

123 FERC ¶ 61,324  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Northeast Utilities Service Company

Docket No. ER08-896-000

ORDER ACCEPTING COST ALLOCATION PROPOSAL

(Issued June 30, 2008)

1. On May 1, 2008, Northeast Utilities Service Company (NUSCO) submitted a proposal to allocate certain “Localized Costs” associated with major transmission projects in Southwest Connecticut (SWCT).<sup>1</sup> The SWCT major transmission projects include the Bethel-to-Norwalk project (B-N Project), Middletown-to-Norwalk project (M-N Project), and the Glenbrook Cables project (Glenbrook Project). In this filing, NUSCO proposes to allocate the Localized Costs associated with the M-N Project and the Glenbrook Project on a statewide basis consistent with the Commission’s approval of the B-N Project’s Localized Costs. In this order, the Commission accepts NUSCO’s proposal.

**I. Background**

2. Under the New England transmission cost allocation process, ISO-NE, with the advice of stakeholders,<sup>2</sup> is responsible for determining the level of costs of regional transmission projects that are recoverable through regional rates, and the level of Localized Costs that should be recovered on a state or local area basis.<sup>3</sup> Localized Costs are recovered from transmission load entities in the state or area in which the localized

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<sup>1</sup> Localized Costs are costs associated with a pool transmission facility (PTF) determined by ISO-NE to be incurred as a result of local requirements and therefore not qualifying for regional cost support.

<sup>2</sup> New England Power Pool Reliability Committee provides advice to ISO-NE on such matters.

<sup>3</sup> Statewide allocation of Localized Costs associated with the B-N Project had been previously approved by the Commission. *Northeast Utilities Service Co.*, 116 FERC ¶ 61,094, *order on reh’g*, 117 FERC ¶ 61,337 (2006) (*Northeast Utilities*).

facilities are located through a separate allocation. Before charging customers for any Localized Costs, the NUSCO companies are required to submit a cost allocation proposal for the Commission's approval.<sup>4</sup>

3. Transmission load entities in Connecticut include Connecticut Light and Power (CL&P),<sup>5</sup> United Illuminating (UI), and the Connecticut Municipal Electric Cooperative (CMEEC). In addition, certain generation entities in Connecticut have chosen to take regional network transmission service (RNS) for the delivery of station power to their or their affiliates' generating facilities in Connecticut. According to NUSCO, these generation entities include Dominion Energy Marketing, Inc. (Dominion), NRG Power Marketing, LLC (NRG), and Milford Power Company, LLC (Milford Power).<sup>6</sup>

4. The NUSCO affiliates own and operate transmission facilities in Connecticut, Massachusetts, and New Hampshire, and provide RNS under the ISO-NE open-access transmission tariff (OATT), and local network service (LNS) under Schedule 21-NU of the ISO-NE OATT.<sup>7</sup> As such, the NU affiliates recover their transmission revenue requirement through a combination of regional rates (RNS) and local rates (LNS).<sup>8</sup> A determination that certain project costs should be treated as Localized Costs does not mean that the facilities are not part of the regional grid. Rather, Localized Cost are excluded from regional treatment because those costs are determined by ISO-NE to exceed the estimated costs of a reasonable alternative that would have provided

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<sup>4</sup> NUSCO Filing at 8.

<sup>5</sup> CL&P is a Connecticut transmission-owning affiliate of NUSCO.

<sup>6</sup> NUSCO Filing at 17.

<sup>7</sup> *Id.* at 6-7.

<sup>8</sup> Local Network Service recovers transmission costs that are not allowed in RNS rates from NUSCO's affiliate customers located in Connecticut, Massachusetts and New Hampshire. Under the Schedule 21-NU rate design, Local Network Service costs are divided into two categories: (1) NU's total transmission revenue requirement not recovered from other sources (referred to as Category A costs) which is recovered from all customers receiving LNS; and (2) Category B costs, which include the revenue requirements for PTF investments that the ISO-NE determines should be treated as Localized Costs as a result of local requirements and should be recovered on a state or local basis; these two cost categories are excluded from the Regional Network Service revenue requirements.

equivalent service, and are instead recovered from the local state or area.<sup>9</sup> Because NU affiliates operate in Connecticut, Massachusetts and New Hampshire, Localized Costs for the SWCT transmission projects are recovered in a separate category from other costs recovered in LNS rates. Schedule 21-NU refers to these costs as Category B costs.<sup>10</sup>

5. As previously noted, the SWCT major transmission projects include the B-N Project, M-N Project, and Glenbrook Project.<sup>11</sup> The M-N Project is a joint project between CL&P and UI, with CL&P owning approximately 80 percent of the project. The M-N Project consists of approximately 69 miles of 345 kV transmission circuit between substations in Middletown and Norwalk, including approximately 24 miles of underground 345 kV cable. The Glenbrook Project consists of two new 115 kV underground cables from the Norwalk to Stamford.

