

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

**Remedying Undue Discrimination** )  
**Through Open Access Transmission Service** ) **Docket No. RM01-12-000**  
**and Standard Electricity Market Design** )

**COMMENTS OF THE CANADIAN ELECTRICITY ASSOCIATION**

Pursuant to the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC” or the “Commission”), 18 C.F.R. Part 385 (2002), and the Commission’s Notices in Docket No. RM01-12-000, the Canadian Electricity Association (the “CEA”) respectfully submits these comments on certain issues discussed in the Standard Market Design Notice of Proposed Rulemaking (“SMD NOPR” or “NOPR”).<sup>1</sup>

**BACKGROUND**

Building on our respective domestic desires to meet electricity requirements, a Canada-U.S. electricity relationship has evolved over the last half century. What began with small tie-lines and the development of boundary waters for hydroelectricity, has evolved into extensive cooperative arrangements for managing transmission system reliability, major interties across the Canada-U.S. border coast-to-coast, and growing exports and imports.

The diversity of our systems -- the different balances of the various conventional and emerging technologies in our various regional generation mixes and the differing market demands region by region over days, weeks, and seasons -- has prompted a level

---

<sup>1</sup> *Remedying Undue Discrimination Through Open Access Transmission Service and Standard Electricity Market Design*, FERC Stats. & Regs. ¶ 32,563 (2002).

of cooperation that benefits electricity consumers in every region across the continent. When linked across the national border, our diverse systems have created opportunities for efficiencies in regional systems management, reduced environmental impact and improved reliability, vital achievements for all involved.

CEA members' interest in the Commission's Notice of Proposed Rulemaking on Standard Market Design is driven by our belief in the continuing value of this bi-national relationship: in terms of the substantial trade in electricity, cross-border investment, market linkages in certain regions, and the physical grid connections. CEA recognizes the substantial economic benefits to both Canada and the United States from market rules that eliminate undue discrimination, rate pancaking, and constraints, and enhance efficiency in wholesale electricity markets. CEA offers the following comments to assist the Commission in developing rules that support the elimination of barriers to trade and the facilitation of cross-border movement of electricity between Canada and the United States.

#### **UNIQUE CONTEXT WITH REGARD TO CANADIAN UTILITIES**

Before commenting on the specific proposals presented in the SMD NOPR, CEA believes that it is essential for the Commission to understand the unique context of CEA members. CEA members are an integral component of the North American transmission grid, and the interconnected nature of our systems has allowed for the development of an important trading relationship with U.S. market participants. This cross-border relationship is governed by two very important factors.

First, all cross-border trade between the United States and Canada is governed by the rules implementing the energy chapter of the North American Free Trade Agreement

(NAFTA). NAFTA articulates the principle of “national treatment” as underscoring the trading relationship between the NAFTA partners.<sup>2</sup> Accordingly, the principles underlying NAFTA must be incorporated into any rule developed and implemented by the Commission.

Second, the Commission should recognize the differing regulatory responsibilities applicable to transmission and wholesale markets in Canada. Electricity is predominantly within the jurisdiction of the provinces, with a Government of Canada role in regulation of energy exports and facilities that span international borders. As such, different approaches to electricity markets have developed among the provinces, with varying mixes of public and private entities and a wide diversity of approaches to restructuring. This means that differences will exist on matters of governance and regulatory authority; these matters are addressed within each province’s specific regulatory and legislative responsibilities.

#### **THE NEED FOR COOPERATION IN DEVELOPING POLICIES THAT AFFECT THE NORTH AMERICAN TRANSMISSION GRID AND MARKETS**

Canadian entities have taken different approaches to the development of energy policy, and particularly electricity policy initiatives, affecting trans-national markets. These differences have been driven principally by the particular provincial legislation and regulation affecting each entity. Across Canada, however, a common objective is to reach arrangements that will, in a manner consistent with NAFTA, broaden trade with the U.S. and enhance reliability.

---

<sup>2</sup> “National treatment” is defined as “treatment no less favourable [than that accorded], in like circumstances, to [the nation’s] own investors with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.”

