

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

New Brunswick Power Transmission Corp.,)	
)	
)	Docket No. EL08-__-000
New Brunswick System Operator, and)	
)	
Northern Maine Independent System Administrator, Inc.,)	COMPLAINT REQUESTING FAST TRACK PROCESSING
)	
Complainants,)	
)	
v.)	
)	
ISO New England, Inc.,)	
)	
Respondent.)	

COMPLAINT REQUESTING FAST TRACK PROCESSING

OF

**NEW BRUNSWICK POWER TRANSMISSION CORPORATION,
NEW BRUNSWICK SYSTEM OPERATOR, AND NORTHERN MAINE
INDEPENDENT SYSTEM ADMINISTRATOR, INC.**

Pursuant to Sections 206 and 306 of the Federal Power Act (“FPA”), 16 U.S.C. §§ 824e, 825e; and Rule 206 of the Rules of Practice and Procedure (Rules) of the Federal Energy Regulatory Commission (“Commission”), 18 C.F.R. § 385.206, New Brunswick Power Transmission Corporation (“NB Power”), New Brunswick System Operator (“NBSO”), and Northern Maine Independent System Administrator, Inc. (“NMISA”) (collectively the “Complainants”) hereby file this Complaint against ISO New England, Inc. (“ISO-NE,” or “ISO”) (the “Respondent”). This Complaint is filed in response to the Respondent’s unilateral decision to arbitrarily limit the transfer capabilities at the New

Brunswick/New England external interface, which, for the reasons set forth in this Complaint, is unjust, unreasonable and unduly discriminatory. *See* 16 U.S.C.A. § 824e (2007).

A form of notice suitable for publication in the Federal Register is attached to this Complaint as Attachment A.

I. SUMMARY OF COMPLAINT AND REQUESTED RELIEF

The Maine Electric Power Company (“MEPCO”) owns and operates a 345 kV transmission line (the “MEPCO Line”) connected to Central Maine Power Company at the Maine Yankee substation in Wiscasset, Maine and the Maxcy substation in Windsor, Maine; to Bangor Hydro-Electric Company (“BHE”) at Orrington, Maine; and to NB Power at the Canadian border at Orient, Maine. Until December, 2007, the MEPCO Line was the only electrical tie between the New England control area and the Canadian Maritime Provinces (New Brunswick, Nova Scotia, and Prince Edward Island). It provides for 700 MW of transfer capacity from Maritime Canada to New England and 280 MW from New England to Maritime Canada. The MEPCO line is currently classified as Other Transmission Facilities (“OTF”) under the ISO-NE Open Access Transmission Tariff (“OATT”).

On December 5, 2007, a second tie between New England and the Maritime Provinces became operational. This second tie consists of two separate interconnected lines. The U.S. portion of this second tie is the Northeast Reliability Interconnect (“NRI”), an 85-mile 345 kV line, constructed (at a cost of \$140 million) and owned by BHE that runs from Orrington, Maine to the Canadian border north of Baileyville, Maine. At the Canadian border, the NRI interconnects with the International Power Line (IPL), a

60-mile 345 kV line running from the U.S. border to the Point Le Preau generating station in New Brunswick, Canada. The IPL was constructed at a cost of \$65 million (U.S.) by NB Power, which owns it.

The NRI/IPL has the capacity to increase the transfer capability across the New England/New Brunswick external interface by 300 MW (to a total of 1000 MW), north to south, and 270 MW (to a total of 550 MW), south to north. The NRI has been designated by ISO-NE as Pool Transmission Facilities (PTF).

On August 16, 2007, the Respondent and MEPCO, pursuant to § 205 of the FPA, filed with this Commission various changes to the ISO-NE OATT, the ISO-NE Transmission Operating Agreement, and the MEPCO Operating Agreement (FERC Docket No. ER07-1289-000). These changes were submitted in connection with converting the MEPCO line from OTF to PTF status and are collectively referred to as the “MEPCO Roll-in Proposal.” The Respondent’s and MEPCO’s stated purpose in submitting the MEPCO Roll-in Proposal was to facilitate the addition and operation of the NRI to the New England Transmission System as PTF. As claimed by the Respondent, the MEPCO Roll-in Proposal is necessary because, as an OTF, the MEPCO line operates under a firm Point-to-Point regimen that requires advance reservations, while all PTF, including the NRI, operate under a Regional Network Service system that does not require advance reservations. Because these two types of service place conflicting requirements on the scheduling and curtailing of requirements at the New Brunswick/New England external interface, the MEPCO Roll-in Proposal was designed to eliminate the conflict by administering both ties under the PTF regimen.

