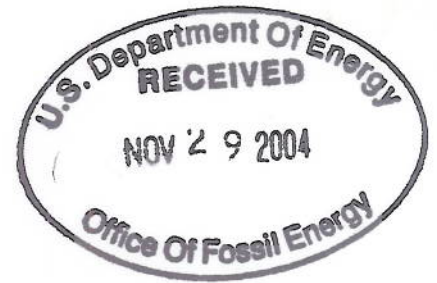


Day, Berry & Howard LLP

COUNSELLORS AT LAW

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November 29, 2004

VIA HAND DELIVERY

Mr. Anthony J. Como
The Department of Energy
Office of Coal and Power Systems (FE-27)
Office of Fossil Energy
1000 Independence Avenue, S.W.
Washington, DC 20585

Re: ISO New England Inc.; Docket No. EA-298

Dear Mr. Como:

Pursuant to the Department of Energy's Notice of Application dated November 8, 2004, the New England Power Pool ("NEPOOL") Participants Committee hereby submits its Petition to Intervene and Comments in the above-referenced docket.

Very truly yours,

A handwritten signature in black ink that reads "Eric K. Runge".

Eric K. Runge
Counsel to New England Power Pool
Participants Committee

EKR/MRC
Enclosure

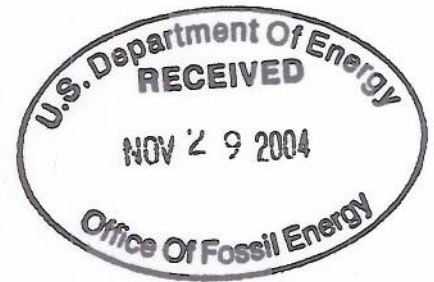
cc: James H. Douglass
Perry D. Robinson

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UNITED STATES OF AMERICA
THE DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY



ISO New England Inc.

)

Docket No. EA-298

**PETITION TO INTERVENE AND COMMENTS OF NEW ENGLAND
POWER POOL PARTICIPANTS COMMITTEE**

(November 29, 2004)

Pursuant to the Department of Energy's ("DOE") Notice of Application¹ and Rule 214 of the Federal Energy Regulatory Commission's ("FERC") Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2004),² the New England Power Pool ("NEPOOL") Participants Committee³ moves on behalf of the NEPOOL Participants to intervene in the captioned docket regarding the October 4, 2004 application (the "October 4 Filing") by ISO New England Inc. ("ISO-NE") to obtain authorization to export electric energy from the United States to Canada. ISO-NE proposes in that application to export power at transmission interconnection points located at the border between Maine and New Brunswick, and from the United States to Hydro-Quebec, the provincial electric utility of the Province of Quebec, Canada, and any and all other points of interconnection between New England and Canada. In the October 4 Filing, ISO-NE also seeks recognition from the DOE of its transition to a FERC-approved Regional Transmission Organization ("RTO") for New England and the need for any export authorizations granted to ISO-NE to remain effective once the transition to an RTO has been completed.

¹ Application to Export Electric Energy; ISO New England Inc., 69 Fed. Reg. 65,416 (Dep't Energy Nov. 12, 2004).

² *See id.*

³ Capitalized terms used but not defined in this filing are intended to have the meanings given to such terms in the Restated New England Power Pool Agreement ("Restated NEPOOL Agreement" or "Agreement") or the Restated NEPOOL Open Access Transmission Tariff ("NEPOOL Tariff" or "Tariff").

NEPOOL on behalf of its members currently possesses the export authority that has been needed for maintaining reliability among the regions, and ISO-NE's request would not alter that authority. When the RTO is activated, ISO-NE seeks authority on its own behalf also to make such exports. NEPOOL supports ISO-NE's request.

I. DESCRIPTION OF NEPOOL

NEPOOL is a voluntary association organized in 1971 pursuant to the Restated NEPOOL Agreement, and it has grown to include more than 230 members. Participants in NEPOOL include electric utilities authorized to operate in the states of Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, and Maine and generators or power marketers or other entities that are engaged in the electric power business in New England. These Participants are subject to DOE jurisdiction pursuant to Part II of the Federal Power Act. Participants in NEPOOL also include entities that are end users or are state authorities or municipal or cooperative system which are not subject to the DOE's jurisdiction under Part II of the Federal Power Act, and therefore, are not intervenors here.

NEPOOL does not own, operate or control any electric power generation, transmission or distribution facilities. While the Restated NEPOOL Agreement contains understandings concerning the planning, dispatch and operation of bulk power facilities owned by Participants in the six New England states, NEPOOL itself does not hold any franchise service territory for the transmission, distribution or sale of electric power.

