

LAW OFFICES  
**BALLARD SPAHR ANDREWS & INGERSOLL, LLP**

601 13TH STREET NW, SUITE 1000 SOUTH  
WASHINGTON, DC 20005-3807  
202-661-2200  
FAX: 202-661-2299  
WWW.BALLARDSPAHR.COM

ATLANTA, GA  
BALTIMORE, MD  
BETHESDA, MD  
DENVER, CO  
LAS VEGAS, NV  
LOS ANGELES, CA  
PHILADELPHIA, PA  
PHOENIX, AZ  
SALT LAKE CITY, UT  
VOORHEES, NJ  
WASHINGTON, DC  
WILMINGTON, DE

July 15, 2009

**VIA ELECTRONIC FILING**

The Honorable Kimberly D. Bose  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, DC 20426

**Re: Central Maine Power Co., Docket No. ER09-938-000;  
Motion to Intervene Out-of-Time and Comments of ISO New England Inc.**

Dear Secretary Bose:

Transmitted electronically for filing in the referenced docket is the Motion to Intervene Out-of-Time and Comments of ISO New England Inc.

If there are any questions concerning this filing, please call me at (202) 661-2205.

Very truly yours,

*/s/ Howard H. Shafferman*

Howard H. Shafferman  
Counsel for  
ISO New England Inc.

Enclosure

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

**Central Maine Power Co.**

)

**Docket No. ER09-938-000**

**MOTION TO INTERVENE OUT-OF-TIME  
AND COMMENTS OF ISO NEW ENGLAND INC.**

Pursuant to Rules 212 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (the “Commission”), 18 C.F.R. § 385.212 and 214 (2006), ISO New England Inc. (the “ISO” or “ISO-NE”) moves to intervene out-of-time in the above-captioned proceeding solely to submit the following comments responding to one aspect of the Comments and Supplemental Protest of New England Consumer-Owned Systems (“NECOS”) to Response of Central Maine Power Company to Deficiency Letter, filed in this proceeding on June 30, 2009 (the “NECOS Comments”). The ISO’s comments will ensure that the Commission has a correct understanding of the ISO’s stakeholder processes. The ISO takes no position on the merits of this proceeding or of other arguments presented in the NECOS Comments.

**I. COMMUNICATIONS**

Correspondence and communications regarding this filing should be addressed to the undersigned as follows:

Theodore J. Paradise\*  
Senior Regulatory Counsel  
ISO New England Inc.  
One Sullivan Road  
Holyoke, MA 01040-2841  
Tel: (413) 535-4000  
Fax: (413) 535-4379  
E-mail: [tparadise@iso-ne.com](mailto:tparadise@iso-ne.com)

Howard H. Shafferman  
Ballard Spahr Andrews & Ingersoll, LLP  
601 13<sup>th</sup> Street, N.W., Suite 1000 South  
Washington, D.C. 20005  
Tel: (202) 661-2200  
Fax: (202) 661-2299  
E-mail: [hhs@ballardspahr.com](mailto:hhs@ballardspahr.com)

\*Persons designated for service

## **II. IDENTITY OF THE ISO**

The ISO is the independent, non-profit entity that serves as the regional transmission organization (“RTO”) for New England. The ISO administers the New England energy markets and operates the New England bulk-power system pursuant to the ISO New England Inc. Transmission, Markets and Services Tariff (“ISO Tariff”)<sup>1</sup> and the Transmission Operating Agreement with the New England transmission owners. As pertinent in this proceeding, the ISO also administers the Regional System Planning process under Attachment K of the ISO OATT, and the localized cost review process under Schedule 12C of the ISO OATT.

## **III. MOTION TO INTERVENE OUT-OF-TIME**

Pursuant to Rule 214 of the Commission’s Rules of Practice and Procedure, the ISO moves to intervene out-of-time, in order to provide comments responding to one aspect of the NECOS Comments that inaccurately depicts the nature of a stakeholder advisory action taken with respect to the Maine Power Reliability Program (“MPRP”).

In considering motions for late intervention under the standards of Rule 214(d), the Commission “may consider: whether the movant had good cause for not filing timely; any

---

<sup>1</sup> Capitalized terms used but not otherwise defined in this motion have the meanings ascribed thereto in the ISO Tariff. The ISO’s Open Access Transmission Tariff (the “ISO OATT”) is Section II of the ISO Tariff.

disruption of the proceeding that might result from permitting intervention; whether the movant's interest is adequately represented by other parties; and whether any prejudice to, or additional burden on, existing parties might result from permitting the intervention.”<sup>2</sup> Applying these factors to the instant matter, and because the ISO has a clear and unique interest in ensuring the correct characterization of its stakeholder processes, the Commission should grant the ISO's motion to intervene.

First, the ISO had good cause for not intervening earlier. Until the NECOS Comments injected, on June 30, an incorrect characterization of a particular advisory action taken by the ISO's stakeholders, the ISO had no reason to intervene. Second, no disruption would result from a grant of the motion, as this proceeding is in its early stages, and the Commission has yet to issue a dispositive order.<sup>3</sup> Third, the ISO's interests are not adequately represented by other parties, given its required independence and its unique roles, as described in Section II above. Fourth, grant of the motion will not result in any prejudice to, or burden on, existing parties.