By its Order dated October 29, 2007 in Docket No. ER07-12089-000, the Commission conditionally accepted the MEPCO Roll-in Proposal (the “October 29th Order”). The Commission concluded, however, that MEPCO and the Respondent were contractually obligated to provide Casco Bay Energy Company, LLC (“Casco Bay”) with a hedge against congestion and marginal losses and therefore should provide Casco Bay with a “grandfathering option” that would preserve those rights, which it determined would otherwise be lost if the MEPCO Roll-in Proposal were implemented unconditionally.

The Respondent and MEPCO vigorously dispute this obligation to Casco Bay and, on November 28, 2007, they filed a Motion to delay the effective date of the MEPCO Roll-in Proposal to February 1, 2008¹ in order to address the issues surrounding the Casco Bay circumstances.² The parties subsequently filed a Motion to extend this date to March 1, 2008.³ The Motion to Delay also provided a notice canceling the MEPCO Roll-in Proposal should the Commission not extend the effective date.

The subject of this Complaint concerns the Respondent’s contention that the delay (or cancellation) of the MEPCO Roll-in Proposal requires it to limit transfer capability of the New England/New Brunswick external interface, which will have unreasonable and unnecessary negative impacts on the New England energy markets, and, potentially, on

¹ Expedited Motion to Delay the Effective Date and Hold a Technical Conference or, In The Alternative, Notice of Cancellation of ISO-New England, Inc. and Maine Electric Power Company, November 28, 2007, FERC Docket No. ER07-1289-000. (Motion to Delay).

² The Respondent and MEPCO simultaneously filed a request for rehearing, which was granted by the Commission on December 28, 2007, “for the limited purpose of further consideration.”

³ Expedited Motion To Delay Effective Date of ISO-NE and MEPCO, FERC Docket EN07-1289-005, January 22, 2008.

the Northern Maine⁴ market. As discussed in detail below, Respondent's actions will prevent the New England energy market from realizing the benefits of the increased transfer capability of the NRI/IPL tie:

As the filing parties are not proceeding to implement the MEPCO Roll-in Proposal as of December 1, 2007, however, it will be necessary for the ISO to limit the transfer capabilities of the dual MEPCO/NRI interconnection to the transfer capabilities that are currently in place for the New England/New Brunswick external interface, namely, up to a maximum 700 MW for imports from New Brunswick and 280 MW for exports to New Brunswick.⁵

The potential impact on Northern Maine could be equally significant. As discussed below, the effect of Respondent's actions will be to materially reduce the north-to-south and south-to-north flows over the MEPCO/NRI interconnection, which could adversely affect the Northern Maine market, particularly with the largest generator in the Maritime region – Pt. Lepreau – scheduled to be out of service for an extended overhaul during the 2008-09 peak winter season.

On December 3, 2007, NB Power and NBSO separately intervened in Docket No. ER07-1289-000 and objected to ISO-NE's limitation on the transfer capability at the New England/New Brunswick external interface. On February 4, 2008, the Commission ordered all parties to participate in Settlement Judge Procedures and granted ISO-NE's request to extend the effective date of the MEPCO Roll-in Proposal indefinitely pending

⁴ Northern Maine consists of portions of Aroostook, Washington and Penobscot Counties. The electric system in Northern Maine is not directly interconnected with the rest of New England, any New England Power Pool Participant, or any other domestic electric system. The region's only access to the electric system that serves the remainder of New England is through the transmission facilities of NB Power.

⁵ Motion to Delay, at 3.

the result of those settlement procedures.⁶ Despite extensive efforts to reach agreement, however, the settlement negotiations have been unsuccessful.

Respondent has made it clear that it considers the issue of limiting the transfer capability at the New England/New Brunswick external interface to be outside the scope of Docket No. ER07-1289-000.⁷ Even if this issue were within the scope of that proceeding, it is obvious that, because of the complexity of the issues involved and the breadth of the dispute between the parties,⁸ a resolution of that proceeding may be many more months away. During this delay, the New England energy market will be irrevocably deprived of the economic benefits resulting from the NRI/IPL increased transfer capabilities, even though that market is burdened with the cost of the NRI, due to its PTF status, and the Northern Maine market will be unnecessarily exposed to higher prices and, during the peak winter period, possibly to tight generating capacity availability. Moreover, even if this Commission accepts the claim that the Respondent and MEPCO must delay the MEPCO Roll-in Proposal pending resolution of the Casco Bay matter, the MEPCO Roll-in Proposal is not the only method available to the Respondent for recognizing the additional transfer capabilities made available by the NRI/IPL.