6. The total cost of the M-N Project is currently projected to be approximately \$1.4 billion. Of this amount, approximately \$1.376 billion is proposed for regional cost support and \$24 million has been identified to be potentially Localized Costs.<sup>12</sup> NUSCO states that the project is expected to be complete by early to mid-2009. Total cost for the Glenbrook project is projected to be approximately \$234.2 million. Of this amount, approximately \$150,000 has been identified as potentially being Localized Costs.<sup>13</sup> NUSCO states that the Glenbrook project is expected to be complete by the end of 2008.

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<sup>9</sup> In determining Localized Costs, ISO-NE Planning Procedure 4 requires consideration of: (1) good utility practice, (2) current engineering design and construction practices in the area in which the project is being built, (3) feasible and practical transmission alternatives, and (4) relative costs, operation, efficiency, reliability and timing of the implementation of the project.

<sup>10</sup> NUSCO Filing at 7.

<sup>11</sup> *Id.* at 10. The SWCT transmission projects also include the Long Island Replacement Cable Project, for which ISO-NE determined that there were no Localized Costs.

<sup>12</sup> NUSCO states that this amount is not a final determination because neither ISO-NE nor the NEPOOL reliability committee (stakeholder process) has made any findings regarding Localized Costs.

<sup>13</sup> This is the amount associated with the construction and extension of the bike path along Riverside Avenue in Norwalk Connecticut. However, ISO-NE has made no findings with regard to the Localized Costs. Accordingly, this amount is not a final determination.

## II. NUSCO's Proposal

### A. Description

7. NUSCO proposes to allocate the Localized Costs of the M-N Project and Glenbrook Project to all transmission load entities in Connecticut on a load ratio share basis.<sup>14</sup> To implement this allocation proposal, NUSCO has submitted Localized Cost Responsibility Agreements (LCRA) with CL&P and UI, and modifications to the Comprehensive Transmission Service Agreement (CTSA) with CMEEC.<sup>15</sup> NUSCO states that the allocations for the M-N Project and the Glenbrook Project are consistent with the allocation methodology for the B-N Project. In addition, because Dominion, NRG, and Milford Power have chosen to take RNS transmission service for the delivery of station power, NU has submitted LCRAs with these entities.<sup>16</sup>

8. NUSCO contends that the rationales that the Commission relied upon in approving a statewide allocation for the B-N Project are equally applicable here.<sup>17</sup> Specifically, NUSCO contends that all customers in Connecticut will benefit from the reliability improvements provided by the SWCT projects. Further, NUSCO contends that although there are Localized Costs included because of local requirements, the facilities support the regional transmission system, and statewide allocation achieves a proper balance of state and local community interests. NUSCO maintains that it would be impractical to

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<sup>14</sup> NUSCO Filing at 17.

<sup>15</sup> Under the CTSA, NU provides network transmission service to CMEEC under provisions similar to Schedule 21-NU.

<sup>16</sup> In approving statewide allocation of Localized Costs for the B-N Project, Dominion, NRG and Milford Power station service load was reflected and reported in the CL&P load and these generators paid CL&P retail rates for local delivery service. In this filing, Dominion, NRG, and Milford Power are included as transmission load entities under RNS rates, and separate LCRAs to recover the Localized Costs are required. To maintain consistency between the allocation methodologies for the B-N Project, M-N Project, and Glenbrook Project, NUSCO also proposes to modify the cost allocation of the B-N Project's Localized Costs to collect them under a LCRA instead of through retail rates.

<sup>17</sup> NUSCO Filing at 22.

try to identify exactly which customers cause and which benefit from the facilities.<sup>18</sup> Finally, NUSCO states that an allocation of Localized Costs is consistent with the expressed desire of the Connecticut regulatory authorities.<sup>19</sup>