The Commission has issued rules in the past that have affected the cross-border relationships of U.S. and Canadian utilities. For example, under FERC Order No. 888, the principle of open access was established. Since that time, various Canadian utilities have *voluntarily* either posted a pro forma tariff, satisfied FERC's comparability test, or received a declaratory order from FERC under its safe harbour procedure to facilitate Canadian utilities' affiliates participating in the U.S. wholesale market under market-based rates. In other instances, no such finding was obtained from the Commission, but different arrangements were made to permit continuing trade across borders.<sup>3</sup> In all instances, there is recognition of the merits of the principle of open access to achieve continued well-functioning and reliable markets.

The response on the principle of open access demonstrates a key point: the specific impact of, and response to, various U.S. policies will differ among Canadian provincial jurisdictions, depending on the policy. However, given the applicability of NAFTA for U.S./Canada trade and the simultaneous regulatory responsibilities of provincial regulators across Canada, caution should always be exercised by the Commission with respect to the potential extra-jurisdictional extension of its rules.

A robust trading relationship requires cross-border cooperation. Over the years, Canadian entities and their U.S. counterparts have pursued this goal through the creation of separate arrangements or agreements between various Canadian entities and entities in neighbouring U.S. jurisdictions. In recognition of the varying operational system characteristics of the provinces, there is significant variation in the nature and form of such arrangements from province to province. What is important is that Canadian and

---

<sup>3</sup> Appendix A, attached to these comments, lists which Canadian utilities have reciprocity tariffs in place, and which do not.

U.S. entities have mutually crafted, and should continue to craft, arrangements that will facilitate such trading relationships, while respecting jurisdictional sovereignty.

## **SPECIFIC COMMENTS**

### **Application of Reciprocity**

As explained above, any rule issued by the Commission should be guided by U.S. obligations under NAFTA. FERC should avoid disruption of existing arrangements and relationships that currently enable energy trade between Canada and the United States.<sup>4</sup> In addition, any rule should be informed by an understanding that each Canadian province and its entities will approach and evaluate the rule's implications in the context of a unique and sovereign provincial legislative and regulatory framework. Because Canadian entities are not subject to domestic market rules in the U.S., these rules need to apply in a manner that permits the continued healthy functioning of the cross-border markets in which Canadian and U.S. entities participate.

While many Canadian entities offer open access transmission service which is in fact comparable or superior to that offered by U.S. transmission providers, not all Canadian tariffs or market rules governing transmission service are alike. And not all Canadian utilities have made a decision to participate in cross-border trade, or have non-jurisdictional tariffs on file with FERC. A flexible approach by the Commission that accommodates different arrangements for Canadian utilities would recognize that particular terms and conditions of transmission service vary with the legal and regulatory circumstances particular to each of our respective jurisdictions. One example of such flexibility is FERC's proposal for an exception that grandfathers the 888-type tariffs of

---

<sup>4</sup> Such an approach is actually necessitated by Article 606 of NAFTA, which requires regulatory bodies to avoid disrupting contractual relationships through the imposition of regulatory measures.

FERC non-jurisdictional entities that the Commission previously found to meet its comparability requirements.

CEA recommends that the Commission adopt a flexible approach with respect to all Canadian entities. Such an approach would enable markets to move forward (and the market players in them -- in Canada and the U.S.) to develop appropriate means to accommodate the SMD principles, while respecting the principles of NAFTA and the jurisdictional sovereignty of Canadian provinces to set their own regulatory rules. While the Commission's reciprocity proposal in the NOPR may be intended to eliminate domestic electricity industry barriers, an approach that fails to accommodate the reality of non-U.S. entities may instead create international barriers that could become the subject of dispute under the provisions of NAFTA.