The Complainants, therefore, respectfully request that this Commission, pursuant to section 206 of the Federal Power Act, order Respondent to take such actions as are

⁶ Order Establishing Settlement Judge Procedures, February 4, 2008, FERC Docket No. ER07-1289-000, at 1, 8.

⁷ Answer Of ISO New England And Maine Electric Power Company To The Responses To The Expedited Motion To Delay Effective Date And Hold A Technical Conference, And To Motion For Reconsideration. ER07-1289-0005, filed December 28, 2007, at 3 n.8. (December 28 Answer).

⁸ The parties are, for example, unable to agree even on the nature of the harm Casco Bay will suffer from the MEPCO Roll-in Proposal *See, e.g.*, Protest And Comment of Casco Bay Energy Company, LLC, Docket ER07-1289-003, December 13, 2007.

necessary for Respondent to immediately and fully recognize the additional 300 and 270 MW from north to south and south to north, respectively, in transfer capability at the external New England/New Brunswick interface provided by the NRI/IPL.

II. SERVICE OF DOCUMENTS AND COMMUNICATIONS

The following persons should be included on the official service list and are designated by the Complainants to receive service and communications on their behalf in regards to this proceeding. All communications concerning this Complaint should be addressed to the following persons:

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III. THE PARTIES

A. Complainant - New Brunswick Power Transmission Corp.

NB Power is a publicly-owned New Brunswick Corporation created under the Electricity Act (New Brunswick) on October 1, 2004, with its principal place of business in Fredericton, New Brunswick, Canada. NB Power owns in excess of 6800 km of transmission lines throughout the Province of New Brunswick, including the interconnections with adjoining Canadian Provinces and the State of Maine. It is the owner of the IPL, which interconnects at the international border with BHE's NRI to form the second transmission interconnection between the New England control area and the Canadian Maritime Provinces. The IPL and the NRI became fully operational on December 5, 2007.

B. Complainant – New Brunswick System Operator

NBSO is a New Brunswick statutory non-profit corporation created under the Electricity Act (New Brunswick) on October 1, 2004. NBSO is responsible for administration of the New Brunswick Electricity Market and the New Brunswick Open Access Transmission Tariff; is the Balancing Authority for the New Brunswick balancing area made up of New Brunswick, Prince Edward Island, and the area administered by NMISA; and is the Reliability Coordinator for the Maritimes Area that includes Nova Scotia in addition to the New Brunswick balancing area. NBSO, jointly with ISO-NE, operates the transmission interconnection between the Maritimes and New England pursuant to the Coordination Agreement between NBSO and ISO-NE. Through these activities, NBSO directly or indirectly provides transmission services and market

opportunities to various transmitters, generators, marketers, and load serving entities in eastern Canada and New England.

C. Complainant – Northern Maine Independent System Administrator, Inc.

NMISA is a non-profit corporation and Commission-approved independent system administrator and regional transmission group that encompasses the transmission systems of all FERC-jurisdictional and non-jurisdictional utilities in Northern Maine.⁹ NMISA operates as an independent, objective and non-discriminatory administrator of transmission access, transmission information access, and related functions, and monitors and operates the markets in Northern Maine for energy, ancillary, and other services. NMISA's members include all municipality-owned utilities, generators, suppliers of energy, and large retail customers operating in the service area.

D. Respondent – ISO-New England, Inc.

ISO-NE is a private, not-for-profit corporation that serves as the Regional Transmission Organization (“RTO”) administering New England’s energy markets and operating its bulk power system pursuant to the ISO-NE Tariff and the transmission operating agreements it holds with transmission owning entities. It is therefore regulated by this Commission as a public utility. The ISO-NE has claimed that its decision "setting transfer capabilities is consistent with the guidelines provided in the transmission operating agreements on file with the Commission.”¹⁰

⁹ See *Northern Maine Independent System Administrator, Inc.*, 89 FERC ¶ 61,179 (1999).

¹⁰ December 28 Answer, at 3 n. 8.,

IV. BASIS FOR REQUEST FOR FAST TRACK PROCESSING

Fast Track Processing pursuant to 18 C.F.R. § 385.206(b)(11) and 18 C.F.R. § 385.206(h) is warranted and necessary. As described more fully in Part V below, the additional transfer capabilities provided by the NRI/IPL represents a substantial benefit to both suppliers and customers in the New England energy market and a substantial potential benefit to the Northern Maine Market. Every day that additional capability is not recognized, it is simply lost. There is no available refund or other remedy that can restore it.

