UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

New England Power Pool and ISO New England Inc.	**)** **)**	**Docket No. ER02-2330-000**

NOTICE OF INTERVENTION, COMMENTS AND PROTEST OF THE MAINE PUBLIC UTILIES COMMISSION

In accordance with Rules 211 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (Commission),[1] the Maine Public Utilities Commission (MPUC) hereby submits its notice to intervene, comments and protest in the above-captioned proceeding.

I.

MPUC designates the following persons for service and communications with respect to this matter and requests that their names be placed on the official service list for this case:

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[1] 18 C.F.R. § 385.214 (2000).

II.

Under Maine law, the MPUC is the state commission designated by statute with jurisdiction over rates and service of electric utilities in the state. *See* 35-A M.R.S.A. § 101 *et seq.* Accordingly, the MPUC hereby provides its notice of intervention pursuant to 18 C.F.R. § 385.214(a)(2).

III.

On July 15, 2002, the New England Power Pool (NEPOOL) Participants Committee, joined by ISO New England Inc. (ISO-NE), submitted Market Rule 1 and related materials for filing at the Commission. The filing states that Market Rule 1 contains comprehensive changes to the NEPOOL arrangements to adopt for New England a revised wholesale market design, commonly referred to in New England as the "standard market design," for the implementation of locational marginal pricing and a multi-settlement system. Market Rule 1 would replace NEPOOL's existing Market Rules.

While in general MPUC supports the filing of rules to implement locational marginal pricing and a multi-settlement system, MPUC protests NEPOOL's failure to eliminate the socialization of: 1) costs from reliability must run contracts and (2) transmission upgrade costs.

<u>Socialization of RMR Contract Costs</u>. NEPOOL acknowledges that its filing is incomplete in that it proposes no changes to the Market Rule 17 method for allocation of costs of reliability must run contracts entered into for the benefit of congested regions. The socialization of such costs was approved by the Commission on an interim basis in *Sithe New Boston, LLC*, 98 FERC ¶ 61,164 (2002). However , the Commission held that continued socialization of these costs was permissible only as a "stopgap" measure and

directed "ISO-NE and/or NEPOOL to propose a revised methodology in their SMD filing." *New England Power Pool*, 99 FERC ¶ 61,324 at 62,375 (2002) (cited at page 29 of the NEPOOL Transmittal letter).

The Commission's directive notwithstanding, NEPOOL states that its members were unable to "achieve consensus on whether these [congestion] costs should be broadly allocated or allocated only to the Reliability Region affected by the RMR arrangement." NEPOOL Filing, Transmittal Letter at 30. So rather than comply with the Commission's directive, it chose to "present the two debated options for Commission resolution." *Id.*

Whether NEPOOL members could "achieve consensus" on how congestion costs should be allocated is of course irrelevant. When the Commission finds that NEPOOL must make a filing, "[c]ompliance with these findings is not subject to further review by the NEPOOL membership." *ISO New England, Inc*., 91 FERC ¶ 61,311 at 62,081 (2000). While the Commission's order literally requires NEPOOL to propose "*a* revised methodology," there is no doubt as to its meaning. The interim methodology provides for socialization of costs from RMR contracts. A "*revised* methodology" necessarily contemplated something different – an end to socialization of such costs.

Further in a filing made on July 22, 2002, ISO-NE recommends that such costs be assigned to the local congested regions. ISO-NE provides the following reasons for its recommendation:

- First allocation of RMR costs to local reliability areas is consistent with the economic principle that efficiency is enhanced by requiring entities that cause costs to be incurred to pay those costs. In this case, the ISO must increase the output of relatively expensive generation to support load in a local area. It thus makes sense to allocate those costs to that load.

- Second, localized allocation is consistent with the tenets underlying the theory of locational marginal pricing ("LMP"): the right price signals are necessary for markets to run efficiently, and those signals must apply the costs to the local regions that cause them. The instant market rule changes include, as a large component, conversion to LMP pricing. It thus makes sense to allocate these costs locally as well.
- Finally, the current ISO market is proof of the problems that can arise when signals are hidden in socialized uplift and a single regional clearing price. *Local consumers will only face an incentive to reduce consumption (or allow additional generation or transmission to be sited through local siting processes), if they are required to bear the costs of not reducing consumption or taking other actions to minimized congestion.*

Comments of ISO-New England, filed on July 22, 2002 (emphasis added). The MPUC agrees with ISO-NE's comments and notes that the ISO's recommendation is consistent with the policy previously addressed by the Commission:

> [I]t is essential that the ISO implement a new CMS that relies on market mechanisms to establish price signals that will serve to allocate constrained transmission to the highest valued uses and give generation an incentive to locate in appropriate areas. Given the circumstances in New England, *socialization of congestion costs does not send the correct price signals to transmission customers or market participants for the siting of new transmission facilities or new generation.*

ISO New England, Inc., supra, 91 FERC at 62,072 (2000) (emphasis added). Consistent with its earlier orders, the Commission should require ISO-NE to make a compliance filing that allocates RMR contract costs to the local congested area served by the RMR units.

Socialization of Transmission Upgrade Costs. The Commission has also expressed the same concern about the allocation of system upgrade costs as it has about the allocation of congestion costs. NEPOOL's filing, however, is silent with respect to this issue.

Most recently, in *New England Power Pool*, 98 FERC ¶ 61,173 (2002), the Commission accepted,

> as a default mechanism for the allocation of transmission and expansion costs when the parties cannot agree on who benefits from the upgrade, NEPOOL's proposal to use the distinction between PTF (pool transmission facilities) and non-PTF facilities, *solely for the interim period until LMP can be fully developed for New England*. The Commission also allowed quick fix and NEMA costs to be socialized during that *interim* period.

ISO New England, Inc., 100 FERC ¶ 61,029 at 61,077 (2002) (citing *New England Power Pool, et al.*, 98 FERC ¶61,173 (2002)(emphasis added)). The Maine Public Utilities Commission (MPUC) and the Vermont Department of Public Service (VDPS) then asked the Commission to clarify that this proposed default cost allocation will be terminated as soon as LMP is implemented in New England. The Commission agreed. As in the case of congestion costs, the Commission clarified that the socialization of upgrade costs (other than reliability-related upgrades) was to terminate with ISO-NE's or NEPOOL's SMD filing:

> We agree that continuation of NEPOOL's socialized cost allocation methodology may be inappropriate once LMP is implemented, as LMP does not socialize costs, but allows parties to see and respond to market signals in planning and locating transmission upgrades. Accordingly, we will require ISO-NE and/or NEPOOL to propose a revised default

> cost allocation methodology in ISO-NE's or NEPOOL's SMD filing consistent with an LMP scheme.")

ISO New England, Inc., 100 FERC at 61,078. NEPOOL's failure to propose a revised default allocation methodology for transmission upgrades contravenes the Commission's plain directive. Accordingly, the Commission should order the ISO to make the requisite compliance filing since NEPOOL seems incapable or unwilling to do so.

Other Issues. NEPOOL's filing raises a number of other issues that require more extensive analysis than is permitted within the time period set for intervention. For this reason, the MPUC anticipates amending its filing to address additional issues warranting comment.

IV.

WHEREFORE, MPUC respectfully submits its notice of intervention in the captioned proceeding and requests that the Commission grant the relief requested herein.

Respectfully submitted,

MAINE PUBLIC UTILITIES COMMISSION

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Dated: August 5, 2002

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document by first class mail upon each party on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C., this 5th day of August, 2002.

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M. Denyse Zosa