While the Canadian Electricity Association stresses in these comments the importance of flexibility with respect to Canadian utilities, CEA nevertheless recognizes the great value of standard market rules for enhancing cross-border trade. To that end, a number of CEA members are currently working within their respective provinces and with their respective trading partners to establish processes that will enhance cross-border trade, and CEA members commit to such continued cooperation to improve liquidity with our U.S. neighbours.<sup>5</sup>

### **Other Issues**

As noted above, Canadian and U.S. entities have crafted, and should continue to craft, arrangements that will facilitate trading relationships while respecting jurisdictional sovereignty. In this regard, CEA believes that effective and reliable cross-border trade

---

<sup>5</sup> See Appendix A for a description of such current activities by CEA members to enhance cross-border trade, such as participation in RTOs.

requires the development, to the extent practicable, of rules that facilitate such trade. To that end, CEA members offer comments on specific proposals in the SMD NOPR.

CEA's comments will focus only on cross-border issues. The following six issues have cross border implications:

- (1) **Regional Planning**
- (2) **Regional State Advisory Committees**
- (3) **Critical Infrastructure Protection**
- (4) **Elimination of Multiple Transmission Charges**
- (5) **Participation in Standards Development and Adoption**
- (6) **Seams Issues**

Individual members may provide separate comments on these and other aspects of the NOPR.

**(1) Regional Planning**

A significant reason for the broad acceptance of the principle of open access across a common border is the fact that regional and international transactions have been occurring for many years; open access facilitated greater competitiveness and integration of these markets. That integration further represents a solid foundation for the expansion of regional planning, a necessity for regional markets to thrive and reap benefits for consumers.

FERC proposes that a regional planning process be implemented within six months of the effective date of the Final Rule and that the first regional plan be completed within twelve months after the effective date of the Final Rule.<sup>6</sup> All FERC jurisdictional public utilities that own, control, or operate transmission facilities must participate in a regional planning process. This process should be designed to identify

---

<sup>6</sup> FERC proposes four planning areas: (1) the area covered by the Western Electricity Coordinating Council; (2) the area covered by PJM, Midwest ISO, and Southwest Power Pool; (3) the area covered by New York ISO and ISO -New England; and (4) the area composed of the Southeastern Electricity Reliability Council and the Florida Reliability Coordinating Council.

beneficial transmission needed for both reliability and economic reasons to support regional markets and reduce the effects of generation concentration. FERC is inviting state regulators to be active advisors and participants in the development of the tariffs and markets, and also encourages participation by Canadian entities and provincial authorities in the regional planning process. Given the reality of international regional markets and the interconnected nature of the North American transmission system, it is essential that Canadian entities be party to such processes. CEA urges FERC to direct U.S. entities to make best efforts to engage Canadian provincial regulators, authorities, and electricity companies in these coordinated regional cross-border planning and policy initiatives, as well as ensuring that the rules create incentives and opportunities for Canadian participation.

The Commission asserts that private investment decisions in response to prices may not result in adequate investment in new infrastructure. For this and other reasons, including that participation by multiple jurisdictions and entities is essential in developing a regional plan, FERC proposes that Independent Transmission Providers (ITPs) establish a mechanism for regional planning and expansion guided by principles that are supportive of the SMD and network tariff objectives. CEA supports the proposal for a planning process that “is intended to supplement ... private investment decisions, *not supplant them.*” However, CEA also agrees with the Commission’s comments that “some needed and beneficial investments may not create enough identifiable financial benefits to compensate private investors adequately.” As a result, in addition to requiring an effective regional planning process, it is important for the Commission to establish mechanisms which provide appropriate returns to investors in new cross-border

infrastructure, whether such facilities are rate-based or market-based, to the extent this is within the Commission's jurisdiction.

CEA recognizes that certain Canadian utilities have been participating in cross-border regional transmission planning studies for many years, and the FERC's overall approach to regional planning would serve both countries and markets very well. CEA, however, is concerned about the six and twelve month timelines in the NOPR and believes that a more realistic timeline will produce a higher quality product.

Finally, CEA endorses the principle of coordinated regional planning as long as the differences in jurisdictional authorities and processes within the region are respected. However, CEA believes that, within this process, there is a clear differentiation between purely local needs and the solutions to them (which should remain with the local authorities, with respect, at least, to Canada), and those needs and/or solutions that have regional impact.

## **(2) Regional State Advisory Committees**

FERC extends an invitation to State authorities to be advisors on market implementation. The invitation is also extended to Canadian provincial authorities. Canadian provincial authorities have traditionally not participated in such a manner.