As set forth in the Affidavit of Wayne Snowdon, attached as Exhibit A, the full 300 MW of additional transfer capability from New Brunswick to New England has already been fully subscribed on the New Brunswick side of the border on the understanding that it would be available in December 2007. However, the benefit to New England customers of this additional supply of electricity cannot be realized, even though it is otherwise immediately available, until the current limits on transfer capability are increased.

In addition, generators in the New England market, and particularly in the State of Maine where the NRI is located, which, because of transmission constraints to the south of Orrington, has become a “generation pocket,”¹¹ also lose irrevocably the additional market of 270 MW in the Maritime Provinces for so long as the current limitation is allowed to remain in place. Both New Brunswick and New England generators, as well

¹¹ Maine Public Utilities Commission, Final Report pursuant to “A Resolve To Direct The Public Utilities Commission To Examine Continued Participation By Transmission and Distribution Utilities In This State In The New England Transmission Organization,” January 15, 2008, at 25, *available at* http://www.maine.gov/mpuc/staying_informed/legislative/2006legislation/ISO-NEFinalReport.doc (MPUC Report) (Exhibit B).

as customers serviced by the New Brunswick Complainants, suffer irrevocable losses from this limitation.

In short, the harm to the New England energy market presented by the Respondent's unilateral decision to limit the transfer capability at the New England/New Brunswick external interface is substantial, immediate, and irrevocable. The Complainants therefore submit that Fast Track Processing of this Complaint is warranted because of the immediate and irrevocable harm that Respondent's limitation imposes on the New England regional market, even as the regional network loads are now paying the cost of the NRI. Accordingly, the Complainants request that the Commission order Fast Track Processing and issue an Order at the earliest reasonable opportunity in order to preserve this important market benefit for New England suppliers and customers. Fast Track processing is particularly urgent as New England customers also stand to lose the benefits of increased supply from lower-cost Canadian suppliers during the upcoming summer months when New England experiences a peak demand for electricity.

Fast track processing of this Complaint is also warranted by the potential implications of Respondent's actions for the Northern Maine market. The single largest generator in the Maritime Balancing Area is the Pt. Lepreau nuclear unit. Pt. Lepreau is currently out of service for a scheduled 18-month refurbishment, which will include the 2008-09 winter period.¹² During that period, it is anticipated that generating capacity in the region may be tight and the additional south-to-north transfer capability of a fully effective NRI would greatly enhance the ability of the Northern Maine region to access generating capacity in New England. Respondent's actions result in the NRI affording no

¹² NMISA understands that the timing of the Pt. Lepreau refurbishment was intended to coincide with the in-service of the NRI line.

additional south-to-north transfer capability above that provided by the MEPCO line in scheduling mode.

There are two generators in Northern Maine that sell REC's to southern New England. To the extent that such sales are interrupted as a result of inadequate north-to-south transfer capability, not only will southern New England be denied RECs, but the reduced transmission service purchased by those generators over the MPS transmission system to export to southern New England will reduce the revenue credits against the MPS transmission cost-of-service and effectively increase the cost of transmission within Northern Maine.

Northern Maine is a part of the Maritime Balancing Area controlled by the NBSO. Any benefits from the NRI line will therefore be shared with the Northern Maine region. For example, with both the MEPCO and NRI line fully operational, the NBSO could engage in reserve sharing with its adjacent Balancing Areas, which should produce a significant savings for Northern Maine. Under Respondent's current treatment of the NRI line, the NBSO is not able to fully utilize the reserves available under the NPCC reserve agreement.

V. BACKGROUND

A second transmission tie between New Brunswick and New England has been under review since the 1980s. Although the MEPCO Line has served the region well, it has been viewed as an "electrically weak corridor" between New England and the Maritime control areas.¹³ These weaknesses led to the development of a second tie,

¹³ Northeast New England and Maritimes Area of Canada Inter-area Needs and Solutions as Viewed by NE-Pool, prepared by Bangor Hydro-Electric Company, June 2004, at 3-4 (BHE NEPOOL Analysis) (Exhibit C).

which not only improves system reliability, but would also benefit the New England and New Brunswick markets by providing additional energy transfers between the two regions.

