

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

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

**ANSWER OF MAINE PUBLIC UTILITIES COMMISSION,
MASSACHUSETTS DEPARTMENT OF
TELECOMMUNICATIONS AND ENERGY, RHODE ISLAND PUBLIC
UTILITIES COMMISSION, RHODE ISLAND DIVISION OF PUBLIC
UTILITIES AND CARRIERS AND THE ATTORNEY GENERAL OF THE
STATE OF RHODE ISLAND
TO MOTIONS FOR CLARIFICATION
OF THE CONNECTICUT DEPARTMENT OF PUBLIC UTILITY CONTROL,
ISO NEW ENGLAND, INC., NEW ENGLAND POWER POOL AND ISO NEW
ENGLAND, NORTHEAST UTILITIES SERVICE COMPANY, NATIONAL
GRID AND UNITED ILLUMINATING COMPANY AND
VERMONT ELECTRIC POWER COMPANY**

In accordance with Rule 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”),¹ the Maine Public Utilities Commission (“MPUC”), the Massachusetts Department of Telecommunications and Energy (“MDTE”), the Rhode Island Public Utilities Commission, the Rhode Island Division of Public Utilities and Carriers and the Attorney General of the State of Rhode Island² (collectively MPUC) hereby submit their answer to the Motions for Clarification

¹18 C.F.R. § 385.213 (1999). This answer addresses only motions for clarification not requests for rehearing and thus is permitted under the Commission’s rules. *Louisiana Public Service Comm’n et al. v. Entergy Services, Inc.*, 68 FERC ¶61,355 at 62,422 –23 (1994).

²As a member of NECPUC, an intervenor in this case, the Rhode Island Public Utilities Commission has followed these proceedings but has not separately intervened. Nor have the Rhode Island Division of Public Utilities and Carriers or the Attorney General of Rhode Island. In light of the requests for clarification submitted in these proceedings however, it is apparent that Rhode Island’s particular interests may be affected. Accordingly, pursuant to Rule 214, the Rhode Island Public Utilities Commission, the Rhode Island Division of Public Utilities and Carriers and the Attorney General of the State of Rhode Island (collectively “Rhode Island”) move to intervene out of time in these proceedings. Rhode Island submits that there is good cause to grant it late intervention and that, since Rhode Island is joining in the answer submitted by the other parties to this pleading, no party will be prejudiced by Rhode Island’s participation.

of the Commission's September 20 Order in the above docket, *New England Power Pool*, 100 FERC ¶ 61,287 (2002) ("September 20 Order") filed by the Connecticut Department Of Public Utility Control (CTDPUC), ISONewEngland, Inc. (ISO-NE), New England PowerPool (NEPOOL) and ISONewEngland, Northeast Utilities Service Company (NU), National Grid and United Illuminating Company (UI) And Vermont Electric Power Company. As shown below, these various motions would, if granted, (1) undermine the principles of Locational Marginal Pricing (LMP) in New England by retreating to an unnecessary, anachronistic and unfair system for the recovery of costs of transmission upgrades, and (2) unreasonably further delay the implementation of LMP. The Commission should reject these efforts to subvert the operation of market rules that the Commission has already found, correctly, to be essential for the operation of a robust and efficient wholesale electricity market.

I. The Commission's Orders Relating to Standard Market Design in New England Leave No Need for the "Clarification" Sought Here.

The Commission's September 20 Order brings New England close to the end of an arduous and lengthy journey toward the implementation of a locational marginal pricing congestion management system and a day-ahead market. This journey began with the Commission's orders approving wholesale competition in NEPOOL, the creation of ISONewEngland and the approval of the NEPOOL market rules. As early as 1998, the Commission required NEPOOL to develop a congestion management system and multi-settlement system. *New England Power Pool*, 85 FERC ¶ 61,379 at 62,462 (1998). NEPOOL continually delayed making the required filing due to the inability of the various stakeholders to reach agreement on key points. Finally, on March 31, 2000,

the ISO submitted a system proposing (1) the implementation of a system of locational marginal pricing (LMP) and (2) the implementation of a day-ahead market.

