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**US Department of Energy**

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APR 11 2011

**Electricity Delivery and  
Energy Reliability**

April 5, 2011

Office of Electricity Delivery and Energy Reliability (OE-20)  
United States Department of Energy  
1000 Independence Avenue, S.W.  
Washington, D.C. 20855

Re: *International Transmission Company*, Docket No. PP-230-4  
Out of Time Petition to Intervene and Comments of  
Baltimore Gas and Electric Company

Dear Sir or Madam:

Enclosed for filing in the above-referenced proceeding, please find an original and 14 copies of the "Out of Time Petition to Intervene and Comments of Baltimore Gas and Electric Company."

Also, please find enclosed an extra copy of the filing, which we request that you date-stamp and return in the enclosed, self-addressed, stamped envelope.

Very truly yours,

  
Gary E. Guy

GEG:jdb

cc: All Parties on Official Service List

**United States of America  
Before the  
Department of Energy**

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<b>INTERNATIONAL TRANSMISSION</b>	)	
<b>COMPANY d/b/a</b>	)	<b>Docket No. PP-230-4</b>
<b>ITC TRANSMISSION</b>	)	

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**OUT OF TIME PETITION TO INTERVENE AND COMMENTS OF  
BALTIMORE GAS AND ELECTRIC COMPANY**

Pursuant to the Notice issued herein on February 4, 2009 by the Department of Energy ("DOE"), Baltimore Gas and Electric Company ("BGE") hereby respectfully submits the following petition to intervene and comments.

**PETITION TO INTERVENE**

BGE designates the following individuals to receive service of all filings made in this proceeding:

J. Andrew Dodge  
Vice President, Transmission  
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BGE is an electric distribution and transmission company regulated by the Federal Energy Regulatory Commission ("FERC") and the Maryland Public Service Commission. BGE is an indirect subsidiary of Constellation Energy Group, Inc., which is a corporation organized under the laws of the State of Maryland, and whose principal place of business is located at 100 Constellation Way, Baltimore, Maryland 21202. BGE is engaged in, among other things, the distribution, transmission and retail sale of



electricity. Of particular significance to this proceeding, BGE is a transmission owner member of PJM Interconnection, L.L.C. ("PJM"), a Regional Transmission Owner, and the largest grid operator in the United States of America.

By its Notice, the DOE announced the application by International Transmission Company, d/b/a *ITCTransmission* ("ITC") for an amendment of a Presidential Permit to construct, operate, maintain and connect electric transmission facilities across the United States international border with Canada. According to the Notice, one of the proposed amendments is to replace a failed 675-MVA phase angle regulator ("PAR"), a phase-shifting transformer, with two 700-MVA PARs, which connect the Bunce Creek Station, located in Marysville, Michigan, with Ontario Hydro One's Scott Transformer Station, located in Sarnia, Ontario (identified as the B3N facility).

As an electric distribution company and transmission owner member of PJM, BGE will be directly affected by the outcome of this proceeding, as it will have an impact on its rates and services. In addition, BGE will not be adequately represented by any other party to this proceeding. Accordingly, it is necessary that BGE's petition to intervene be granted in order that its interests may be fully protected.

BGE recognizes that its petition to intervene is being submitted out-of-time. BGE submits that good cause exists for allowing it late intervention because it will accept the record as it presently exists and no party will be adversely affected. In addition, BGE was unaware of the significance of this proceeding until recently, and then took action to file this pleading. It is now apparent to BGE that the proposed amendment is detrimental to BGE and all other transmission owners located in the 13-state PJM Region, particularly in light of a filing at FERC to allocate costs to all PJM rate zones

submitted on October 10, 2010, as is more fully discussed in the Comments below.

Further, BGE seeks to become a party in order to comment on upcoming matters to be taken up in this proceeding that are not yet ripe for DOE review as the proposed ITC-Ontario Hydro joint operating agreement to govern the proposed PARs has not yet been filed by ITC. Accordingly, the timing of BGE's petition to intervene is of no moment for purposes of the issues to be raised by BGE. For all of these reasons, BGE requests that its petition to intervene be granted and that its comments below be permitted to be filed.