The reliability benefits of a second line include the security of a redundant electric connection between the two regions as well as the reduction of numerous technical problems created by the presence of a single tie. In granting the NRI PTF status, the ISO-NE noted:

The NRI would address the ongoing unacceptable reliability concerns that arise due to inadvertent line protection operation and tripping at the Keswick-Orrington 345 kV NB-NE tie, an inadvertent operation of the Keswick GCX special protection system The NRI greatly enhances the operability of the system and will provide the system with more options for maintaining reliable service in response to system contingencies.¹⁴

In addition to the foregoing reliability benefits, the ISO-NE also found that the NRI would benefit the region's energy market:

The operating characteristics of the NRI will also improve opportunities for capacity diversity exchange with New Brunswick, improve access to capacity and energy, and result in economic savings to the New England wholesale market that alternate transmission projects to address the reliability concerns arising out of Maine would not. As reported to the NEPOOL Reliability Committee, these economic benefits are substantial.¹⁵

These separate economic benefits are "substantial" indeed. By increasing export capability from New Brunswick (by 300 MW) and import capability to New Brunswick

¹⁴ ISO-New England Written Finding and Determination, dated July 28, 2004, at 2 (ISO-NE Determination) (Exhibit D).

¹⁵ *Id.*

(by 270 MW), the NRI/IPL enhances competition in the New England energy market by (i) providing suppliers in New England a long-term increased market in the Maritimes, and (ii) allowing suppliers in the Maritimes additional opportunities to compete for customers in the New England market. As reported by the Respondent to the NEPOOL Reliability Committee in 2004, the NRI/IPL's increased capacity was expected to decrease New England power production costs by \$31 million during the first six years of operation from 2008 through 2013.¹⁶ This figure is ISO-NE's estimate of savings, based solely on reduced fuel and maintenance costs.¹⁷ According to this analysis, the \$31 million in production cost savings produces an overall savings to consumers of \$99 million during the six-year period.¹⁸ ISO-NE's estimated \$99-million benefit results from the availability of new Canadian lower-cost suppliers, and the resulting downward pressure on market clearing prices in New England.¹⁹

The economic benefits of increased transfer capacity between the regions are enhanced by the fact that, while New England's electric load is summer-peaking, New Brunswick's is winter-peaking.²⁰ Thus, the electric needs of the two regions neatly complement one another, with New Brunswick having excess capacity to sell to New England during the very time when New England's energy needs are greatest. Moreover, the opportunity to sell power to New Brunswick during the winter months is particularly valuable to New England generators for the same reason.

¹⁶ ISO-NE Economic Analysis of Second NB Tie, July 12, 2004, at 4 (ISO-NE Analysis) (Exhibit E).

¹⁷ *Id.* at 5.

¹⁸ *Id.* at 4.

¹⁹ *Id.* at 5, 22-23.

²⁰ ISO-NE Analysis, at 13, 16.

Furthermore, the additional north to south transfer capability gives the New England market access to greater fuel diversity. Currently, over 40% of New England's energy capacity is fueled by natural gas, which, under the ISO-NE clearing price mechanism, establishes the market clearing price 68% of the time. The predominance of natural gas has therefore strongly influenced the substantial price increases in New England energy markets since 1990.²¹

In addition, this lack of diversity has not only affected the price in New England but has also created capacity shortage problems in that market:²²

In 2004 and 2005, ISO-NE noted potential electricity reliability problems with the region's dependence on natural gas for electricity generation, particularly in the winter. In 2004, a sustained cold snap in New England caused a generation capacity shortage, bringing the region to the brink of rolling blackouts In early December 2007, a natural gas supply disruption on Sable Island disrupted natural gas flows into the region causing a New England with capacity deficiency.²³

New Brunswick, by contrast, relies very little on natural gas as a supply resource. Instead, approximately 62% of its capacity is from oil, hydro or coal, while 30% is supplied from nuclear sources.²⁴ The NRI/IPL's additional north to south capability provides the New England markets with access to this much needed fuel diversity.

Finally, the NRI/IPL's additional transfer capability provides customers in a portion of northern Maine, which is under the control of NMISA and not directly connected with ISO-NE, with improved access to generation in southern Maine. The

²¹ MPUC Report, at 12.

²² BHE NEPOOL Analysis, at 4-6.

²³ MPUC Report, at 14.

²⁴ Affidavit of Wayne Snowdon.

MEPCO Line is limited in the volume of south to north transfer it can carry, which in turn limits northern Maine's ability to obtain firm energy from sources other than local generators or Canadian suppliers.²⁵

In summary, the advantages to the New England and New Brunswick wholesale energy markets resulting from the NRI/IPL's increased transfer capability are substantial, direct, and immediate.