#### **IV. COMMENTS**

The NECOS Comments, on page 4, state:

On May 19, 2009, the NEPOOL Reliability Committee voted ... to decline to recommend to [ISO-NE] that the MPRP be designated as Pool Transmission Facilities (“PTF”) for purposes of regional allocation of transmission costs... . Absent affirmative action by ISO-NE contrary to the advisory vote of the NEPOOL Reliability Committee, which has not occurred as of the date of this filing, there is no basis for modifying the revenue requirement formula rate in Attachment F of the ISO-NE [OATT]. This is because the

---

<sup>2</sup> *Erie Boulevard Hydropower, L.P.*, 117 FERC ¶ 61,189 at P 30 (2006).

<sup>3</sup> Therefore, the ISO need not meet the higher burden established by the Commission for when late intervention is sought after the issuance of a dispositive order, where “the prejudice to other parties and burden upon the Commission of granting late intervention may be substantial.” *Southwest Power Pool, Inc.*, 109 FERC ¶ 61,009 at P 13 (2004).

Attachment F formula rate only applies to the recovery of PTF costs, and CMP's MPRP has not been accorded PTF status at this time.

The foregoing text misstates the nature of the vote taken by the NEPOOL Reliability Committee on May 19, 2009. The ISO hopes that the following explanation of the vote will provide the correct context for the Commission's consideration of the merits of the proceeding, on which (as noted above) the ISO takes no position.

A "Pool Transmission Facility" (or PTF) is one that meets the technical specifications reflected in Section II.49 of the ISO OATT. That section of the ISO OATT does *not* provide for advisory voting by NEPOOL committees on whether a particular proposed facility meets those technical specifications and is therefore PTF. Thus, the NECOS Comments are inaccurate in stating that the NEPOOL Reliability Committee declined, on May 19, 2009, to recommend to the ISO that the MPRP be "designated as [PTF]" for regional transmission cost allocation purposes. Instead, the advisory vote taken by that committee stems from the provisions of Schedule 12C of the ISO OATT, which sets forth the process by which the NEPOOL Reliability Committee provides "advisory input"<sup>4</sup> to assist the ISO in determining whether any of the costs associated with Regional Benefit Upgrades ("RBUs") are Localized Costs.

Under Schedule 12C, costs of RBUs determined by the ISO to be Localized Costs<sup>5</sup> (following advisory input from the NEPOOL Reliability Committee) do not constitute "Pool Supported PTF" costs, that is, those costs that are collectible on a New England-wide regional

---

<sup>4</sup> ISO OATT, Schedule 12C, § 1.

<sup>5</sup> The costs of RBUs that exceed reasonable requirements (based on Good Utility Practice and the current engineering design and construction practices in the area in which the Transmission Upgrade is built) are considered Localized Costs. *See* ISO OATT, Schedule 12C, § 1. *See also* ISO Planning Procedure No. 4 (posted on the ISO website at [http://www.iso-ne.com/rules\\_proceeds/isone\\_plan/pp4\\_0\\_r3.doc](http://www.iso-ne.com/rules_proceeds/isone_plan/pp4_0_r3.doc)).

basis through the formula rate in Attachment F of the ISO OATT. To be an RBU, as defined in Section II.1.119 of the ISO OATT, a Transmission Upgrade must: (i) be rated 115kV or above; (ii) meet all of the non-voltage criteria for PTF classification specified in this OATT; and (iii) be included in the Regional System Plan as either a Reliability Transmission Upgrade or an Market Efficiency Transmission Upgrade identified as needed pursuant to Attachment K of the ISO OATT.<sup>6</sup> The MPRP meets the foregoing RBU criteria,<sup>7</sup> including compliance with the technical specifications for PTF status.

With this background, the events of May 19, 2009 may be properly summarized for the Commission as follows. The MPRP, as an RBU, has been undergoing ISO “Localized Cost” review under Schedule 12C of the ISO OATT. The project proponent – CMP – sought the “advisory input” of the NEPOOL Reliability Committee that a specified amount of the costs of the MPRP should be considered Pool Supported PTF costs – in other words, that none of those costs should be considered Localized Costs. A motion to provide that advisory input failed to receive the required level of support from NEPOOL Reliability Committee. The ISO is considering this advisory input, and has not yet made its final Localized Costs determination.

## **V. CONCLUSION**

Wherefore, for the foregoing reasons, the ISO respectfully requests that it be permitted to intervene in, and be made a party to, the subject proceeding, although it takes no position on the

---

<sup>6</sup> Thus, it is possible for a new transmission facility to meet the technical definition of PTF (due to its identity as an RBU), but have few or none of its costs considered Pool Supported PTF costs collectible under Attachment F of the ISO OATT.

<sup>7</sup> The MPRP was developed in the Regional System Plan process to address a reliability need set out in a needs assessment.

merits of the proceeding. The ISO also asks the Commission to consider the limited comments provided herein.

Respectfully submitted,

/s/ Howard H. Shafferman  
Howard H. Shafferman  
Ballard Spahr Andrews & Ingersoll, LLP  
601 13<sup>th</sup> Street, N.W.  
Washington, D.C. 20005  
(202) 661-2200

/s/ Theodore J. Paradise  
Theodore J. Paradise  
Senior Regulatory Counsel  
ISO New England Inc.  
One Sullivan Road  
Holyoke, MA 01040  
(413) 535-4000

Date: July 15, 2009

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in these proceedings.

Dated at Washington, D.C. this 15th day of July, 2009.

/s/ Pamela S. Higgins

Pamela S. Higgins

Ballard Spahr Andrews & Ingersoll, LLP

601 13th Street, N.W., Suite 1000 South

Washington, D.C. 20005

(202) 661-2258