

where feasible, and planted with native vegetation. WGC will implement BMPs to minimize adverse environmental impacts during construction of road crossings. WGC has prepared and submitted a Federal Section 404 Authorization permit for water resources impacts, including wetlands impacts, and a State Section 401 permit under the Clean Water Act issued by USACE and WVDEP, respectively. DOE estimated that 0.26 acre of wetlands will be potentially impacted at the proposed power plant site by service roads, stockpile areas, and water supply lines.

Under one option a cooling water intake structure, pump house, and pipeline would be used to withdraw water from Meadow River. WGC is currently looking at the best locations for these facilities to minimize disturbance of wetlands and floodplains. Prior to construction of a permanent intake structure WGC must obtain a Section 404 Authorization permit from the USACE and Section 401 permit from the WVDEP. The Section 404 Authorization permit is required as a result of water resources impacts, including wetlands impacts. The Water Quality 401 Certification is required to ensure that the project will not violate the state's water quality standards or stream designated uses. Depending upon the final plant design and location of the water supply line from the sewage treatment plant, up to one additional acre of wetlands and 120 linear feet "waters of the U.S." could be impacted. WGC is in the process of consulting with the USACE concerning the wetland permitting process to identify wetland impacts and methods for avoiding and minimizing impacts and developing suitable forms of wetland mitigation.

Under all options for the transmission line corridor from the proposed WGC power plant to the Grassy Falls substation, construction activities would be temporary and localized and would not result in permanent impacts to existing 100-year floodplains. Where the transmission line corridor would cross a stream, new power line poles would be situated at maximum distances so as to not obstruct flood flows. Construction and operation of the transmission line could impact approximately three acres of wetlands, of which 0.38 acres could be permanently impacted as discussed above in *Biological Resources*.

No floodplain or wetland impacts are expected as a result of the fuel recovery efforts that would occur at the Anjean, Donegan, Green Valley, and Joe Knob coal refuse sites to be used for fuel supply to the project.

Any structures located within the floodplain would be designed in accordance with the National Flood Insurance Program (NFIP) requirements for nonresidential buildings and structures located in special flood hazard areas. The NFIP regulations require vulnerable structures to be constructed above the 100-year flood elevation or to be watertight. In accordance with 10 CFR part 1022, DOE will ensure through the cooperative agreement that WGC implements measures to mitigate the adverse impacts of actions in a floodplain or wetlands, including but not limited to, minimum grading requirements, runoff controls, design and construction constraints. Whenever possible, WGC will avoid disturbing floodplains and wetlands and will minimize impacts to the extent practicable, if avoidance is not possible. Impacts to floodplains and wetlands will be minimized through the implementation of engineering design standards and BMPs (as described above under Mitigation, these measures are contained in Appendix M (Volume 2) of the EIS). In addition, WGC will comply with state and Federal wetlands permits, which may require additional mitigation as well as compensatory wetland replacement.

Issued in Washington, DC, on this 23rd day of April, 2008.

**James A. Slutz,**

*Acting Principal Deputy Assistant Secretary,  
Office of Fossil Energy.*

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 1864-079-MI & WI]

#### Upper Peninsula Power Company; Notice of Availability of Environmental Assessment

April 22, 2008.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47879), the Office of Energy Projects has reviewed the proposed lake level amendment for the bond Falls Project, located in the Ontonagon River Basin in Ontonagon and Gogebic Counties, Michigan and Vilas County, Wisconsin, and has prepared a Draft Environmental Assessment (Draft EA).

A copy of the Draft EA is on file with the Commission and is available for

public inspection. The Draft EA may also be viewed on the Commission's Web site at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number (P-1864) excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll-free at 1-866-208-3676, or for TTY, (202) 502-8659.

Any comments should be filed by May 27, 2008, and should be addressed to the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1-A, Washington, DC 20426. Please reference the project name and project number (P-1864) on all comments. Comments may be filed electronically via Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "eFiling" link. For further information, contact Monica Maynard at (202) 502-6013.

**Kimberly D. Bose,**  
*Secretary.*

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[RT01-99-000, RT01-99-001, RT01-99-002 and RT01-99-003; RT01-86-000, RT01-86-001 and RT01-86-002; RT01-95-000, RT01-95-001 and RT01-95-002; RT01-2-000, RT01-2-001, RT01-2-002 and RT01-2-003; RT01-98-000; RT02-3-000]

**Regional Transmission Organizations;  
Bangor Hydro-Electric Company, et al.;  
New York Independent System  
Operator, Inc., et al.; PJM  
Interconnection, L.L.C., et al.; PJM  
Interconnection, L.L.C.; ISO New  
England, Inc.; New York Independent  
System Operator, Inc.; Notice of Filing**

April 21, 2008.