On June 28, 2000, the Commission issued an Order Conditionally Accepting Congestion Management and Multi-Settlement Systems. *ISO New England, Inc.*, 91 FERC ¶61,311 (2000) (June 28 Order). Among other things, the Commission directed the ISO to:

- explore ways to implement LMP more quickly than its projected implementation time frame which would have had LMP in place between January and June 2002 and
- file a revised default allocation mechanism for the costs of transmission expansion that assigns cost of upgrades to those who benefit to the extent they can be identified whether an upgrade is classified as an “economic” or a “reliability” upgrade.

In a subsequent order, the Commission found that NEPOOL had failed to comply with the Commission’s June 28 Order regarding a transmission cost allocation methodology that allocated costs of transmission upgrades to those who benefited from the upgrade assuming beneficiaries can be identified:

The June 28 Order required ISO-NE to assign expansion costs to those parties who benefit from their expenditure, to the extent those parties can be identified. For costs that cannot be directly assigned, we directed ISO-NE (or NEPOOL) to develop an objective, non-discriminatory default mechanism for allocating transmission and expansion costs similar to the mechanism now in place for PJM.

NEPOOL in its compliance filing, *continues to insist that any cost associated with a quickfix project or a NEMA upgrade will automatically be regarded as a pool-wide expense that cannot be directly assigned. We reject NEPOOL’s classification as unsupported according to the principles in the June 28 Order.* NEPOOL describes quickfix projects and NEMA upgrades as projects that typically promote reliability by reducing the likelihood of congestion in its system. *NEPOOL does not explain how the NEMA and quickfix projects provide system-wide benefits that cannot be directly assigned to beneficiaries, nor does it explain how assigning costs for NEMA and quickfix projects to the pool corresponds to an objective, non-discriminatory default cost allocation mechanism.*

ISO New England, 95 FERC ¶61,384 at p.62,439 (2001) (emphasis added). The Commission directed NEPOOL to make a filing that is compliant with the June 28 Order.

Id.

In spite of this language, NEPOOL persisted in incorporating the socialization of transmission upgrades in its compliance filing. The Commission accepted the socialization *on an interim basis only until the implementation of LMP*, and acknowledged that socialization of the costs of all transmission projects classified as *PTF* is inconsistent with an LMP pricing methodology:

NEPOOL has chosen to use the distinction between PTF and non-PTF facilities as its default cost allocation mechanism. This is not identical to the mechanism used in PJM, but it is not entirely dissimilar. *Further, the Commission is mindful that whatever mechanism is selected for New England now, that mechanism will be superseded once a standard market design is applied to the future Northeastern RTO. Thus, for this interim period until that market design is put into place, the Commission will accept NEPOOL's distinction between PTF and non-PTF facilities as a default cost allocation method for upgrades. The Commission recognizes that, as TransEnergie points out, this mechanism does not send price signals that would encourage the siting of new generation in congested areas. For this interim period until the development of a standard market design for the Northeast, however, all congestion costs will be socialized in any case: the financial incentive to sit new generation in congested areas will not become meaningful until the imposition of LMP begins to allocate the costs of congestion to the parties who cause it. Thus, LMP and an appropriated default cost allocation method go hand in hand to use market forces to relieve congestion, and since we are currently in an interim period until LMP can be fully developed for New England, it makes sense also to accept NEPOOL's proposed PTF/non-PTF distinction solely for that same interim period.*

As to quick fixes and NEMA upgrades, *given that the Commission is now revisiting this particular issue for the third time*, what has become apparent is that (a) NEPOOL and/or ISO-NE are unwilling or unable to state any more clearly than they already have why quick-fix and NEMA upgrades benefit the entire pool, and (b) even parties such as TransEnergie, who oppose pool support for quick-fix and NEMA

upgrades, do not dispute that these upgrades will benefit the entire pool. *In fact, because the quickfixes and NEMA upgrades have relieved congestion in New England and congestion costs are recurrently being socialized across the pool, all of the participants have benefited from the quickfix and NEMA upgrades.*

The Commission also notes that in its February 23 Order, it has already ruled that the costs of quickfixes should be recovered “in the same manner as congestion costs are recurrently recovered,” *i.e.* socialized throughout the pool. Since the February 23 Order, circumstances have not changed—LMP has not yet been implemented, and congestion costs continue to be socialized. *Under these circumstances, in order to bring closure to this contentious issue, the Commission will allow socialization of quickfix and NEMA costs during this interim period.*

ISO New England, Inc., 98 FERC ¶61,173 at 61,647 (2002) (emphasis added).