VI. ARGUMENT

The Respondent's unilateral decision to limit the transfer capability of the New Brunswick/New England external interface is unjust, unreasonable, and unduly discriminatory because it arbitrarily deprives the New England energy market of the economic and security benefits described in Part V above. The fundamental purpose of any power market administered by an RTO, such as ISO-NE, is that it be fair, efficient, and non-discriminatory.²⁶ The Commission applied these basic principles to the ISO-NE's oversight of the New England market when it approved the ISO-NE market rules governing that market.²⁷ Yet, despite these basic principles, Respondent's unilateral decision to withhold from the New England market the economic benefits of the

²⁵ BHE NEPOOL Analysis, at 4-7.

²⁶ *See Re: Remediating Under Discrimination Through Access Transmission Service and Standard Market Design*, Notice of Proposed Rulemaking, Docket No. RM01-12-000, 67 Fed. Reg. 55452 (2002).

²⁷ *New England Power Pool and ISO-New England, Inc., Order Accepting In Part and Modifying In Part Standard Market Design and Dismissing Compliance Filings*, Docket No. ER02-2330-000, September 20, 2002, 100 FERC ¶ 61, 287.

NRI/IPL's increased transfer capability degrades the fairness and efficiency²⁸ of that market.

A. The Transfer Limitation is Unjust and Unreasonable

Despite the New England power market's long-standing recognition of the need for a second New England/New Brunswick tie line, the Respondent's unilateral limitation of the NRI/IPL's transfer capabilities deprives that market of the economic benefits of that second line even though that line is now built and in place. This Commission has recognized that the net economic benefits to New England resulting from transmission are as important as the reliability benefits.²⁹ Every day the limitation remains in place, the New England power market is deprived of the economic benefits of the combined NRI/IPL line even though it is paying for the NRI. Imposing on this market the cost of the second tie line, while withholding the economic benefits, is an unjust and unreasonable act. It is well established that transmission capacity may not be withheld if it has the result of constraining the generation market.³⁰

The unreasonableness of Respondent's transfer capability limitation is particularly egregious because it is unnecessary. Although the MEPCO Roll-in Proposal may be the optimal method for allowing full use of the NRI/IPL, it is not the only available mechanism.

²⁸ The Respondent openly acknowledges the inefficiency of the limitation in their Motion to Delay, at 3, where the Respondent states: "This limitation of transfer capabilities across the New Brunswick interface is inefficient from a market standpoint"

²⁹ New England Power Pool and ISO-New England, Inc. Order on Complaint and The Proposed Amendments to the NE-Pool Tariff and Restated NE-Pool Agreement, Docket ER03-1141-000 December 18, 2003, 105 FERC ¶ 61, 300.

³⁰ *E.g.*, Southwestern Public Service Company, Order Accepting Transmission Tariff, Docket ER97-3576-000, August 29, 1997, 80 FERC ¶ 61245.

In fact, ISO-NE itself has advanced a stop-gap measure that would temporarily allow for the full non-emergency use of the NRI/IPL without any transfer capability limitation. This proposal was presented to the December 13, 2007 NEPOOL Transmission Commission meeting.³¹ NB Power and NBSO have previously informed ISO-NE that this proposal is acceptable to them. Nevertheless, ISO-NE has not moved forward with this proposal.³²

Finally, NB Power developed the IPL, which is directly connected to the ISO-NE system, upon the understanding that ISO-NE would operate its system in a way that recognized that line's full transfer capability. The ISO-NE apparently shared that understanding because its August 16 MEPCO Roll-in Proposal was intended to do exactly that. Its present unwillingness to allow the full transfer capability is inconsistent with its obligations to provide utility service to the New Brunswick Complainants.

B. The Transfer Capability Limitation Unduly Discriminates Against the NRI/IPL

The NRI/IPL became fully operational on December 5, 2007. As a result, the Respondents have realized all the reliability benefits of the second line while denying the market the economic benefits of that line. In fact, the MEPCO Line, and only the MEPCO Line, may actually be benefiting from the operation of the NRI/IPL under this arrangement.³³ By contrast, the entire burden of the transfer limitation falls solely on the

³¹ A website reference to this proposal is set forth in the December 28th Answer at 14, n. 34.