9. Because ISO-NE has not made a determination of the Localized Costs, NUSCO proposes to use the figures that it has identified as potentially being Localized Costs in the cost allocation application submitted to ISO-NE for the M-N and Glenbrook Projects.<sup>20</sup> However, NUSCO believes that some of the costs which are being recovered through the RNS rates could be determined by ISO-NE to be Localized Costs and therefore subsequently excluded from regional recovery. Such costs would then need to be recovered through the local cost recovery mechanism. NUSCO proposed to establish a true-up mechanism to allocate any such costs to the appropriate customer classes.<sup>21</sup> NUSCO states that such a mechanism is necessary to protect NU affiliate customers in Massachusetts and New Hampshire from paying costs that should be recovered from Connecticut customers. NUSCO states that this mechanism is consistent with the cost recovery mechanism that the Commission accepted for the B-N Projects. Further, NUSCO states that it has included 50 percent of the construction work in progress (CWIP) in RNS rates,<sup>22</sup> and in the unlikely event that more than 50 percent of the M-N Project and Glenbrook Project costs are determined to be Localized Costs, NUSCO will propose a refund mechanism to ensure that NU affiliate customers in Massachusetts and New Hampshire do not pay revenue requirements associated with CWIP that should have been paid by transmission load in Connecticut.<sup>23</sup>

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<sup>18</sup> *Id.* at 23, citing *Northeast Utilities*, 117 FERC ¶ 61,337 (it would be impractical to try to identify exactly which customers “cause” or “benefit” from which facilities, and to what degree, and the courts recognize the need for administrative feasibility).

<sup>19</sup> NUSCO advises that Connecticut regulatory authorities have expressed a desire that the B-N, M-N, and Glenbrook Localized Costs should be allocated to all transmission load entities in Connecticut and that will serve the purpose not to balkanize retail rates. *See* NUSCO Filing at 23-24, Exhibit NU-8 at 17.

<sup>20</sup> *Id.* at 24, *see* Exhibit NU-9 and NU-10.

<sup>21</sup> NUSCO Filing at 26.

<sup>22</sup> *See Northeast Utilities Service Co.*, 114 FERC ¶ 61,089 (2006).

<sup>23</sup> NUSCO Filing at 27.

10. NUSCO requests that the filing be made effective as of June 1, 2008. NUSCO requests waiver of the sixty-day notice requirement set forth in the Commission's rules and regulations.<sup>24</sup> NUSCO states that this effective date will coincide with the effective date of the annual rate changes for RNS under the OATT, and LNS under Schedule 21-NU. NUSCO contends that this is good cause for granting the requested waiver.

### **B. Notice**

11. Notice of NUSCO's filing was published in the *Federal Register*, 73 Fed. Reg. 28,107 (2008), with interventions and protests due on or before May 22, 2008.

### **III. Pleadings**

12. Notice of intervention and comments in support of NUSCO's filing were submitted by the Connecticut Department of Public Utility Control (CT DPUC). Motions to intervene and comments were filed by Dominion Energy Marketing, Inc. (Dominion), NRG Power Marketing, LLC (NRG), and Milford Power Company, LLC (Milford Power). PSEG Energy Resource Trading, LLC filed a motion to intervene, out of time. UI filed a motion to intervene and protest. NUSCO filed an answer to the comments and protest, and UI filed an answer to the answer of NUSCO.

#### **A. Comments**

13. CT DPUC states that it agrees with NUSCO that these regional projects benefit the entire state and that an allocation on a state-wide basis is consistent with the previous Commission order and would avoid a significant rate shock that would otherwise occur if the Localized Costs were allocated over a small subclass of ratepayers in Connecticut.<sup>25</sup> CT DPUC also states that generators that take transmission service directly from ISO-NE to serve station service load should be treated like all other transmission load entities and bear their allocated share of the costs of the regional transmission system, including the costs of those regional facilities that have been determined by ISO-NE to be Localized Costs.<sup>26</sup> The CT DPUC explains that previously, when generators bought station service power from CL&P as part of CL&P load, these generators paid CL&P retail rates for the delivery service associated with this power. However, now that these generators are purchasing or self-supplying their station power needs, they are required to apply to ISO-

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<sup>24</sup> See 16 U.S.C. § 824(d) (2000); 18 C.F.R. §§ 35.3(a) and 35.11 (2008).

<sup>25</sup> CT DPUC Comments at 4.

<sup>26</sup> *Id.*

NE for regional transmission service for the delivery of this power, and thus have their station service load registered as a separate regional transmission network load. As such, the CT DPUC believes that the proposal is just and reasonable.

