

STATE OF VERMONT
PUBLIC SERVICE BOARD

Petition of Vermont Transco, LLC, and)
Vermont Electric Power Company, Inc.)
(collectively, “VELCO”), and Central Vermont)
Public Service Corporation (“CVPS”) for a)
Certificate of Public Good, pursuant to 30)
V.S.A. § 248, for the “**Southern Loop Project**,”)
located in Vernon, Guilford, Brattleboro,)
Dummerston, Newfane, Brookline, Townshend,)
Grafton, Windham, Andover, Chester, Ludlow)
and Cavendish, Vermont, consisting of the)
following elements: (1) a new, approximately)
51-mile, 345 kV transmission line between)
Vernon-Cavendish, to be built parallel to and)
within the same utility right-of-way as)
VELCO’s existing Vernon-Cavendish 345 kV)
line; (2) a new VELCO 345/115 kV Vernon)
substation, to be located just north of the)
Vermont Yankee Nuclear Power Station; (3) a)
new 345/115/46 kV Newfane substation; (4) a)
new, approximately one-mile, 345 kV)
transmission line loop between the new)
Newfane substation and the new Vernon-)
Cavendish 345 kV line; (5) expansion of)
VELCO’s Coolidge substation in Cavendish,)
Vermont; and (6) the implementing of)
incremental energy efficiency to defer)
transmission upgrades in Southern Vermont)

Docket No. 7373

PETITIONERS’ SURREPLY IN OPPOSITION

TO NORTHEAST UTILITIES SERVICE COMPANY’S MOTION TO INTERVENE

NOW COME Vermont Electric Power Company, Inc. and Vermont Transco LLC
(collectively “VELCO”), and Central Vermont Public Service Corporation (“CVPS” and, with
VELCO, “Petitioners”), and reply to the February 12, 2008 Reply filed by Northeast Utilities

Service Company (“NU”) concerning its Motion to Intervene in these proceedings (“NU Reply”).

NU is not entitled to intervene either permissively or as of right because the interests it seeks to protect do not fall within the Public Service Board’s state-granted authority under 30 V.S.A. § 248. Moreover, those interests can be, and are in fact, protected through ISO-New England’s planning approval process.

NU, acting “as agent for certain Northeast Utilities Companies” asserts that the Board may consider impacts to transmission facilities located outside of Vermont and belonging to NU affiliates, citing Section 248(b)(1) in support. NU also claims that this Vermont-based proceeding is the only forum in which NU can raise concerns about potential modifications to the Vermont Yankee substation in Vernon (“VY substation”) that may be needed as part of the proposed Southern Loop Project (the “Project”). NU Reply at 4. Neither contention has merit.

1. NU has no direct, substantial, or legally protectable interest at stake in this proceeding.

Having conceded that the Project “may not adversely impact reliability,” NU’s only alleged interest in this proceeding is a vague, unidentified interest associated with the “physical interconnection of facilities” at the VY substation owned by Entergy Nuclear Vermont Yankee (“Entergy”). *See* NU Reply at 4.¹

The interconnection facilities discussed in NU’s Reply are the existing VY substation and existing transmission lines that tie the VY substation to the NU systems. *See* NU Reply at 1-2.

¹ To the extent NU also claims a speculative interest arising from any “alternative proposals,” *see* NU Reply at 4, Petitioners have not proposed any such alternatives to the Board.

NU has no legal or other proprietary interest in the VY substation. Moreover, because Petitioners have not proposed to modify any part of NU's facilities that interconnect with Vermont Yankee,² NU's alleged interest is, at best, a mere contingent or remote interest that is per se insufficient to satisfy the "interest" requirement for purposes of intervention. Courts and this Board typically deny intervention where the alleged interest is contingent, remote or indirect. *See, e.g., Washington Elec. Co-op., Inc. v. Massachusetts Mun. Wholesale Elec. Co.*, 922 F.2d 92, 97 (2^d Cir. 1990) ("An interest that is remote from the subject matter of the proceeding, or that is contingent upon the occurrence of a sequence of events before it becomes colorable, will not satisfy the rule") (citing *Donaldson v. United States*, 400 U.S. 517, 531, 91 S.Ct. 534, 542 (1971) (a putative intervenor's interest in the proceeding must be direct, substantial, and legally protectable)); *In Re: CVPS Affiliate Transactions*, Docket No. 5797, Order of 5/19/1995 at 10 (denying intervention to the Vermont Public Power Supply Authority ("VPPSA") because VPPSA had no contractual or ownership interests that would be directly and adversely affected by the outcome of the proceeding); *see also* Board Rule 2.209(B)(requires an applicant to "demonstrate a *substantial interest* which may be adversely affected by the outcome of the proceeding")(emphasis added)). NU's concerns do not arise from any cognizable interest in the proposed project that is the subject of the proceeding.