NEPOOL's operations are governed by the Restated NEPOOL Agreement. Pursuant to that Agreement, the individual Participants act collectively through the NEPOOL Participants Committee.⁴ Transactions under the Restated NEPOOL Agreement are administered by ISO-NE

⁴ See Restated NEPOOL Agreement § 7.5.

under an agreement between ISO-NE and the NEPOOL Participants, as authorized by FERC. Under the ISO-NE Agreement, ISO-NE is the Control Area Operator for New England, which is a single control area (except for an electrically isolated portion of Northern Maine). In addition, ISO-NE is responsible for scheduling transmission service over virtually all of the bulk power transmission and generation facilities in New England.

II. COMMUNICATIONS

All correspondence and communications in this proceeding should be addressed to:

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NEPOOL Participants Committee
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III. BACKGROUND

For many years now, NEPOOL, acting on behalf of the NEPOOL Participants, has had authorization from the DOE to export electric energy over Phase I of the high-voltage, direct-current interconnection between New England and Quebec. Specifically, the DOE granted authority to NEPOOL to export unlimited volumes of electric energy to Hydro-Quebec at a maximum rate of transmission of 725 megawatts.⁵ After Phase II of the high-voltage, direct-current interconnection between New England and Quebec was constructed,⁶ NEPOOL, acting

⁵ Presidential Permit PP-76EA was issued on September 16, 1988 to amend Presidential Permit PP-76, which was issued on April 5, 1984.

⁶ Phase I and II together are referred to hereafter as the Phase I/II Interconnection. The Phase I/II Interconnection was constructed in two phases in the 1980s, and has a combined nominal transfer capability of 2000 megawatts ("MW"). The initial phase of the interconnection facilities ("Phase I") consists of a bi-polar 450kV high voltage, direct current ("HVDC") transmission line from the vicinity of

on behalf of the NEPOOL Participants, sought and received authorization from the DOE to export electric energy over the Phase I/II Interconnection at a maximum amount of 2000 MW.⁷

Additionally, in 1998, the DOE authorized NEPOOL to export electric energy to Canada at a maximum rate of 200 megawatts in response to requests from Hydro-Quebec for emergency assistance.⁸ In 2002, the DOE granted NEPOOL additional authority to export emergency electric energy to New Brunswick, Canada, at a maximum rate of 500 megawatts using the transmission line owned by Maine Electric Power Company (“MEPCO”) at Houlton, Maine.⁹ ISO-NE currently administers electricity exports from New England to Canada pursuant to the grants of export authority issued by the DOE to NEPOOL. ISO-NE, however, has acted solely as agent for NEPOOL Participants and has not had title to any of the power exported. Nor has ISO-NE held any export authorization on its own behalf.¹⁰

In addition to the export authorizations that NEPOOL holds on behalf of the NEPOOL Participants, NEPOOL is aware of some entities that hold individual export authorizations from the DOE for exports over the Phase I/II Interconnection.

Des Cantons Substation on the Hydro-Quebec system near Sherbrooke, Quebec, to a converter terminal having a nominal rating of 690 MW in the vicinity of and interconnected with the Comerford Generating Station’s Substation on the Connecticut River in New Hampshire. A subsequent phase of construction (“Phase II”) augmented the nominal transfer capability of the interconnection facilities to 2000 MW through construction of an extension of the HVDC transmission line from the vicinity of the Comerford Generating Station through New Hampshire to a new converter terminal facility adjacent to and interconnected with the Sandy Pond Substation in Ayer, Massachusetts.

⁷ In Order EA-76-C, issued February 19, 1993, the DOE authorized NEPOOL to export electric energy in the amount of up to 2000 MW over the Phase I/II Interconnection.

⁸ In Order EA-186, the DOE authorized NEPOOL to export the energy to Canada only over the 345,000-volt (345-kV; operated at 120,000 volts) international transmission line authorized by Presidential Permit PP-82.

⁹ Order EA-186-A. The MEPCO transmission line is authorized by Presidential Permit PP-43.

¹⁰ October 4 Filing at 3.