14. Milford Power and NRG raise a concern with the forty-year term of the LCRA. Milford Power states that while a 40-year term may be appropriate for traditional load serving entities, which would be expected to require service essentially in perpetuity, there is no basis for subjecting station power generators to such long-term purchase obligations. Milford may retire or sell its generating facility, or otherwise cause its units subject to an LCRA to no longer be classified as Connecticut wholesale load, which is the sole basis for NUSCO's proposed assessment of Localized Costs to such entities. Milford Power asserts that station power generators should not be assessed Localized Costs unless such generators are, in fact, classified as Connecticut wholesale load for purposes of taking regional network service from ISO-NE for station service power delivery. Milford Power states that NUSCO has agreed to change the LCRA agreement in a compliance filing following a Commission order in this proceeding to terminate on the earlier of June 1, 2048 or the date upon which ISO-NE no longer provides Milford Power with Regional Network Service associated with the delivery of wholesale station service power to the Milford Power generating unit. NRG raises a similar concern, and indicates that NUSCO has agreed to modify the NRG LCRA for it in a similar manner. Dominion indicated that it may discuss appropriate changes to the LCRA with NUSCO to ensure that the Dominion LCRA is consistent with other LCRAs filed by NUSCO.

#### **B. Protest**

15. UI states that ISO-NE has not yet determined the amount of the Localized Costs for either the M-N or Glenbrook Projects. As such, UI contends that the Commission is not yet in a position to make the required finding that the allocation of yet to be determined Localized Costs to transmission customers taking RNS service in Connecticut, is just and reasonable, and NUSCO's request for authorization to allocate these undetermined Localized Costs is premature.<sup>27</sup>

16. UI advises that it does not anticipate objecting to NUSCO's statewide allocation of Localized Costs associated with the M-N Project.<sup>28</sup> However, UI states that NUSCO's proposal to allocate the Localized Costs of the Glenbrook Project on a statewide basis violates long-standing cost-causation principles.<sup>29</sup> Unlike the M-N or B-N Projects, UI

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<sup>27</sup> UI Protest at 4.

<sup>28</sup> *Id.* at 7.

<sup>29</sup> *Id.* at 8.

contends that allocation of Localized Cost associated with the Glenbrook Project to all transmission customers in Connecticut is not appropriate. In support of its contention, UI argues that, there is a fundamental distinction in purpose, scope and scale between the B-N and M-N projects, on the one hand, and the Glenbrook project on the other. UI asserts that the B-N project and the M-N project together extend the 345 kV backbone transmission system for New England into SWCT, whereas the Glenbrook project, by contrast, consists only of two 8.7 mile 115 kV radial transmission lines that link CL&P's Norwalk and Glenbrook Substations in Stamford, Connecticut. Thus, the Commission's findings in the B-N Orders do not support state-wide allocation of the Localized Costs of the Glenbrook Project. UI asserts that given the nature of the transmission upgrades, the Glenbrook Project benefits only identified customers in the Norwalk/Stamford and Stamford/Greenwich subarea, and will benefit neither UI nor other transmission customers in Connecticut.<sup>30</sup> UI also contends that, given the level of Localized Costs of the Glenbrook Project (\$150,000), no rate shock will occur by direct allocation of the Localized Costs to the specific subareas of customers that directly benefit from the Glenbrook Project.

17. UI further contends that, although NUSCO implies that it will be allocating Localized Costs to all generators or their affiliates taking RNS under the ISO-NE OATT for delivery of station power to generating facilities in Connecticut, NUSCO fails to reference the New Haven Harbor and Bridgeport Harbor resources that are connected to pool transmission facilities in Connecticut and take service under the ISO-NE OATT.<sup>31</sup> UI asserts that NUSCO's proposal to allocate Localized Costs to some, but not all, generators taking RNS is unduly discriminatory.<sup>32</sup> UI requests that the Commission order NUSCO to modify its filing and allocate Localized Costs to all relevant generators and their affiliates that take RNS.

18. UI requests that NUSCO correct a statement in the unexecuted UI LCRA that describes UI as an "Eligible Customer" of NUSCO.<sup>33</sup> UI explains that it is not an Eligible Customer as defined in ISO NE's Open Access Transmission Tariff.<sup>34</sup> UI

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<sup>30</sup> *Id.* at 9-10.

<sup>31</sup> These two generating units are collectively referred to by UI as "PSEG Energy Resource Trading, LLC" units.

<sup>32</sup> UI Protest at 13.

<sup>33</sup> *Id.* at 14.