³² In addition, ISO-NE, in its December 26, 2007 filing (Exhibit F) in Docket ER07-1289-000, informed this Commission of its willingness and ability to make available the full NRI/IPL transfer capability to NBSO during emergency conditions, which suggests that there remain other means of utilizing the line's full transfer capability in a reliable manner during non-emergency situations.

³³ For example, the NRI/IPL substantially reduces the possibility of an overload due to an outage in the double circuit tower located south of Maine Yankee (BHE NEPOOL Report, at 4-6).

NRI/IPL, which, despite its operational capability, has functionally been erased from the region's transmission grid by Respondent's actions.

The administrative difficulties imposed upon the MEPCO Line when the NRI/IPL became operational resulted as much from MEPCO's OTF status as from the NRI's PTF status. Imposing the entire burden on the PTF line, while leaving the OTF line unaffected (except positively), discriminates unfairly against the PTF line and those parties expecting to derive an economic benefit from that line.

VII. STATEMENT CONCERNING DISPUTE RESOLUTION

Pursuant to 18 C.F.R. § 385.206(b)(9), the New Brunswick Complainants state that they have engaged in good faith but unsuccessful negotiations with the Respondents in preparation for the operation of the NRI/IPL. In addition, ISO-NE has expressed its unwillingness to voluntarily use the stop-gap mechanism it recently proposed as described in Part VI (A). Moreover, the Complainants do not believe that any informal dispute procedure or the alternative dispute resolution procedure is appropriate because (i) this Complaint involves the effect of the Respondent's actions on the New England energy market and Commission action pursuant to this Complaint would provide other participants in that market with formal notice and an opportunity to be heard on this matter, and (ii) the need for a fast track, prompt solution is incompatible with those other methods.

NMISA has not attempted to engage with Respondent in negotiations of these issues in light of the aforementioned experience of NB Power and NBSO.

VIII. ADDITIONAL REQUIREMENTS OF RULE 206

Pursuant to Rule 206 (18 C.F.R § 385.206) of the Commission's Rules of Practice and Procedure, the Complainants set forth additional information not otherwise provided in this Complaint.

A. Financial Impact Upon the Complainants (Rule 206(b)(4))

The Complainants are asking this Commission to order Respondent to fulfill its obligations to provide public utility services to the New Brunswick Complainants and to remove the unfair burden that Respondent has placed on the Complainants and the suppliers and customers in the New England power market. Based upon the Respondent's own analysis (Exhibit E), the savings to New England customers from the NRI/IPL's additional transfer capability is \$99 million for 2008-2013.³⁴ While the New England regional energy market is deprived of these benefits, the regional network load is simultaneously burdened with paying for the cost of the NRI, which is a PTF line. Based upon the magnitude of the harm suffered by New England customers and suppliers, it is reasonable to assume that their Canadian counterparts are also suffering substantial harm. The Complainants cannot in good faith quantify that harm, although the loss is immediate, substantial, and ongoing.

NMISA is not able to quantify the economic impact of Respondent's actions on the Northern Maine market.

³⁴ See discussion *supra*, at 13-14. In 2008 alone, the expense reduction lost to New England load serving entities because of Respondent's failure to reorganize the NRI/IPL's additional capability will be \$6.9 million. ISO-NE Analysis, at 17.

B. Operational, Practical, and Nonfinancial Impact Upon the Complainants (Rule 206(b)(5))

Again, the Complainants are bringing this Complaint primarily to correct the economic effect of the Respondent's actions on the New England power markets. The Complainants believe that the effect is primarily financial. Respondent's transfer limitations could, however, affect the capacity security in that market should a shortage of natural gas interrupt supplies and additional exports are not available from sources in New Brunswick and other Canadian Maritimes markets.

As noted above, Respondent's actions will have the effect of reducing the availability of New England generating capacity to the Northern Maine market during the peak months of winter 2008-09 when the Maritimes Balancing Area will already be without the Pt. Lepreau generating unit.

C. Identification Of The Actions Complained Of And Explanation Of How Those Actions Violate Statutory Standards (Rule 206(b)(1)-(2))

As discussed throughout this Complaint, ISO-NE's decision to limit the electric transfer capability at the New Brunswick/New England external interface constitutes an unjust, unreasonable, and unduly discriminatory act in violation of Section 206 of the Federal Power Act, 16 U.S.C.A. § 824e.

