

**STATE OF VERMONT
PUBLIC SERVICE BOARD**

Investigation into Least-Cost Integrated)	Docket No. 7081
Resource Planning for Vermont Electric Power)	
Company, Inc.'s Transmission System)	
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PETITION TO AMEND MEMORANDUM OF UNDERSTANDING

NOW COMES the Vermont Electric Power Company, Inc. (VELCO) and, in accordance with the Vermont Public Service Board's (Board) February 20, 2007 Order, petitions the Board to approve ten proposed changes to the Board-approved 2007 Memorandum of Understanding (MOU) in this docket. In support of this petition, VELCO submits the attached Memorandum of Law, along with supporting testimony and exhibits sponsored by the following witness:

Witness

Subject

Deena Frankel

Provides an overview of the modifications to the Docket 7081 MOU, the need for the proposed amendments, the expected process improvements, and the process leading up to the proposed amendments.

MEMORANDUM OF LAW

The Board reserved jurisdiction to modify the MOU in this docket. For the reasons set forth below, and as more fully described in Deena Frankel's prefiled testimony, the Board should exercise its discretion and accept the proposed modifications reflected in Exhibit VELCO-dlf-2.

On June 20, 2007, the Board issued an Order (2007 Order) modifying and approving the MOU between the Vermont Department of Public Service (Department) and the so-called Settling Parties.¹ The 2007 Order and MOU established the Vermont System Planning Committee (VSPC) to, among other things, facilitate information sharing, transparency, and coordination among Vermont's utilities, the Department and the Electric Efficiency Utilities with respect to long range transmission planning and the selection of transmission or non-transmission solutions to transmission system deficiencies.² The VSPC is also required to recommend to the Board proposed improvements to the planning process outlined in the MOU.³ The Board conditioned its approval of the MOU as follows:

The Board may make changes to the MOU upon reasonable notice to the parties and opportunity to request a hearing, with any such request for hearing to be treated pursuant to the "contested case" provisions of the Vermont Administrative Procedure Act.⁴

The Board expressly retained, and the Settling Parties acknowledged, the "Board's ongoing jurisdiction to resolve disputes arising under the MOU."⁵

The ten proposed changes to the MOU outlined at pages 4-5 of Ms. Frankel's prefiled testimony will enhance the VSPC's effectiveness and the value of public participation in the VSPC's efforts and transmission planning as a whole. Several of the changes are process improvements that arise out of the VSPC's experience over the last four years. The other changes are driven by the post-MOU evolution of the Independent System Operator-New

¹ *Investigation into Least Cost Integrated Resource Planning for Vermont Electric Power Company, Inc.'s Transmission System*, Docket No. 7081, Order entered June 20, 2007.

² 2007 Order at Findings 29-30.

³ *Id.*

⁴ *Id.* at 1.b.

⁵ *Id.* at 9; MOU at 111.

England's (ISO-NE) more regionally-based and coordinated transmission planning process, as described at pages 6-9 of Ms. Frankel's testimony.

In the mid-1990s, FERC issued Orders Nos. 888 and 889, which together established certain minimum electric transmission planning requirements and which strongly encouraged, but did not require, utilities to engage in joint and regional transmission planning with other utilities.⁶ In 1999, FERC issued Order No. 2000, which again strongly encouraged the voluntary formation of Regional Transmission Organizations (RTOs) to run the country's electric transmission grid on a regional basis.⁷ Order No. 2000, subsequently codified in federal regulations, established several minimum functions to be performed by an RTO, including a requirement that the RTO "must be responsible for planning, and for directing or arranging, necessary transmission expansions, additions, and upgrades that will enable it to provide efficient, reliable and non-discriminatory transmission service and coordinate such efforts with the appropriate state authorities []." ⁸

⁶ *Order Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, 61 Fed. Reg. 21,540 (May 10, 1996), FERC Stats. & Regs. ¶ 31,036, *order on reh'g*, Order No. 888-A, 62 Fed. Reg. 12,274 (March 14, 1997), FERC Stats. & Regs. ¶ 31,048 (1997), *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group, et al. v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom., New York v. FERC*, 535 U.S. 1 (2002).

⁷ *Regional Transmission Organizations*, Order No. 2000, 65 Fed. Reg. 809 (January 6, 2000), FERC Stats. & Regs., ¶ 31,089 (1999), (FERC's objective: "for all transmission owning entities in the Nation, including non-public utility entities, to place their transmission facilities under the control of appropriate regional transmission institutions [RTOs] in a timely manner."); *order on reh'g*, Order No. 2000-A, 65 Fed. Reg. 12,088 (March 8, 2000), FERC Stats. & Regs. ¶ 31,092 (2000), *affirmed sub nom. Public Utility District No. 1 of Snohomish County, Washington, et al. v. FERC*, 272 F.3d 607 (D.C. Cir. 2001).

⁸ *Id.* at 31,172; 18 C.F.R. § 35.34(k)(7).

Subsequently, on March 24, 2004, FERC issued an Order approving, subject to conditions not relevant here, the ISO-NE's RTO status.⁹ FERC concluded that the ISO-NE would satisfy the requisite RTO characteristics and be able to perform the minimum functions established by FERC in Order No. 2000.¹⁰ FERC acknowledged that ISO-NE's ability to fully perform its Order No. 2000 functions, including transmission planning and expansion responsibilities, would grow over time.¹¹

Since obtaining FERC approval as an RTO, ISO-NE has, as contemplated in Order No. 2000 and the Order Granting RTO Status, continued to refine and fully staff its regional planning process, and grow into its planning authority. ISO-NE's planning process is now informed by additional stakeholder viewpoints (*e.g.*, New England States Committee on Electricity (NESCOE)), more diverse and fully developed information (*e.g.*, needs assessments that reflect market responses, stakeholder-initiated economic planning studies, the New England Governors' Renewable Energy Blueprint produced by NESCOE, etc.) and mandatory reliability standards. The proposed MOU amendments accurately reflect and account for the reality of the evolving expression of ISO-NE's regional transmission planning responsibility.

On September 14, 2011, the VSPC met and voted to authorize VELCO to seek the proposed changes to the MOU on an expedited basis. Moreover, VELCO has begun and will continue to discuss these amendments with the docket 7081 parties and other interested stakeholders.

⁹ *Order Granting RTO Status Subject To Fulfillment Of Requirements And Establishing Hearing And Settlement Judge Procedures*, 106 FERC ¶ 61,280, (March 24, 2004).

¹⁰ *Id.*

¹¹ *See, e.g., id.* at ¶ 61,310

WHEREFORE, VELCO respectfully requests that the Board:

- a. Allow a reasonable opportunity for the parties to request a hearing;
- b. In the event that the Board, either on its own or pursuant to a duly submitted request by a party pursuant to the 2007 Order, decides to hold a hearing, schedule a prehearing conference and, thereafter, a contested case hearing, in this matter at the Board's earliest convenience;
- c. Issue findings consistent with this Request and prefiled testimony;
- d. Approve the Proposed Amended MOU submitted as Exhibit VELCO-dlf-2; and
- e. Grant such further relief as the Board determines is necessary, just, and proper.

Dated at Rutland, Vermont this 21st day of November, 2011.

VERMONT ELECTRIC POWER COMPANY, INC.

By: _____
S. Mark Sciarrotta, Senior Counsel
Vermont Electric Power Co., Inc.
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c: Attached service list