Upon the motion for clarification filed by the MPUC and the Vermont Department of Public Service (VDPS) asking that the Commission clarify that it meant that the interim period would be over upon implementation of a standard market design in New England if that happened before one was implemented as part of a Northeastern RTO, the Commission stated:

The Commission grants the request filed by MPUC/VDPS, and finds that the interim default cost allocation mechanism for transmission cost upgrades should be reviewed when *LMP in New England is proposed*, but in an appropriate Section 205 or Section 206 proceeding. *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 ¶61,029 at 61,078 (2002) (emphasis added).

When neither ISO -NE nor NEPOOL filed the required *revised* cost allocation methodology for transmission upgrades as part of their SMD filing as required by the Commission’s July 3, 2002 order, the MPUC protested the filing and asked the

Commission to order the ISO -NE or NEPOOL to file a new cost allocation methodology consistent with an LMP scheme. September 20 Order at 100 FER Cat 62,285 -86. The Commission granted the MPUC request:

The Commission will grant the Maine Commission's request. Now that NEPOOL is implementing LMP, parties will be able to see more readily which areas would most benefit from transmission upgrades, and what party or parties will most benefit. It is, therefore, appropriate to require those parties to bear the costs of these new upgrades. NEPOOL has in fact stated that it anticipates eliminating the socialization of the costs of transmission upgrades to provide for a mechanism for cost allocation that is consistent with LMP. As we have previously stated in our CMS/MSS orders, we will require ISO -NE to develop a mechanism which, in situations where the parties cannot agree as to who benefits from the upgrade, provides an objective non-discriminatory default cost allocation mechanism that is consistent with cost causation.

Id. at 62,286.

In the same order, the Commission agreed with the MPUC, the ISO and numerous other parties that argued in support of Option One for the assignment of the costs of Reliability Must Run (RMR) contracts. Under this option, RMR costs are assigned to the reliability region in which they occur. The Commission concluded that localized allocation (as opposed to socialization) of RMR costs is consistent with an LMP system:

In a single settlement market, with system-wide pricing and lacking congestion management, socialization of the RMR fixed costs was deemed appropriate as a temporary allocation method. This was reinforced in an order dated June 14, 2002 accepting proposed tariff revisions to NEPOOL Market Rule 17. We agree, however, with those intervenors who assert that socializing costs of RMR agreements obscures price signals and distorts market results.

We reject CTAG's assertion that the benefits of RMR agreements inure to the grid and should be treated similarly to transmission costs. RMR costs represent the known (and short-term) costs of addressing congestion in identified regions during a specified time period. We find VPPSA's concern for stability inapplicable here as the Commission's orders establishing the current allocation *have characterized the current allocation methodology as a "stopgap" and "interim" measure until*

NEPOOL and ISO -NE were able to implement a new market design including LMP.

Braintree would wait until sufficient infrastructure to support competition exists to localize RMR costs. We find, however, that without proper price signals to attract transmission projects and generation resources, infrastructure improvements will be slower not forthcoming at all.

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We find that RMR fixed costs represent costs of relieving congestion in specific regions and therefore should be reflected in the cost of energy in those regions. Numerous commission orders, noted by the intervenors, indicated that the socialization of costs is inconsistent with an economically efficient market.

Id. at 62,270. Accordingly, the Commission directed ISO -NE to adopt Option one for the allocation of RMR costs.

II. The Commission's Orders Regarding Cost Allocation Reject PTF Classification as a Basis for Allowing Socialization Except as an Interim Measure Until LMP Implementation.