CEA member organizations will encourage provincial authorities (to the extent they exist) to participate in the coordinated approach to regional issues, including transmission siting, as discussed in Section IV, Part K, of the NOPR.

## **(3) Critical Infrastructure Protection**

CEA actively participates on NERC's Critical Infrastructure Protection Advisory Group and endorses the need to establish minimum security standards as drafted in

Appendix G of the NOPR. CEA has identified a number of concerns and suggestions regarding these proposed standards, including:

- clarify that the scope of the security standards is centred on critical "cyber" assets, and not the physical security of electricity infrastructure or facilities
- emphasize that the implementation of protective measures by individual Market Participants is intended to be proportional, and driven by their individual risk to the electricity market
- clearly define key terms such as critical cyber assets, electronic security perimeter and physical security perimeter
- ensure that the applicability of the security standards to various Market Participants is consistent with the Standard Market Design itself
- harmonize the self-certification process with other compliance processes developed by NERC as part of its developing standards process
- clarify the self-certification process, including how exceptions and areas of non-compliance are identified

CEA is working with NERC to provide comments and develop a revised

Appendix G. As such, CEA strongly suggests that FERC accept NERC's comments and recommendations. Further, CEA expects that these standards will need to evolve over time and should endure through the developing NERC standards process.

#### **(4) Elimination of Multiple Transmission Charges**

Under the current transmission rate designs, a market participant that transmits power from one RTO to another generally would pay two transmission charges: one charge to recover the embedded costs of the transmission provider from the exporting area and an additional charge to recover the embedded costs of the transmission provider at the load. Transmission pricing across RTO borders creates distortions to trade between regions. FERC has recognized that this situation creates an impediment to inter-regional

trade and has addressed the issue in its recent SMD NOPR in Section IV, Part D, subsection 4, paragraphs 179-190.

The Commission concludes that as long as transmission owners have an opportunity to recover their embedded costs, the rate treatment for inter- and intra-regional transactions should be consistent. The design of rates for Network Access Service should eliminate the payment of multiple access charges for export and through-and-out transactions, such that only one access charge is paid for power by the load.

The Commission also proposes various options to account for import/export quantities in establishing the revenue requirement to be recovered through the Network Access charge of each region. That is, FERC will consider allocation of some of the embedded costs of one ITP containing the ‘source’ to another ITP containing the ‘sink’ (ultimate destination) for export and through-and-out transactions, or allocation of revenue from the “sink” ITP to the “source” ITP. The NOPR asks for comments on these options and on this issue as well as how cost impacts of parallel path flows across regional boundaries should be addressed.

Given the diversity in the Canadian arrangements, and the regional difference between Canadian entities’ U.S. neighbours, the treatment of this tariff issue may differ regionally, and the Commission needs to ensure that there is effective regional consultation on both sides of the border. However, CEA agrees that the elimination of pancaking of rates is an important aspect of improving liquidity and the efficiency of markets, as long as transmission owners or providers are not adversely affected.

**(5) Participation in Standards Development, Adoption, and Compliance**

The NOPR recognizes the importance of business practice and reliability standards to support its standard market design. Over the course of the past year, as the SMD NOPR was under development, the responsibilities for developing such standards have become clearer. NERC will be responsible for developing reliability standards through a standard-setting process that will be compatible with SMD. NAESB, through its recently established Wholesale Electricity Quadrant (WEQ), will develop business practice standards and communication protocols. NAESB and NERC will coordinate their efforts. The RTOs/ISOs/ITPs will also have an important role in development and implementation.

Both NERC and NAESB are organized to reflect the international nature of markets and the transmission grid. NERC is a well-established organization that is adapting its standards to the changing industry structures. NERC continues to have strong Canadian participation and influence. The NAESB WEQ, established in July of this year, is actively soliciting Canadian members, and has Canadian representation on both its Board and Executive Committee. The WEQ is divided into five segments, representing all stakeholders in wholesale electricity, with the exception of RTOs/ISOs. RTOs/ISOs, including comparable Canadian entities, will have a formal advisory role to support the NAESB Board and Executive Committees, and will participate in the standards drafting process with Canadian representation.