### **COMMENTS**

The cost allocation of the proposed PAR facilities has become a contested issue in FERC Docket No. ER11-1894. *Midwest Indep. Transmission Sys. Operator, Inc.* ("MISO"), 133 FERC ¶ 61,275 (2010). Specifically, the issue presented to FERC is: Whether the cost of the two new proposed PARs at the Michigan-Ontario Border to alleviate loop flow in the Lake Erie Region should be allocated between MISO's ITC rate zone, the New York Independent System Operator ("NYISO"), and PJM (the latter at a proposed 19.5 percent allocation) as filed by MISO? The issue at DOE concerns whether to prevent any loop flows across the international border, with the potential increase in congestion costs imposed on the PJM rate zones projected by PJM to be at least \$12 million per year (on top of the facility cost allocation proposal at FERC). BGE, along with other PJM transmission owners, and PJM have opposed the unilateral allocation of PAR costs by MISO before FERC since PJM entities are taking no FERC-jurisdictional service from MISO and have not entered into any agreement to share these costs, and MISO's proposal unfairly excludes MISO load outside of the ITC rate



zone while including all of the PJM load. The NYISO has also protested the pending filing at FERC.

These cost allocation issues are not before the DOE, but the DOE will have before it in this proceeding a proposed joint operating agreement between ITC and Ontario Hydro that has not yet been filed but which has a direct bearing on the issues before FERC. Once ITC files its proposed joint operating agreement between ITC and Ontario Hydro, BGE submits that its terms and conditions should be examined both at the DOE and at FERC as these provisions will inform the determination of just and reasonable rate treatment of the proposed facilities.

Specifically, if the PARs are approved in a Presidential Permit for the purpose of preventing *any* loop flows across the Michigan-Ontario border at all times, including ***periods of no congestion*** on Canadian systems, this could cause increased costs to PJM and NYISO transmission systems in return for no benefit. The entire benefit would appear to redound to ITC and Ontario Hydro, but be subsidized by American load in non-ITC service areas.

These types of practical considerations are among the reasons that the DOE has delegated to FERC authority to modify and condition such Presidential Permits. *Enron Power Marketing, Inc. v. El Paso Electric Co.*, 83 FERC ¶ 61,213, 61,942 (1998) (FERC modifications to border facility Presidential Permits are intended “to provide for open access transmission service over facilities covered by the Presidential Permits and to regulate the rates, terms and conditions for such service.”). In line with this delegation authority, BGE believes that the DOE should expressly delegate to FERC the loop flow avoidance terms and conditions of the to-be-filed proposed joint operating agreement

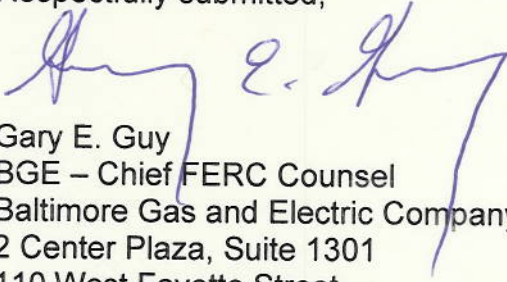
because of its bearing on the cost allocation issues related to these proposed facilities that are currently before FERC.

BGE further joins PJM in its March 25, 2011 petition to intervene and comments, wherein it has requested the DOE to convene a technical conference and otherwise provide for comments once the proposed joint operating agreement is filed herein.

**CONCLUSION**

WHEREFORE, BGE requests that this petition for leave to intervene be granted, and that once the proposed joint operating agreement between ITC and Ontario Hydro is filed, the DOE (1) refer that document to FERC under delegation authority; (2) convene a technical conference, and (3) provide for additional comments all addressing the combination of congestion costs and facilities cost allocation before any final determination is made with respect to the requested Presidential Permit amendment.

Respectfully submitted,



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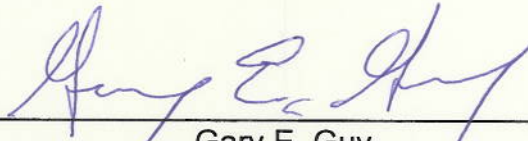
On Behalf of Baltimore Gas and Electric Company

April 5, 2011

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing "Petition to Intervene and Comments of Baltimore Gas and Electric Company" upon each person designated on the official service list in this docket.

Dated at Baltimore, Maryland this 5th day of April 2011.



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Gary E. Guy

On Behalf of Baltimore Gas and Electric Company