NEPOOL, ISO -NE, the CTD PUC, NU, National Grid and UI (hereinafter "the complaining parties") ask the Commission to clarify that (1) allowing socialization of transmission upgrades is inconsistent with an LMP cost allocation system and (2) transmission upgrades constituting pool transmission facilities or that improve reliability and relieve congestion will continue to be socialized across pool participants. *See, e.g.*, CTD PUC Request at 2. Contrary to these requests, however, the Commission has already rejected PTF classification as a basis for socialization once LMP is implemented, and the Commission has already rejected the distinction between a reliability and an economic upgrade. *ISO New England, Inc.*, 95 FERC ¶61,384 at 62,435 (2001). The Commission has, instead, required that costs of transmission upgrades be allocated to the parties that

benefit from the upgrade or cause them need for the upgrade (in proportion to the benefits they receive), as long as these parties can be identified. *Id.*

Parties that suggest that socialization, as a default mechanism after LMP implementation, is still an open question ignore the clear language and holdings of the Commission's orders on this question. The Commission has *required* NEPOOL to file a *different* cost allocation methodology from the current socialization of PTF designated facilities. While the Commission orders do not rule out that, following an appropriate determination (for example, that the particular project cannot be shown to benefit any particular zone or region as opposed to the system as a whole), socialization might be appropriate, the Commission has clearly rejected the current "socialization by default" approach as inappropriate in an LMP environment.

In its June 13, 2001 Order, the Commission stated:

The June 28 Order required ISO-NE to *assign* expansion costs to those parties who benefit from their expenditure, to the extent those parties can be identified.

NEPOOL in its compliance filing continues to insist that any cost associated with a quick fix project of NEMA upgrade will *automatically* be regarded as a pool wide expense that cannot be directly assigned. We reject NEPOOL's classification as unsupported according to the principles in the June 28 Order.

ISONewEngland, Inc., 95 FERC ¶61,384 at 62,436 (2001) (emphasis added).

The Commission further ruled in a subsequent order that the current cost allocation methodology would be "superceded" upon the implementation of LMP and that "LMP and an appropriated default cost allocation method go hand in hand to use market forces to relieve congestion," *ISONewEngland, Inc.*, 98 FERC ¶61,173 at

61,646(2002) (June 13 Order), and that a new cost allocation methodology would be required upon implementation of LMP. Therefore, the Commission clearly has already rejected NEPOOL's refrain that cost causation principles are addressed by simply socializing costs that are designated as PTF. Further, the Commission has *specifically* ruled that socialization of a transmission upgrade, without any determination of who benefits from the upgrade, *is* inconsistent with an LMP pricing scheme. ISO and NEPOOL's motions for clarification amount to nothing more than a continuation of their defiance of the Commission's June 28, 2000 and subsequent orders. *See* June 13 and September 20 Orders, *supra*.

Thus, while the MPUC does not object to a short period (consistent with the extended deadline for SMDNOPR comments) to reach stakeholder consensus on *how* the mechanism should assign costs to the areas that benefit from the transmission upgrade, NEPOOL and ISO should not be given another opportunity to avoid compliance with Commission Orders by reiterating the claim, already rejected by the Commission, that a cost mechanism that simply socializes all transmission upgrades (or even all PTF facilities) *is* consistent with an LMP pricing scheme. Because this issue has been addressed in the June 28, 2000 Order and subsequent orders on compliance filings, there is a need only for compliance, not clarification.

³Since filing its motions for clarification, ISO-NE has set up a "stakeholder" forum to try to develop consensus on a new cost allocation methodology for transmission expansions. We view this as a useful first step; though a failure to reach consensus cannot excuse a failure to comply with the Commission's orders.

⁴In this regard, there is no merit to the claim that there must be yet another section 205 filing and Commission order finding the current scheme to be unjust and unreasonable. The Commission's June 28 Order found the ISO's proposed cost allocation methodology unreasonable and also found that the existing cost allocation methodology was reasonable *only until the implementation of LMP*. June 28 Order, 91 FERCat62,060. A new proceeding would accomplish nothing more than another unwarranted delay in complying with the Commission's orders.