The design of NERC and NAESB as international bodies, as well as the ability of Canadian entities to have an effective voice in standards development, has resulted in a strong partnership in standards development between U.S. and Canadian entities over the

past several decades. Canadian entities are committed to ensuring that this partnership continues. And while these standards are voluntary, Canadian utilities have worked with their respective provinces to make compliance mandatory, through enforceable regulatory instruments, such as agreements or market rules. For example, in the case of Ontario, both the enabling legislation and the market rules reference the IMO as establishing standards for power system reliability developed by NERC<sup>7</sup> and other agencies and bodies. In the west, the Reliability Management System program was championed by BC Hydro and the British Columbia Utilities Commission and the Alberta Energy and Utility Board have mandated compliance with the Western Electricity Coordinating Council's Reliability Management System.

The standards developed by NERC and NAESB will have been developed and approved in an open and rigorous process, with the active participation of both U.S. and Canadian entities. Accordingly, because most issues will have been resolved before the standards are filed with the Commission for approval, it can be expected that the Commission will adopt standards approved by NERC and NAESB. Similarly, in Canada, it can be expected that NERC and NAESB standards will tend to be adopted by the various provincial authorities. Notwithstanding such expectations, it is essential that compatibility in standards be ensured, which leads to the necessity of coordination and cooperation on standards approval between the U.S. and Canadian authorities.

In this regard, it should be noted that there is an ongoing Canadian federal-provincial policy group on reliability that is examining the potential for coordination among the provincial standards approval authorities, and between them and FERC. One potential approach would involve limiting the Commission to remand authority regarding

---

<sup>7</sup> The actual references are to industry standards, but the intent is clearly NERC standards.

the adoption of standards approved by NERC and NAESB. We ask the Commission to consider such an approach, and more generally, the need for coordination with Canadian approval authorities.

**(6) Seams Issues**

The SMD proposed rulemaking represents a considerable policy initiative to establish standard market rules within and between regions. However, rules that reflect regional differences or standard rules that do not resolve all issues within the market could impact liquidity and the efficiency of these markets. While we do recognize that some RTOs and regions are attempting to address seams issues, we believe that the SMD rules should include a process for ensuring that seams issues are addressed consistently and across all regions in a timely fashion. And to ensure that seams issues across the U.S./Canadian border are adequately and effectively addressed, CEA encourages the Commission to include in this process a mechanism for coordination with Canadian approval authorities.

**CONCLUSION**

The application of standard market design rules in the context of cross-border trade must be implemented in a manner that is respectful of Canadian jurisdictional sovereignty and consistent with the requirements of NAFTA. Nevertheless, Canadian utilities will continue to work with their U.S. counterparts in developing approaches to

cross-border trade, and will continue to seek ways to enhance coordination of standards and standards approval processes, both within Canada and with FERC.

Respectfully submitted,

/s/

---

Hans Konow  
President and CEO  
Canadian Electricity Association  
66 Slater Street, Suite 1210  
Ottawa, Ontario K1P 5H1  
Canada

Dated: November 15, 2002

## **Appendix A: Province by Province Open Access Conditions and Selected Activities to Enhance Cross-Border Trade**

**British Columbia:** BC Hydro has a Wholesale Transmission Services tariff, which was approved by the B.C. Utilities Commission in 1997. The tariff uses the 888 pro-forma as the basis for structure and content. In providing Powerex with a Power Marketing Authorization, FERC has recognized that the WTS provides open access to wholesale market participants in BC.

BC Hydro is currently a filing utility as part of the continued development of RTO West. BC Hydro is not subject to FERC's jurisdiction. However, just as under Order 888, BC Hydro expects to be fully aligned with FERC requirements for jurisdictional utilities in the Pacific Northwest. BC Hydro is reviewing the September 2002 Order approving much of the RTO West submission and working with other regional parties to determine whether BC Hydro's interests and those of the province can be met. BC Hydro's participation with RTO West would be structured to protect the province's sovereignty interests, and is subject to appropriate provincial policy, legislation, regulatory approval and final approval by the Board of Directors.