D. Issues Presented in this Complaint Will Not Be Addressed in a Timely Manner in Any Other Pending Matter in Which Any Complainants Are a Party (Rule 206(b)(6))

As noted in Section I of this Complaint, the New Brunswick Complainants are interveners in a Section 205 proceeding in Docket No. ER07-1289-000. That proceeding is currently pending before the Commission and relates to the MEPCO Roll-in Proposal. However, as also noted in Section I of this Complaint, Respondent has taken the position

in the Section 205 case that the subject of the instant Complaint, namely the limiting of the transfer capability at the New England/New Brunswick external interface, is outside the scope of the Section 205 case. For this reason, pursuant to Rule 206(b)(6), the Complainants believe that the issues presented in this Complaint will not be addressed in a timely manner in any pending matter in which any Complainants are a party.

E. Documents Supporting the Complaint (Rule 206(b)(8))

Documents supporting the Complaint are attached as Exhibits A through F.

These documents are the following:

Exhibit A	Affidavit of Wayne Snowdon
Exhibit B	Maine Public Utilities Commission, Final Report pursuant to “A Resolve to Direct The Public Utilities Commission to Examine Continued Participation By Transmission and Distribution Utilities In This State In The New England Transmission Organization”, January 15, 2008
Exhibit C	Northeast New England and Maritimes Area of Canada Inter-area Needs and Solutions as Viewed by NEPOOL, prepared by Bangor Hydro-Electric Company, June 2004
Exhibit D	ISO-New England Written Finding and Determination, dated July 28, 2004
Exhibit E	ISO-New England Economic Analysis of Second NB Tie, July 12, 2004
Exhibit F	December 26, 2007 Letter from Daniel R. Simon, Counsel for ISO-NE, to Secretary Bose and attached December 24, 2007 Letter from ISO-NE Vice President, Peter Brandien to New Brunswick System Operator President, William Marshall

IX. CONCLUSION

The Complainants respectfully request the Commission to:

- (i) Grant the Complainant's request for fast track processing of this Complaint;
- (ii) Find that the Respondent's limiting the transfer capability of the New Brunswick/New England external interface to 700 MW and 280 MW, north to south and south to north, respectively, is unjust, unreasonable, and unduly discriminatory; and
- (iii) Order the Respondent to raise the transfer limitations of the New Brunswick/New England external interface to a maximum of 1000 MW, north to south, and 550 MW, south to north, to recognize the operation of the NRI/IPL 345 kV transmission line.

Dated this 18th day of April, 2008.

Respectfully submitted,

/s/ William S. Harwood
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ATTACHMENT A

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

New Brunswick Power Transmission Corp.,)	
)	
)	
New Brunswick System Operator, and)	
)	Docket No. EL08-__-000
Northern Maine Independent System Administrator, Inc.,)	
)	
Complainants,)	
)	
v.)	
)	
ISO New England, Inc.,)	
)	
Respondent.)	

NOTICE OF COMPLAINT REQUESTING FAST-TRACK PROCESSING

(April __, 2008)

Take notice that on April __, 2008, New Brunswick Power Corporation, New Brunswick System Operator, and Northern Maine Independent System Administrator, Inc., (collectively the “Complainants”) filed a formal complaint requesting fast-track processing against ISO New England, Inc. (“ISO-NE”) (the “Respondent”), pursuant to sections 206 and 306 of the Federal Power Act, 16 U.S.C. §§ 824e and 825e, and Rule 206 of the Commission’s Rules of Practice and Procedure (18 CFR 385.206). The Complainants allege that the Respondent has unjustly, unreasonably, and in an unduly discriminatory manner limited the electric transfer capability at the New Brunswick/New England external interface.

The Complainants certify that copies of the complaint were served on the contacts for ISO-NE as listed on the Commission’s list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission’s Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve

to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondents' answer and all interventions, or protests must be filed on or before the comment date. The Respondents' answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, D.C. There is an "eSubscription" link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: 5:00 pm Eastern Time on April __, 2008.

Kimberly D. Bose
Secretary

CERTIFICATE OF SERVICE

Pursuant to Rule 206(c) of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission, I hereby certify that I have this day served the foregoing document by electronic mail and overnight delivery upon the Respondent through each person designated below:

Raymond W. Hepper
Vice President and Assistant General Counsel
ISO New England, Inc.
One Sullivan Road
Holyoke, MA 01040-2841
email: rhepper@iso-ne.com
Fax: (413) 535-4379

In addition, I hereby certify that I have this day served the foregoing document and its attached exhibits upon each person designated on the official service list compiled by the Secretary of the Commission in *ISO New England Inc.*, Docket No. ER07-1289.

Dated at Portland, Maine this 18th day of April 2008.

/s/ William S. Harwood
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