILITIES COMMISSION

The Maine Public Utilities Commission ("MPUC"), by and through counsel, Lisa Fink, State of Maine Public Utilities Commission, 242 State Street, 18 State House Station, Augusta, Maine 04333-0018, and Lisa S. Gast, Duncan, Weinberg, Genzer & Pembroke, P.C., 1615 M Street, NW, Suite 800, Washington, DC 20036, respectfully files this Notice of Intervention and Comments in the above-captioned proceeding regarding the December 7, 2007 filing of ISO New England ("ISO-NE"). The MPUC's comments are limited to the provisions in Attachment K relating to cost allocation.

I. PRELIMINARY STATEMENT

This Notice of Intervention and Comments is filed pursuant to Rules 211 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("Commission"), 18 C.F.R. §§ 385.211 and 385.214 (2007), and the Commission's December 20, 2007 Notice of Extension of Time.

The persons to whom correspondence, pleadings, and other papers in relation to this proceeding should be addressed and the persons whose names are to be placed on the Commission's official service list are designated as follows pursuant to Rule 203, 18 C.F.R. § 385.203 (2007):

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II. NOTICE OF INTERVENTION

Under Maine law, the MPUC is the state commission designated by statute with jurisdiction over rates and service of electric utilities in the state. *See* 35-A M.R.S.A. § 101 *et seq.* It is, therefore, a "state commission" under the Commission's regulations, 18 C.F.R. § 1.101(k) (2007). Accordingly, the MPUC hereby gives notice of its intervention pursuant to the Commission's Rule 214(a)(2), 18 C.F.R. § 385.214(a)(2)(2007).

III. BACKGROUND

Order 890[1] sets forth the following principles for cost allocation of new transmission projects to provide greater certainty and support for the construction of new transmission infrastructure:

> First, we consider whether a cost allocation proposal fairly assigns costs among participants, including those who cause them to be incurred and those who otherwise benefit from them. Second, we consider whether a cost allocation proposal provides adequate incentives to construct new transmission. Third, we consider whether the proposal is generally supported by state authorities and participants across the region.
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> These three factors are interrelated. For example, a cost allocation proposal that has broad support across a region is more likely to provide adequate incentives to construct new infrastructure than one that does not. The states, which have primary transmission siting authority, may be reluctant to site regional transmission projects if they believe the costs are not being allocated fairly. Similarly, a proposal that allocates costs fairly

[1] *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 Fed. Reg. 12,266 (Mar. 15, 2007), FERC Stats. & Regs., Regulations Preambles ¶ 31,241 (2007).

> to participants who benefit from them is more likely to support new investment than one that does not. Adequate financial support for major new transmission projects may not be obtained unless costs are assigned fairly to those who benefit from the project.

Id. at P 559-560. FERC also stressed the importance of having a methodology that is understood upfront to reduce the potential for litigation of cost allocation and to provide certainty to the project sponsors. *See id.* at P 561.

ISO-NE does not propose any changes to its existing cost allocation methodology. It states:

> Specifically, Schedule 12 describes the cost allocation treatment of upgrades, modifications or additions to the New England Transmission System. As discussed earlier, the ISO-NE OATT identifies various categories of upgrades that address potential situations warranting needs and provides the transmission cost allocation for each upgrade. Under the current methodology, only two types of upgrades qualify as Regional Benefit Upgrades and can receive recovery through regional rates from transmission customers taking service under the ISO-NE OATT. Those two types are Reliability Transmission Upgrades and Market Efficiency Transmission Upgrades. Reliability Transmission Upgrades are those upgrades that are necessary to ensure continued reliability of the regional system. Market Efficiency Transmission Upgrades are those upgrades designed to provide a net reduction in total production cost to supply the system load. The current methodology also excludes from region-wide cost support projects or components of projects that do not provide system-wide benefits. Under Schedule 12 and 12C, ISO-NE "localizes" costs even for Regional Benefit Upgrades to the extent they exceed the reasonable requirements for upgrades. Furthermore, the methodology provides for costs associated with upgrades that do not meet the criteria specified in the ISO-NE OATT for PTF, to be directly allocated to the local beneficiaries as Local Benefit Upgrades.
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> The approved cost allocation rules are consistent with the three factors that Order No. 890 states will be considered by the Commission when it evaluates a cost allocation dispute. Importantly, pursuant to Section 3.04 of the TOA, the PTOs and not ISO-NE have the Section 205 rights over the current methodology for the allocation of transmission upgrade costs. The TOA also imposes stringent limitations on attempts to change the methodology by providing that neither ISO-NE nor the PTOs have Section

> 205 filing rights to propose amendments to the current methodology during a five-year period ending January 31, 2010.

Transmittal Letter at 33.

IV. COMMENTS

The Transmission Cost Allocation Provisions of ISO-NE's Order 890 Filing Do Not Provide Incentives for Transmission Siting in Resource States.

The MPUC recently issued the draft of a legislative report, entitled "Draft Final Report Pursuant to 'A Resolve to Direct the Public Utilities Commission to Examine Continued Participation by Transmission and Distribution Utilities in this State in the New England Regional Transmission Organization.'"[2] In that report, the MPUC found that ISO-NE's current cost allocation methodology did not promote "the development and delivery of the diverse resources that the region needs." Draft Report at 24. One of three options presented in the draft report was market reform of the existing ISO-NE market. Part of the market reform would involve addressing inequities and inefficiencies in the current cost allocation methodology. Specifically, the report stated:

> In broad outline, reform of the transmission cost allocation regime within New England should proceed along the following lines:
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> First, the long term objective should be to move to a coherent and economically rational system of cost assignment. As articulated in more detail in section 2.a. below, both fairness and economic efficiency are better served when costs are recovered in proportion to the benefits received. It is simply not the case, for example, that customers in Maine benefit to any significant extent from system upgrades intended to preserve reliability in southern Connecticut, or vise-versa, notwithstanding the fact that Maine and Connecticut are interconnected within the New England bulk transmission system. While the identification of the principal beneficiaries in terms of reliability and economic benefits may be complex, achieving a reasonable approximation of relative benefits should not be beyond the competence of the engineers and economists in

[2] The draft report can be found at http://www.maine.gov/mpuc/staying_informed/hot_topics.html.

> the New England market. Moreover, other jurisdictions have developed FERC-approved methodology that accomplishes this result.
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> Second, in light of the practical difficulties of achieving quickly the objective of a cost assignment regime that recognizes the widely different level of benefits obtained by different groups of customers from any particular transmission project, there should be immediate recognition, within the existing cost assignment regime, of the regional value for reliability of projects that will increase the availability of diverse generation (including especially renewable generation that will assist all of New England in meeting RGGI and related goals). It would be anomalous even within the current regime, for example, to deny regional cost recovery treatment to a line built within Maine that had the effect of substantially increasing the ability of power produced by wind and other renewable generation in Maine and the Maritimes provinces to reach markets in southern New England.

Report at 32-33. Because of the critical impact of these issues on transmission development, as recognized by the Commission in Order 890, see Order 890 at P 557-561, and the fact that the current methodology inhibits development of infrastructure in resource states, the Commission should direct ISO-NE to develop a plan to address both the short term and long term issues related to transmission cost allocation.

V. CONCLUSION

For the reasons stated hereinabove, the MPUC requests that the Commission direct that direct ISO-NE address the short-term and long-term transmission cost

allocation issues as set forth herein.

Dated: January 7, 2008

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the service list compiled by the Secretary in this proceeding either by U.S. Mail or electronic service, as appropriate. Dated at Washington, D.C., this 7th day of January 2008.

/s/ Harry A. Dupre
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