BC Hydro continues to be an active member of the Western Electricity Coordinating Council and the North American Electric Reliability Council. This participation and relationship with other industry players goes back more than 30 years. BC Hydro continues to work cooperatively within the western electricity market to ensure the reliability of the western grid and facilitate a seamless western market.

**Alberta:** Open access is provided by an entity (Transmission Administrator of Alberta) that is independent of all market participants. It does not take transmission service from any U.S. entity, nor does it have an 888-type OATT but has a 'made in Alberta' open access tariff. FERC previously found that the institutional arrangement in Alberta satisfied the comparability/reciprocity issue in the TransAlta Enterprises Corporation application for a PMA in Docket No. ER96-1316-000.

**Saskatchewan:** SaskPower has three interconnection ties, one to the west with Alberta, one to the east with Manitoba and one to the south with the United States. It has had a contractual relationship with the U.S. market for over 20 years. In October 2001, SaskPower legally separated its marketing operations from the rest of the utility with the incorporation of a subsidiary company, NorthPoint Energy Solutions Inc. On November 1, 2001, SaskPower posted a pro forma OATT (modified as necessary to accommodate Canadian and Saskatchewan jurisdictional requirements) enabling U.S. and Canadian wholesale customers non-discriminatory access to the transmission system. NorthPoint Energy Solutions Inc. continues to exchange energy with Canadian and United States counter-parties.

SaskPower has not filed its tariff with FERC nor has it sought a "safe harbour" declaratory order from FERC. SaskPower, as a matter of course, continues to examine the

development of RTOs in the surrounding region and has been an active associate member of MAPP for several years. As well, SaskPower has been aligning its business practices which accompany its OATT with those of its surrounding neighbors, both in Canada and in the United States who have also posted an OATT.

**Manitoba:** Manitoba Hydro has an open access transmission tariff which is separate from the MISO Tariff. This Tariff is not on file with FERC under the safe harbour procedures of Order 888. It has a Coordination Agreement with MISO on file with FERC. This Coordination Agreement calls for the two entities, Manitoba Hydro and MISO to coordinate their activities under the lead of MISO, to secure the benefits of a virtual international Regional Transmission Organization.

This Coordination Agreement requires Manitoba Hydro and MISO to have comparable, non discriminatory access, transmission service charges and congestion management procedures. It also provides that, for the purpose of transmission pricing, Manitoba Hydro will be treated as if it were a zone within MISO. Transactions originating in Manitoba Hydro's territory but sinking in MISO territory will be charged the applicable MISO zonal rate. Through and out transactions are governed by similar principles of comparability.

**Ontario:** In an order dated September 26, 2002, the Commission found that “the IMO provides open access transmission service on a comparable, non-discriminatory basis for wheeling through and out of the province of Ontario.” This was in the context of Consumers Energy Company’s request for rehearing that was denied. Consumers had requested a rehearing of the Commission’s order, dated April 11, 2002, granting Ontario Energy Trading International authority to sell energy, capacity, and ancillary services, and to resell transmission capacity, at market-based rates. (Docket No. ER02-1021-001).

In June 2002, the IMO, ISO New England and the New York ISO entered into Systems Operations, Planning and Market Development Agreement that commits the parties to continue their existing efforts to coordinate transactions procedures, ensure that the transfer capabilities of shared interfaces are calculated consistently, develop reserve sharing mechanisms, and institute cooperative system expansion and planning procedures.

**Québec:** In December 1996, the Government of Québec established the Régie de l'énergie, an independent regulatory agency which is responsible for regulating the energy sector in Québec. The Régie's functions, powers and procedures are similar to the FERC and since it has jurisdiction over retail customers, it is also similar to State public utility Commissions in the U.S. In the electric sector, the Régie has oversight duties reviewing the activities of the transmission provider and the distributors and must, among other things, protect the interest of the consumers in Québec.

