

APR 20 2011

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF ELECTRICITY DELIVERY AND ENERGY RELIABILITY

International Transmission Company)
d/b/a ITCTransmission)

Docket No. PP-230-4

ANSWER OF INTERNATIONAL TRANSMISSION COMPANY d/b/a
ITCTransmission TO LATE MOTION TO INTERVENE OF THE NEW YORK
TRANSMISSION OWNERS

On April 5, 2011, a group of eight companies (the "New York TOs") that own the transmission facilities operated by the New York Independent System Operator jointly filed an untimely motion to intervene in this proceeding. International Transmission Company d/b/a ITCTransmission ("ITC") hereby responds to the New York TOs' motion as follows:

I. INTRODUCTION

In this proceeding, ITC has applied to amend its Presidential Permit No. PP-230-3, pursuant to which it owns and operates electric transmission facilities on the U.S./Canada border connecting with facilities owned by Hydro One Networks, Inc. ("Hydro One"). Specifically, ITC seeks authority to install and operate two 700 MVA phase angle regulating transformers ("PARs") at its Bunce Creek Substation at Marysville, Michigan. The new PARs will replace a 675 MVA PAR which failed while in service in 2003. ITC's application to amend its permit was filed on January 5, 2009 and was noticed by the Department of Energy ("DOE") on February 4, 2009 (74 Fed. Reg. 6606 (Feb. 10, 2009)). The New York TOs did not seek to intervene in this proceeding at that time. They now maintain, however, that they will be affected by the operation of the new PARs and seek leave to intervene on that basis. (Motion at 3).

II. DISCUSSION

As indicated above, ITC's application in this case was noticed over two years ago, on February 4, 2009, with a return date of March 12, 2009. The New York TOs' request for leave to intervene, therefore, is obviously grossly out of time. They have not specifically addressed the reasons for their failure to file a timely intervention request. All they have said in that regard is that they "became aware during a recent settlement conference" at the Federal Energy Regulatory Commission ("FERC") "that ITC intends to submit ... operating agreements" for the PARs in this proceeding (Motion at 3). Their apparent previous unawareness of that fact, however, is clearly not an adequate excuse for their tardiness. Like everyone else, the New York TOs were on notice of ITC's application to DOE in this case once it was duly noticed in the Federal Register in February, 2009. Lack of awareness of the issues, including "reasonably foreseeable issues arising from the applicant's filings" does not excuse failure to intervene on a timely basis. *See, e.g. Pacific Gas and Electric Company*, 127 FERC ¶ 61, 264, at 62,155, and cases cited therein. Here, given that the application involved the installation and operation of facilities, it was obviously "reasonably foreseeable" that operational issues would be addressed and that operational documents would ultimately be submitted. The New York TOs, therefore, cannot reasonably point to their failure to recognize that operational matters could arise as an excuse for their failure to intervene timely.

In addition, the New York TOs' claim that their late intervention will not prejudice other parties is not correct. (Motion at 4). As their motion makes clear, their primary interest regarding the PARs relates to the PARs cost allocation proposal that is being addressed in Docket No. ER11-1844 at the FERC. They should pursue their concerns about cost allocation at the FERC, not in this proceeding. Attempting to inject such non-germane concerns into this case

would confuse the issues and be burdensome to the existing parties, burdensome to the stakeholders of the systems that will be damaged by continued loop flow during any delay caused by the New York TOs raising such issues, and burdensome to DOE itself. In these circumstances, the New York TOs' request to intervene in this case out of time should be denied.

III. CONCLUSION

For the reasons set forth above, the untimely motion to intervene filed in this case by the New York TOs on April 5, 2011 should be denied.

Respectfully submitted,

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Dated: April 20, 2011

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CERTIFICATE OF SERVICE

I hereby certify that I have caused a copy of the foregoing document to be served on each person on the attached list on this 20th day of April 2011.

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