Take notice that PJM Interconnection, L.L.C., New York Independent System Operator, Inc. and ISO New England, Inc. have posted on their internet Web sites information updating their progress on the resolution of RTO seams.

Any person desiring to file comments on this information should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such comments

should be filed on or before the comment date. Comments may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

*Comment Date:* May 13, 2008.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. E8-9300 Filed 4-28-08; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. EL08-56-000]

#### **New Brunswick Power Transmission Corp., New Brunswick System Operator, Northern Maine Independent System Administrator, Inc., Complainants v. ISO New England, Inc., Respondent; Notice of Complaint**

April 21, 2008.

Take notice that on April 18, 2008, New Brunswick Power Transmission Corporation, New Brunswick System Operator, and Northern Maine Independent System Administrator, Inc. (collectively, Complainants), pursuant to sections 206 and 306 of the Federal Power Act, 16 U.S.C. 824e, 825e, and Rule 206 of Practice and Procedures of the Commission's regulations, 18 CFR 385.206, hereby file this complaint against ISO New England, Inc. (ISO-NE). Complainants state that this complaint is in response to the ISO-NE unilateral decision to arbitrarily limit the transfer capabilities at the New Brunswick/New England external interface, which, for the reasons set forth in the complaint, is unjust, unreasonable and unduly discriminatory.

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, 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 Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's 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, NE., Washington, DC 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, DC. There is an "eSubscription" link on the web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

*Comment Date:* 5 p.m. Eastern Time on May 8, 2008.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. E8-9301 Filed 4-28-08; 8:45 am]

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. PL07-2-000]

#### **Composition of Proxy Groups for Determining Gas and Oil Pipeline Return on Equity; Policy Statement**

Issued April 17, 2008.

*Before Commissioners:* Joseph T. Kelliher, Chairman; Sudeen G. Kelly, Marc Spitzer, Philip D. Moeller, and Jon Wellinghoff.

1. On July 19, 2007, the Commission issued a proposed policy statement concerning the composition of the proxy groups used to determine gas and oil pipelines' return on equity (ROE) under the Discounted Cash Flow (DCF) model.<sup>1</sup> Historically, in determining the proxy group, the Commission required that pipeline operations constitute a high proportion of the business of any firm included in the proxy group. However, in recent years, there have been fewer gas pipeline corporations that meet that standard, in part because of the greater trend toward Master Limited Partnerships (MLPs) in the gas pipeline industry. Additionally, there are no oil corporations available for use

in the oil pipeline proxy group. These trends have made the MLP issue one of particular concern to the Commission and are the reason that the Commission issued the Proposed Policy Statement.<sup>2</sup>

2. After review of an extensive record developed in this proceeding, the Commission concludes: (1) MLPs should be included in the ROE proxy group for both oil and gas pipelines; (2) there should be no cap on the level of distributions included in the Commission's current DCF methodology; (3) the Institutional Brokers Estimated System (IBES) forecasts should remain the basis for the short-term growth forecast used in the DCF calculation; (4) there should be an adjustment to the long-term growth rate used to calculate the equity cost of capital for an MLP; and (5) there should be no modification to the current respective two-thirds and one-third weightings of the short- and long-term growth factors. Moreover, the Commission will not explore other methods for determining a pipeline's equity cost of capital at this time. The Commission also concludes that this Policy Statement should govern all gas and oil rate proceedings involving the establishment of ROE that are now pending before the Commission, whether at hearing or in a decisional phase at the Commission.

#### **I. Background**

##### *A. The DCF Model*

3. The Supreme Court has stated that "the return to the equity owner should be commensurate with the return on investments in other enterprises having corresponding risks. That return, moreover, should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital."<sup>3</sup> Since the 1980s, the Commission has used the DCF model to develop a range of returns earned on investments in companies with corresponding risks for purposes of determining the ROE to be awarded natural gas and oil pipelines.

4. The DCF model was originally developed as a method for investors to estimate the value of securities, including common stocks. It is based on

<sup>2</sup> After an initial round of comments and reply comments, the Commission concluded that it required additional comment on the issue of the growth rates of MLPs. After notice to this effect and the receipt of a round of initial and reply comments, staff held a technical conference involving an eight member panel on January 23, 2008 that was transcribed for the record. Comments and reply comments were filed thereafter.

<sup>3</sup> *FPC v. Hope Natural Gas Co.*, 320 U.S. 591 (1944). *Bluefield Water Works & Improvement Co. v. Public Service Comm'n*, 262 U.S. 679 (1923).

<sup>1</sup> *Composition of Proxy Groups for Determining Gas and Oil Pipeline Return on Equity*, 120 FERC ¶ 61,068 (2007) (Proposed Policy Statement).