In 1997, Hydro-Québec's corporate structure changed to reflect the functional separation of activities based on the model proposed by Order No. 889. The transmission division of Hydro-Québec became "Hydro-Québec TransÉnergie" (HQTE). The Government of

Québec 's decree 276-97 approved Hydro-Québec's Open Access Transmission Tariff. The tariff uses the 888 pro-forma as the basis for structure and content. The same year, FERC recognized HQTE's Open Access Transmission Tariff comparable to that offered under Order No. 888 by providing to H-Q Energy Services (U.S.) Inc. the authorization to sell at market based rates in the United States.

HQTE is the transmission division of Hydro-Québec, a government-owned utility, and the control area operator and security coordinator for the Province of Québec. HQTE's transmission system has several interconnections with the control areas of Ontario, New Brunswick, New York and New England systems. Specifically, there are major ties with New York and New England. A 450 kV high-voltage direct current ("HVDC") line with a transfer capability of approximately 2000 MW links HQTE's system to New England. HQTE is also linked to the New York Power Authority via the Châteauguay facility, a 765-kV interconnection built to carry up to 2370 MW. In addition, HQTE is connected to the New England grid via the Highgate Interconnection and the Stanstead-Derby tie, which are owned by a number of Vermont utilities.

In April 2002, the Régie de l'énergie approved some modifications to HQTE Open Access Transmission Tariff in its rate case decision.

**New Brunswick:** In January of 1998, NB Power introduced a tariff for Order 888-type point-to-point services for out and through wheeling. Functional unbundling and standards of conduct were implemented in January of 2000. In early 2002, the Public Utilities Board (PUB) in New Brunswick was given legislative authority to approve open access transmission tariffs in New Brunswick. In May 2002, the New Brunswick Government announced its plan to restructure NB Power by forming a holding company with four subsidiary companies (Generation, Nuclear, Transmission and Distribution and Customer Service). This restructuring will go into effect on April 1, 2003 and will coincide with the opening of a bilateral market for Wholesale and Industrial customers that are connected directly to the Transmission system.

The New Brunswick Market Design Committee (MDC) submitted its final report in April 2002. The MDC recommendations spoke to the independence of the power system operator. The MDC presented two possible options for a reporting structure for the system operator: it could either report to a separate independent governance board or a governance panel while remaining part of the Transco organization.

In July 2002, NB Power filed with the PUB an application for an Order 888 compatible open access transmission tariff. Hearings for the tariff case are scheduled to begin on November 18, 2002 and conclude in January 2003. The PUB ruling is anticipated in early 2003.

NB Power is developing the infrastructure required for market opening on April 1, 2003.

**Newfoundland:** Due to Newfoundland and Labrador's geographical location, open access, and the SMD ruling in general, are not issues with immediate impact, although

the province is monitoring the debate given its significant generation assets and interest in continued new market development

**Nova Scotia:** Nova Scotia's energy strategy was adopted on December 12, 2001. Key recommendations include the development of an open-access transmission tariff for all power producers and wholesale customers consistent with U.S. reciprocity requirements. The key advisory body in this process is the Electricity Marketplace Governance Committee (EMGC). The EMGC will report to the Minister of Energy and recommend the implementation, development, structure, economic considerations, and rules to introduce competition in the electricity marketplace. The EMGC is monitoring the developments of the FERC SMD NOPR, however Nova Scotia does not have a direct transmission interconnection with the U.S., so the status of transmission access and market rules in other Canadian provinces must be considered.

**Prince Edward Island:** The electricity system on PEI is connected radially with New Brunswick's system, and thus PEI does not have a direct transmission interconnection with the U.S. In addition, since 1994, electricity rates on PEI have been linked to those of NB Power. Thus, developments in New Brunswick will tend to have impact on the electricity industry in PEI. While there are currently no plans to implement an open access transmission tariff, PEI continues to monitor developments in NB and the U.S. Northeast.

**CERTIFICATE OF SERVICE**

I hereby certify that on November 15, 2002, I served the foregoing “Comments of the Canadian Electricity Association” upon each person designated on the official service list compiled by the Secretary in this proceeding.

/s/

\_\_\_\_\_  
Bonnie A. Suchman