III. The ISO's Regional Expansion Plan Makes Clear That Any SWCT Transmission Upgrade Is For The Purpose Of Relieving Congestion And Improving Reliability In Southwestern Connecticut.

The CTDPU CarguesthattheCommission'sSeptember20Orderwouldlocalize thecostsofprojects“thatbenefitallpoolparticipants.”CTDPUCRequestat13.

AccordingtoConnecticut,thecostoftransmissionupgrades“thatsupporttheregional grid –bysolvingmarketimperfections,reducingmarketpowerbyeliminatingcongestion, providinglong -termoptionstocustomersandgenerators,andenhancingcustomerchoice ofsupplierandsourceshouldcontinuetobesocializedbythepool.”

TheCTDPUCsimplymisapprehendspriorCommissionorders.TheCommission has *never*foundthattransmissionupgrades,whoseprimarypurposeistorelieve congestionortoimprovereliability *withinaspecificzone* ,benefitsthewholeregionsoas tojustifysocializingthecostsoftheprojectacrosstheregion.Instead,theCommission hassuggestedthatLMPwillmakeitmucheasiertoidentifywhobenefitsfromupgrades.

September20Order,100FERCat62,286. TheISO'sdraftRTEP -02wellillustratesthis concept.InreferencetotheSWCT345kVproject,theRTEP02states:

[T]hisreliabilityUpgradeisrequiredtoprovideanadequatetransmission infrastructureinthesouthwesternregionofConnecticut.... *Although PhaseIandPhaseIIresultinlittleNEPOOLwideLOLEimprovement andlittlereductioninforecastedcongestedcosts,thosereliabilityand congestionanalysismodelingeffortsdonotreflecttheyriadproblems internaltoSWCTthatthisprojectisdesignedtosolve .*

RTEP182(emphasisadded).TheCTDPUCfilingitselfindicatesthattheeasewith whichthebeneficiariescanbeidentified:“LMPaloneisprojectedtocostConnecticut \$125to\$375millionperyearuntiltransmissionfixesareinplace.”CTDPUCRequestat

16.⁵ Clearly, a transmission upgrade that will significantly reduce or eliminate these congestion costs provides a major benefit to Connecticut consumers.

While the possible Southwest Connecticut transmission upgrade presents a relatively easy case in identifying beneficiaries, there may be cases in which where there are both primary beneficiaries and secondary beneficiaries (those who receive a much smaller benefit). In such circumstances, it is the ISO's responsibility to identify such primary and secondary beneficiaries and to allocate the costs of the upgrade accordingly. While the MPUC does not suggest that this is an easy task, it is nevertheless, as the Commission has determined, one that is crucial to ensuring that price signals are consistent with an LMP market.⁶ The ISO's compliance filing required by the Commission's September 20 Order should establish criteria for making such determinations. Further, in light of its failure to comply to date, the ISO should be ordered to issue its proposal no later than January 15, 2003 (even if the stakeholder process has not reached any consensus) so that the new cost allocations system can be in place when LMP is implemented as ordered by the Commission.

⁵The projections for net congestion costs with FTR/ARR revenue allocation are significantly lower in the 2003 through 2007 period than the gross congestion costs cited by CTD PUC, ranging from a low of \$24.4 million to a high of \$53. million. RTEP02 Table 7 -11.

⁶NU suggests that because the relief of the transmission constraint might benefit more distant customers, the cost of the upgrade should be socialized *even when the direct beneficiaries are easily identified*. However, as the Commission has recognized, "[n]ow that NEPOOL is implementing LMP parties will be able to see more readily which areas would most benefit from transmission upgrades, and what party or parties will most benefit." September 20 Order, 100 FER Cat 62, 286 (emphasis added). In so finding, the Commission has recognized that rated design determinations do not and cannot predict very possible beneficiary but still assign costs on the basis of causation with the information available. When it is clear which parties benefit most, non-compliance with the Commission's requirement that costs be assigned to those that benefit from a project is not cured by the suggestion that there may be unidentified beneficiaries at some point in the future.