Insofar as NU's interest in the Yankee substation is limited to its own affiliates' ability to interconnect, that interest is outside the scope of the Board's authority under 30 V.S.A. § 248.

² With the exception of a minor shift in the location of several spans of the transmission lines exiting at the VY substation to accommodate the new Vernon substation, the Project as proposed will not alter in any way the existing VY substation or lines interconnected with the NU systems. *See* Petitioners' prefiled testimony of Michael Barrett, November 8, 2007, at 3-6, together with Exhibits MB-2 (aerial photograph with existing VY substation and proposed new Vernon Substation plans overlaid), and MB-3 (general arrangement plans for new Vernon Substation).

For purposes of Section 248, the Public Service Board may consider out-of-state impacts from the proposed project, but only to the extent that any impact has some effect on the general good of Vermont. *In re Twenty-Four Vt. Utils.*, 159 Vt. 339, 361 (1992). There are no impacts resulting from Petitioners' project to NU's New Hampshire or other out-of-state facilities. But even if there were, the Board can consider out-of-state impacts only if they bear on the general good of the State of Vermont. *Id.* No such showing has been made by NU in its filings. *Cf. id.* (upholding Board's determination that Section 248 does not permit consideration of extra-jurisdictional impacts unless the impacts are shown to affect the general good of Vermont). Because its interests fall outside the scope of Section 248, NU should not be granted intervention.

2. NU's concerns are properly vetted in a different forum.

Denying NU's motion to intervene is likewise proper because NU has a more adequate forum – and one with clear jurisdiction over NU's concerns – to consider NU's claims about potential interconnection issues arising from the Southern Loop/Coolidge Connector project. ISO-New England is responsible for regional transmission system coordination, planning, and operations.

Pursuant to its FERC-filed tariff, ISO-New England requires Transmission Owners like VELCO to follow certain notice and approval procedures when considering any new transmission construction projects, as well as any change to, or retirement of, certain transmission facilities. *See* ISO-New England Inc., FERC Electric Tariff No. 3, Section I.3.9 (attached as Exhibit A). Among ISO-New England's approval criteria is whether the proposed construction project, change, or retirement of transmission assets has a significant adverse effect

on the reliability or operations of another Transmission Owner's facilities. *Id.* A finding of no significant adverse affect is required for approval under I.3.9. *Id.* For example, in the case of the Monadnock Project, a project that crossed state boundaries, three transmission companies received approval under Section I.9 for required modifications to their transmission facilities after ISO-New England found no adverse affect to their respective facilities. *See* Exhibit B (letter I.9 approval letter from Whitley dated 3/24/06). If a disagreement over ISO-New England's decision under I.9 of the tariff arose in that instance, it would have been subject to the tariff's dispute resolution procedures in Section I.6. *See* Exhibit C (Section I.6 of Tariff). This provision remains available to NU if it is aggrieved over decisions made by ISO-New England with respect to VELCO's project.

NU's request to intervene in this wholly intrastate proceeding may be viewed as an attempt to circumvent the FERC-approved ISO-New England process. NU is familiar with and has used that process, which is designed to coordinate work between and among the region's transmission owners. That coordination includes instances where a transmission project in one state requires modifications to an out-of-state transmission facility owned by a different company in another state. Given ISO-New England's clear jurisdiction, NU has no basis for invoking the Board's discretionary authority to hear NU's concerns about VELCO's project. Because the criteria for intervention have not been met, NU's motion should be denied.

To the extent NU must stay abreast of this proceeding for whatever reason, it may do so as an interested person or, like any member of the public, it may visit the Board's website for regular updates.

For the reasons forth herein and in Petitioners' February 8th Opposition, the Board should deny NU's Motion to Intervene.

DATED at Burlington, Vermont, this 19th day of February, 2008

Respectfully submitted,

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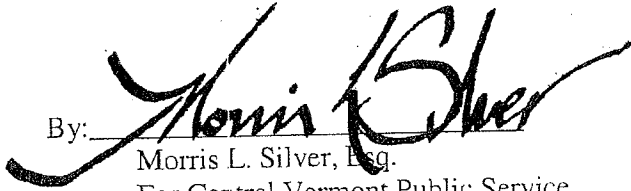
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CENTRAL VERMONT PUBLIC SERVICE
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By: _____

A handwritten signature in black ink, appearing to read "Morris Silver", written over a horizontal line.

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