

# MEMORANDUM

**TO:** RTO Responsiveness and Governance Working Group Members  
**FROM:** Scott Myers, NEPOOL Counsel  
**DATE:** January 29, 2009  
**RE:** Maine Inquiry Regarding Continued Participation of Maine Utilities in ISO-NE

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Related to the planned agenda for the Working Group's January 30, 2009 meeting, this memorandum provides an update on the Maine Public Utilities Commission's ("MPUC's") *Investigation of Maine Utilities Continued Participation in ISO-NE* in MPUC Docket 2008-156. In a January 8 memorandum, we reported on the status of that proceeding, which was opened in response to the directives of the Maine Legislature, to explore the advisability of the continued participation by Maine's utilities in the New England RTO arrangements. There, we reported on the December 16, 2008 MPUC Staff Recommended Decision, which concluded at the highest level that continued participation was preferred but that the arrangements needed to be modified. Since that report, the MPUC has considered the Recommended Decision and on January 16 issued an order ("MPUC Order") that essentially adopted the conclusions and recommendations of Staff in the Recommended Decision relevant to the issues being discussed by the Working Group tomorrow. Those recommendations included conclusions and findings that the current ISO-NE arrangements were deficient in the areas of transmission cost containment, transmission cost allocation and governance.<sup>1</sup>

Particularly relevant to the Working Group discussion tomorrow, the MPUC Order notes that, because the ISO-NE Objectives do not include ensuring that "costs are reasonable or the need to choose the most cost effective alternatives," cost containment is not part of the ISO-NE review process for transmission system infrastructure development. Based on this, the MPUC Order concludes that the "lack of consumer or cost focus by the ISO coupled with the flawed transmission cost allocation and cost containment mechanisms discussed [in the Order] are detrimental to Maine ratepayers." (MPUC Order at 48-49) The Order states that reform is required both to transmission cost allocation and cost containment, and that a necessary "first step" in achieving such reforms to address Maine's concerns "is to change the mandate, focus and culture of the ISO by incorporating language in the governing documents of ISO-NE to explicitly include costs as a factor to be considered in decisions about reliability." (MPUC Order at 53) The MPUC Order, however, does not identify any specific language or any specific provisions of the ISO-NE governing documents which should be changed.<sup>2</sup>

We plan on providing a more detailed summary of the MPUC Order, but are awaiting first the outcome of the January 29, 2009 public hearing regarding the MPUC Order by the Maine Legislature's Utilities and Energy Committee. The detailed summary will include a report on that hearing as well, to the extent relevant to the issues before this Working Group.

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<sup>1</sup> A copy of the MPUC Order can be obtained from the MPUC website at: [http://mpuc.informe.org/easyfile/cache/easyfile\\_doc213150.DOC](http://mpuc.informe.org/easyfile/cache/easyfile_doc213150.DOC). A copy of the Recommended Decision can be obtained from the MPUC website at: [http://mpuc.informe.org/easyfile/cache/easyfile\\_doc212377.DOC](http://mpuc.informe.org/easyfile/cache/easyfile_doc212377.DOC). A copy of our January 8, 2009 memorandum is posted at [http://www.iso-ne.com/committees/comm\\_wkgrps/othr/rto/mtrls/background\\_information\\_MPUC\\_Proceeding.pdf](http://www.iso-ne.com/committees/comm_wkgrps/othr/rto/mtrls/background_information_MPUC_Proceeding.pdf) on the ISO-NE website.

<sup>2</sup> These modifications to ISO-NE's "mission" statement would be coupled with certain governance reforms identified in the MPUC Order that are designed to increase representation and consideration of consumer interests in ISO-NE's decision-making process that will be discussed in a future memorandum.