IV. There is No Basis For Grandfathering the proposed SWCT Transmission or Other Proposed Transmission Upgrades.

The ISO seeks clarification “that a cost allocation mechanism that is ultimately approved by the Commission be prospective in nature only.” By this, the ISO means that “the Commission should not apply future changes to cost allocation mechanisms to those upgrades which are pending in states siting processes at the time the Commission either issues a final Order in this proceeding that would change the cost allocation mechanisms or issues a final Order in the SMD rulemaking that would change the cost allocation mechanisms, whichever occurs first.” Request for Rehearing and Clarification of ISO New England at 18. ISO suggests that costs of projects, such as the SWCT transmission expansion that is currently before a siting agency (albeit temporarily in suspension due to a legislatively imposed moratorium on certain transmission projects siting) should be socialized, even if the project is not yet underway, because the “regulatory uncertainty surrounding the allocation of costs of newly developed transmission upgrades and proposed transmission upgrades under regulatory review may hinder the development of new transmission...” Id.

Similarly, the CTDPUC argues that to the extent the Commission eliminates socialization of transmission upgrade costs, “the Commission [should] clarify as a transition measure, that costs of already identified cost-effective transmission upgrades in Southwestern Connecticut (SWCT), the Northeast Massachusetts Area (NEMA) area, Southern Maine and Northwestern Vermont will be socialized across the pool.” CTDPUC Request at 14 -15. The CTDPUC argues that since the Commission approved socialization of NEMA, the SWCT projects should “receive the same treatment.” Like ISO, CTDPUC argues that socialization will help the SWCT project to proceed “under a stable framework

as the region transitions into SMD and LMP and RTO or seams reduction between regions.” CTD PUC Request at 15.

These attempts to shoehorn currently contemplated projects into the anachronistic (and no longer supportable) pre-LMP world of socialized costs should be rejected. First, the ISO’s and CTD PUC’s statements that grandfathering the SWCT and other projects on the drawing board in other states are necessary for these projects to move forward is purely conjectural. If a transmission project is economic, i.e., the project’s benefits to a specific area such as reduced costs and/or improved reliability, exceed the project’s costs, then the area that will benefit from the project by having the reduced costs and/or improved reliability has an incentive to invest in it.⁷ Of course there may be other local non-economic concerns or perceived externalities that create opposition to the project. However, the answer to these local concerns is not to shift the cost of the project to consumers who will not benefit from it. If the state regulatory or legislative bodies do not approve the siting of the project, then, under the current allocation of state and federal jurisdiction, ultimately these state authorities are responsible for the ramifications of their decisions.

While the Commission should reject ISO-NE’s and CTD PUC’s attempt to have the SWCT project grandfathered, there is no need to revisit a cost allocation methodology that has already been approved for specific projects, such as the NEMA upgrades, that are now nearing completion. As the Commission noted, socialization of such projects was consistent with the socialization of congestion costs. *ISO New England, Inc.*, 98 FERC ¶

⁷Conversely, under a socialization price scheme if the project is a multi-state transmission project, a state that would receive no benefit from the project but would have to pay a share of the costs of the project would have no incentive to approve the siting of the project.

61,173 at 61,647 (2002). Where these projects reduced congestion costs at a time that these costs were still socialized, the projects did provide a benefit to the entire region. Moreover, the investment and other decisions related to these (completed or nearly completed) projects were made at a time when both the certainty and timing of LMP were less clear. By contrast, projects such as the SWCT or other upgrades that are in the planning or siting stage will be completed well after LMP has taken effect and thus consumers in states where such projects are rebuilt will reap the benefits of cost reductions under LMP, and the many siting and investment decisions that remain to be made with respect to these projects can *and should* be made in anticipation of the price impacts of LMP. Thus, it is wholly inappropriate to “grandfather” socialization of the costs of the SWCT or any other planned upgrade that will benefit consumers in a specific area.

