October 14, 1997

Mr. Thomas Austin
Regulatory Assistance Project
177 Water Street
Gardiner, ME 04345

Dear Mr. Austin:

SUBJECT: New England Disclosure Project

Comments for Inclusion in Appendix to Report

Thank you for the opportunity to participate in your stakeholder workshops. We commend you and Dr. Raab for a job very well done.

It is with regret that MMWEC has concluded that it cannot agree with your recommendation of a hybrid approach and urges the Commissions to face head-on the hard choice of tags vs ISO-based tracking.

Our comments on your final report addressing the issues of (1) Imports, (2) Allocation of Cost, (3) The use of hourly closing for unit contracts but not for system or ANI transactions (which are essentially unit sales); (3) Interim Arrangements and (4) The Hybrid Approach are:

1. Imports: We continue to oppose the proposed labeling of all non-New England resources as "imports." We appreciate your recognition of our NYPA problem but we remain concerned about the overall validity of the recommended treatment of imports. We see several problems with this approach, including:

1. Commerce Clause and free speech problems if mandated by the six New England States (see CLF's paper presented to the group);

2. Potential antitrust problems if voluntarily agreed-upon by NEPOOL Participants; and

3. Accounting and fairness problems in dealing with Maine entities not inside the NEPOOL control area but clearly New England utilities.

MMWEC also believes (given the limited transfer capability into New England and the need for firm hourly schedules from an identified source) that the potential for "gaming" has been seriously overstated and that most, if not all , abuses would quickly be remedied by the affected states or provinces. It is not, and should not be, the province of New England States' regulators to control behavior in other jurisdictions and thus usurp the regulatory and legislative prerogatives of other States or Canadian Provinces by imposing New England policy decisions on other regional markets.

2. Allocation of Costs: MMWEC has serious reservations about allocating the costs of either an ISO-based tracking or tagging system as NEPOOL costs. Many NEPOOL members will not be participating in the new competitive retail markets and are not subject to State PUC regulation. MMWEC proposes that those who will be participating in this market sign a separate agreement with ISO-New England authorizing the ISO staff to undertake the work required to establish the tracking scheme decided upon and agreeing to pay for the costs of establishing and administering such a scheme. This is similar to the means MMWEC currently uses to fund projects on behalf of some but not all of its Participants. It is by no means clear to MMWEC that either ISO-New England or the NEPOOL Management Committee currently has any contractual right to undertake this project or to bill its costs to any NEPOOL Participant.

3. Hourly Closing for Unit Contracts: MMWEC cannot agree with your decision to treat unit contracts differently than you do system contracts and settlements from Adjusted Net Interchange. This distinction appears to be based upon the market strategy of one NEPOOL Participant (one that has since divested its generation) and that Participant's speculation that others would act likewise. We see no reason that unit contract transactions cannot be (as in fact they are in calculating ANI) "closed" for these purposes on the same monthly basis as NEPOOL uses for its billing. In the alternative, we see no reason that system power sales cannot be closed hourly. Your statement concerning NEPOOL's control of the generators as a factor in this decision was also puzzling to us. Except in rare instances, NEPOOL continues to control all Participant generation through its central dispatch (based upon bids rather than costs).

4. Interim Arrangements: MMWEC continues to urge, as we suggested in our August 25, 1997 letter (copy attached), that the cost of interim arrangements be avoided and that the permanent system be put in place from the beginning even if that involves some delay. It is now fairly clear that the NEPOOL changes which make this kind of disclosure meaningful will not be in place by January 1, 1998 and may very well not be in place by April of 1998.

5. Hybrid Approach: MMWEC remains unconvinced that the costs associated with the Power Exchange tagging feature of the hybrid approach are justified by its incremental benefits. We believe the choice between an ISO tracking or tagging system needs to be made soon and then adhered to. While we recognize (as DOER has pointed out in its September 15, 1997 letter) that the residual tagging of the hybrid proposal is more closely tied to contracts for capacity or energy than are truly tradable tags, we remain concerned that an entire tagging infrastructure must be created for what appears to us to be a fairly insignificant market based upon a Power Exchange that seems unlikely to move much beyond a small inadvertent account in the NEPOOL settlement system. We do not believe this market will be large enough (because NEPOOL is not a PoolCo) to make a marketer's job of acquiring specific types of resources any less expensive or any easier than it would be in the larger bilateral markets. The "free rider" problem, it seems to us, will not be significant because generation with desirable attributes would, almost by definition, be marketable at a premium in bilateral markets leaving only the least desirable products in the residual mix. It is also somewhat problematic to determine what is meant by more or less "desirable" in this new market. Would coal-fired generation be more or less desirable than nuclear? Would seven cents per kWh low-head hydro be considered superior to four cents per kWh natural gas? Many of these judgments will vary by customer, by time period, and by a number of other factors. It also strikes us that the residual tags continue to allow an after-the-fact conversion of one source to another (e.g. coal to hydro) without regard to what the supplier owns and is, in that respect, no more credible than tradable tags based on historic generation. Both could be said to rewrite history and to spin straw into gold. It appears to us that most of the problems for which PX tags are cited as a cure are the result of a perceived need for hourly closing of settlement accounts rather than permitting the averaging of kWh output over some time period.

MMWEC urges the Commissions to avoid the impulse to be all things to all people and to choose either an ISO-based tracking or tradable tags regime now with no interim claims-based system and no hybridization.

Sincerely,

Jay P. Dwyer
Senior Project Manager - Contracts

JPD/bab

Attachment

cc: David A. Sjosten, General Manager, MMWEC
Nicholas Scobbo, Esquire/Rob Granger, Esquire
Roger W. Bacon, Director, Power Service Division