In the October 4 Filing, ISO-NE states that it has been informed by DOE staff that the DOE policy of permitting exports to Canada pursuant to authorizations held solely by NEPOOL and not ISO-NE has been reevaluated.¹¹ Accordingly, ISO-NE requests that the DOE issue an authorization for emergency exports from New England to New Brunswick.¹² ISO-NE requests that such an authorization permit ISO-NE to administer deliveries of all exports, both emergency and market-based transactions, of up to 500 MW to the New Brunswick system through transmission facilities owned by MEPCO at the border between the United States and Canada.¹³ ISO-NE also requests that the DOE grant it authorization for exports of power (emergency and market-based) from New England to Hydro-Quebec across the New England transmission system.¹⁴ In support of that request, ISO-NE states that it will ensure that all necessary arrangements have been made and any and all other regulatory approvals required in order to effect any power exports have been obtained, including scheduling each transaction with the appropriate control area in compliance with all reliability criteria, standards and guidelines of the North American Reliability Council (“NERC”).¹⁵

Further, ISO-NE requests that the DOE grant it blanket authorization to administer any proposed export of electric energy from New England to Canada, provided that it does so in a manner that is consistent with reliability protections relating to exports of electricity from New England to Hydro-Quebec and New Brunswick.¹⁶ Finally, ISO-NE requests that, in issuing an

¹¹ *Id.*

¹² *Id.* at 7.

¹³ *Id.*

¹⁴ *Id.* at 9.

¹⁵ *Id.*

¹⁶ *Id.* at 10.

order on its application for export authority, the DOE explicitly recognize the commencement of ISO-NE's operations as an RTO and provide for the continuation of the export authorizations requested by ISO-NE upon commencement of its operations as RTO for New England.¹⁷

IV. NEPOOL'S GROUNDS FOR INTERVENTION

NEPOOL has an interest that will be directly affected by the outcome of this proceeding, as specified in FERC Rule 214(b).¹⁸ The power to be exported to Canada will be provided by the NEPOOL Participants under the terms and conditions of the NEPOOL Tariff and the Restated NEPOOL Agreement. Furthermore, electricity exports to Canada may have an impact on the continued reliability of the New England transmission system. Under these circumstances, NEPOOL has a direct and substantial interest in the instant proceeding that cannot be adequately represented by any other party. Accordingly, NEPOOL's timely motion to intervene should be granted.

V. COMMENTS

ISO-NE's application for export authority does not change in any way the export authorization now held by NEPOOL and, for that reason, NEPOOL does not oppose that application. Similarly and for the same reason, NEPOOL does not oppose ISO-NE's request that the DOE recognize its transition to an RTO and that any export authorizations granted to ISO-NE remain effective once the transition to an RTO has been completed. It would be helpful and potential future confusion would be avoided if, in any grant of export authorization, the DOE includes confirmation that such export authority does not in any way interfere with¹⁹ or

¹⁷ *Id.* at 6.

¹⁸ 18 C.F.R. § 385.214(b) (2003).

¹⁹ NEPOOL requests that the DOE authorization for ISO-NE explicitly recognize that the granting of it does not increase or decrease the specific export limitations under the existing grants of export authority to NEPOOL and other individual entities.

supersede the export authority that NEPOOL holds on behalf of the NEPOOL Participants, or that any individual entity holds on behalf of itself, regarding any and all of the transmission interconnections between New England and Canada.²⁰

VI. RELIEF REQUESTED

WHEREFORE, for the reasons stated herein, NEPOOL requests that the DOE grant its timely motion to intervene in the captioned docket and consider the comments provided herein.

Respectfully submitted,
NEPOOL Participants Committee

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Its Attorneys

Dated: November 29, 2004

²⁰ The Interconnection Rights Holders Management Committee (the “IRH Management Committee”) supports NEPOOL’s position. The IRH Committee is the committee that has been formed to coordinate and further the collective interests of the Interconnection Rights Holders (“IRHs”). The IRHs are the various public utilities and non-jurisdictional utilities that have the contractual obligation to pay for the United States portion of the Phase I/II Interconnection and, in exchange for that obligation, hold the rights to the transmission capacity of United States portion of the Phase I/II Interconnection. The IRH Management Committee has the authority and responsibility to oversee the Interconnection Agreement between NEPOOL and Hydro-Quebec regarding the Phase I/II Interconnection.

CERTIFICATE OF SERVICE

I hereby certify that on November 29, 2004, I caused fifteen copies of the foregoing document to be served upon the Office of Coal & Power Systems (FE-27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585-0350, one copy upon James H. Douglass, Senior Regulatory Counsel, ISO New England Inc., One Sullivan Road, Holyoke, MA 01040-2841, and one copy upon Perry D. Robinson, Ballard Spahr Andrews & Ingersoll, LLP, 601 13th Street, NW, Suite 1000 South, Washington, DC 20005.

Dated at Hartford, Connecticut this 29th day of November, 2004.



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