The CTDPU C’s concerns are clear enough. Now that the transition to LMP is finally nearing, it seeks to avoid the cost responsibility that is part and parcel of an LMP system. While its concern is understandable, the CTDPU C’s wish to avoid price impacts that are caused by its consumers is neither consistent with an LMP pricing scheme nor just and reasonable for those consumers who have been subsidizing the higher cost of supplying power in load pockets.⁸

Further, the need for infrastructure in SWCT is not new. Interestingly, it appears that the 345kV loop was first proposed to Connecticut regulators in the 1970s but not

⁸Consumers in all New England states have been paying congestion costs of approximately \$90 million per year since 1999. Thus, this is not a case, as the CTDPU C suggests, of other states getting to benefit from socialized costs while Connecticut is unfairly deprived of such treatment due to the timing of the project. Even if the timing of the project were not in the control of Connecticut regulators and politicians, this argument would still fail. Consumers in areas without congestion paid higher costs caused by consumers in other regions. Further, the Commission’s approval of socialization of the NEMA project was based on its determination that it would benefit the whole region by reducing congestion costs that were socialized under the system then in effect.

pursued at that time. Connecticut Department of Public Utility Control, Investigation into Possible Shortages of Electricity in Southwest Connecticut during Summer Periods of Peak Demand, Docket 02-04-12 (July 3, 2002) (“CT Report on Shortages”) at 4. And, contrary to the representation made in the CTDPUC filing that the Department became aware of the SWCT load pocket only in the last two years, the Department recognized that the southwestern corner of the state “appeared to require some reinforcements in the near future” no later than 1999. *Id.* at 5. In addition, the CTDPUC acknowledged that peak demand in SWCT Connecticut has increased by over 25% over the past decade. *Id.* at 6. Thus, if the situation in Connecticut can be compared to “the Perfect Storm,” as suggested by the CTDPUC, it is a storm that Connecticut politicians, regulators, and electric utility companies have known about for years. Rather than preparing for the storm, the political representatives of the consumers that the CTDPUC asks the Commission to protect from LMP price impacts (at the expense of all other consumers in New England) ⁹ have delayed siting approval of the proposed project with the June 3, 2002 enactment of a moratorium on the approval of any application for electric transmission lines from Bethel to Norwalk until February 1, 2003.

In comparison to Connecticut's non-response to its congestion problems, consider how Massachusetts has responded to its own congestion problems. While SWCT and

⁹ As the Commission must also be aware, Connecticut's per capita income is the highest in the country and Fairfield County in SWCT is among the 10 wealthiest counties in the country in terms of per capita income. Bureau of Economic Analysis (September 2002). Further Connecticut has the highest residential average monthly consumption (711 kwh per month) of the five New England States. In comparison, the average monthly residential consumption of the other New England states ranges from 479 kwh for Maine to 599 kwh for Vermont. Energy Information Administration Electric Sales and Revenue 2000, Table 1, US Average Monthly Bill By Sector, Census Division and State, 2000. In a June 2002 report, the CTDPUC acknowledged “[i]t is generally accepted that strong economic growth in SWCT and the proliferation of air conditioning in residential and commercial settings is driving the peak demand for electricity. The installation of air conditioning is common place in remodeling and new construction and this trend is expected to continue.” CT Report on Shortages at 6. If the Commission backs away from its commitment

NEMA both have experienced significant congestion, Massachusetts has faced up to difficult choices about siting new generation within NEMA. The Massachusetts Energy Facilities Siting Board has approved over 2500 MW of new generation in NEMA since 1999. In addition, since NEPOOL's restructuring, five new gas-fired generators have been constructed and are operating in Maine.

V. The Commission Provided Clear Warnings that the Socialization of RMR Contract Costs would be Allowed Only on an Interim Basis until LMP Implementation.

The CTDPU CarguesthattheCommissionshouldrevisititsrulingoncost allocationofRMRcontractsandclarifyorrevisetheOrdertoextendthe interimcost allocationmethodologynowinplace —socialization—foranadditionalfiveyearperiod. AccordingtotheCTPDUC,afive -yeartransitionperiodisneededbecausehistimeframe “willgiveConnecticutafairportunitytobuildtransmissionupgradesandtotargetits conservationandloadmanagementeffortstoSWCT,”allattheexpenseofother consumers.CTDPUCRequestat10.Inotherwords,theCTDPUCbelievesthatitisfair toimplementlocationalmarginalpricingandrelatedchangessuch aslocalizationof RMRcontractcosts --onlyifconsumersinotherregionssubsidizethecostofsupplying energytotheSWCTloadpocketandsubsidizethecostoftransmissionimprovementsthat willallowcheaperpowertobeimportedintothearea. Oncetheseimprovementsare builtandpricesarereduced(attheexpenseofconsumersinotherstates),theCTDPUC hasnoprobblemwiththeimplementationofLMP.

Connecticut's proposal is unfair to consumers in other regions which have been paying for the high congestion costs in the SWCT region for over two years. Further,

to allowing market forces to drive economic behavior under these circumstances, it is difficult to imagine that commitment ever being honored.

consumers in other states paid the costs of the 2002 SWCT load response program and consumers in areas that do not have load pockets are recurrently paying the costs of reliability must-run contracts even though the benefit of these contracts goes solely to the consumers in the load pockets served by the RMR resource. Connecticut's proposal unfairly extends the subsidization of Connecticut consumers by consumers in other New England states.

VI. The Implementation of Locational Marginal Pricing in New England Should Not Be Delayed Any Longer.

The implementation of LMP is about three years overdue. *See New England Power Pool*, 85 FERC ¶61,379 at 62,462 (1998). While the ISO has worked diligently to develop a workable system once it became clear that NEPOOL would not be able to reach consensus on a plan, the result of the delay is that transmission congestion uplift has cost New England electricity consumers approximately \$90 million per year. Moreover, with the socialization of these costs, the signals for market responses to congestion -- generation, merchant transmission, and demand response -- have been absent.¹⁰ Now Connecticut seeks to expand the transition period for an additional five-year period while it upgrades its transmission system. Under the CTD PUC proposal, LMP may be implemented except that Connecticut will be exempted from paying a locational marginal price.¹¹ The Commission should reject the CTD PUC's self-serving proposal and move

¹⁰Contrary to the assertion of the CTD PUC, the proposal to build a transmission upgrade to relieve the SWCT load pockets is not a "market" response. CTD PUC Request at 9. It is a regulatory response that may be inconsistent with actual market responses such as load response programs.

¹¹Alternatively the CTD PUC suggests that if its consumers have to pay a locational marginal price, they should not also have to pay their own transmission upgrade costs, the cost of their reliability must-run contracts or the cost of their load response programs. The reason why the CTD PUC's requested relief is inconsistent with an LMP pricing scheme and otherwise unfair to consumers in other states is discussed above.

forward with the implementation of an LMP congestion management system on March 1, 2003.

Respectfully submitted,

MAINE PUBLIC UTILITIES COMMISSION

By: _____

Lisa Fink
State of Maine
Public Utilities Commission
242 State Street
18 State House Station
Augusta, ME 04333 -0018
(207) 287 -1389

Harvey L. Reiter
John E. McCaffrey
STINSON MORRISON HECKER LLP
1150 18th Street, N.W.
Suite 800
Washington, DC 20036
(202) 785 -9100
(202) 785 -9163 (fax)

Rhode Island Public Utilities
Commission
Rhode Island Division of Public
Utilities and Carriers

Attorneys for Maine Public Utilities
Commission

Sheldon Whitehouse
Attorney General of the State of
Rhode Island

Ronald Lecomte
Massachusetts Department of
Telecommunications and Energy
One South Station Boston, MA. 021 10.
(617) 305 -3658

By their Attorney,
_____/s/_____
Paul Roberti
Assistant Attorney General
Chief, Regulatory Unit
Department of Attorney General
150 South Main Street
Providence, RI 02903

Dated: October 31, 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 31st day of October, 2002.

Harvey L. Reiter