<sup>34</sup> *See* ISO NE Open Access Tariff § II.1.22 ("Eligible Customer").

argues that it is not, as relevant here and in relation to NUSCO, engaged in or proposing to engage in the wholesale or retail electric power business; generating electric energy for sale or for resale; or an end user taking or eligible to take unbundled transmission service or Local Delivery Service under certain circumstances. Further, UI asserts that NUSCO does not provide service to any UI customers to whom it seeks to allocate Localized Costs. UI requests that the Commission order NUSCO to revise UI's LCRA correcting this inaccuracy.<sup>35</sup>

19. Finally, UI contends that the Commission should reject NUSCO's request for waiver of the sixty-day notice requirement as NUSCO gave no explanation to the Commission for its failure to submit the Schedule 21-NU Filing in a timely manner. Specifically, UI asserts that NUSCO did not explain its failure to submit the Schedule 21-NU Filing contemporaneously with the above-referenced NUSCO RNS and LNS annual rate filings and NUSCO failed to explain how, or the extent to which, NUSCO or the entities to which NUSCO proposes allocating Localized Costs would be affected should the Commission fail to grant the requested waiver.

**C. Answers**

20. With respect to Milford's and NRG's requests to revise their LCRA's to provide that the responsibility to pay Localized Costs terminate when they no longer take RNS directly from ISO-NE for the delivery of station power, NUSCO states that it does not object to such revisions and if the Commission accepts NUSCO's filing subject to these proposed modifications, NUSCO will submit an appropriate compliance filing. NUSCO states that it will treat Dominion in a comparable manner.<sup>36</sup>

21. NUSCO disagrees with UI's contention that its filing for recovery of Localized Costs is premature. NUSCO states that the use of estimated data for the recovery of Localized Costs for the M-N and Glenbrook Projects is consistent with recovery of the Localized Costs of the B-N Project and the rate design under Schedule 21-NU.

22. With respect to NUSCO's proposed allocation of the Localized Costs of the Glenbrook Project statewide, NUSCO states that UI's argument ignores the fact that the

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<sup>35</sup> UI clarifies that its LCRA should be revised so that the existing language, "an Eligible Customer taking Regional Network Services under the Tariff who is located in the state or area in which Localized Facilities are located . . . .," is struck and replaced with the following language: "and has been determined by NUSCO to be taking Regional Network Service under the ISO Tariff in an area or state in which Localized Facilities are located . . . ."

<sup>36</sup> NUSCO Answer at 16.

Glenbrook Project is an integral part of a comprehensive and coordinated set of transmission solutions designed to address reliability issues with respect to the SWCT transmission system. NUSCO asserts that UI's attempt to characterize the Glenbrook Project as a discrete project that is independent and unrelated to the B-N and M-N Projects has no factual basis. Further, NUSCO states that ISO-NE, as part of the regional planning process, has determined that the Glenbrook Project, like the M-N and B-N Projects, is a PTF transmission project that is needed for regional reliability. NUSCO maintains that even though UI urges the Commission to treat the Glenbrook Project as though it were a radial distribution facility rather than part of an integrated transmission system, it is part of New England's tightly interconnected integrated transmission system.

23. NUSCO also states that in the NEPOOL stakeholder review process, UI expressed its support that the Glenbrook Project provides regional benefits and therefore should receive regional cost support.<sup>37</sup> NUSCO goes on to state that UI's argument that Glenbrook costs should be localized in this proceeding is contrary to its prior position.<sup>38</sup> NUSCO argues that the Glenbrook Project is appropriately recovered through RNS rates because it provides regional benefits. Further, NUSCO argues that the costs that CL&P has identified as potentially being Localized Costs (i.e., the \$150,000 bike extension path) arise from a local requirement in connection with getting the Glenbrook Project sited and constructed for the benefit of consumers in Connecticut. According to NUSCO, the cost of the bike path is no different from any other cost of the project and is appropriately assigned to all ratepayers in the State of Connecticut, not to the residents of the towns where the bike path will be located. NUSCO also maintains that UI's argument that a state-wide allocation of the Glenbrook Localized Costs would be contrary to cost causation principles, is the same argument that UI made in the B-N proceeding, which was rejected by the Commission. NUSCO urges the Commission to similarly reject it in this proceeding because all Connecticut load benefits from the Glenbrook Project.

24. With respect to UI's assertion that two additional generating units in Connecticut should also be subject to the Localized Costs, NUSCO maintains that it is UI's responsibility for reporting to ISO-NE the network load values for the generating units connected to its transmission system – either as part of UI's Regional Network Load (“RNL”) or as a distinct and separate RNL, and UI has provided no evidence that these

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<sup>37</sup> *Id.* at 10-11. NUSCO notes that the Connecticut Council's July 20, 2005, Findings of Fact, and the Commission's order, *Northeast Utilities Service Co.*, 114 FERC ¶ 61,089 (2006), determined that the Glenbrook Project provides reliability benefits to the region and to neighboring control areas, and SWCT in particular.

<sup>38</sup> NUSCO Answer at 10-11.

generating units take RNS service under the ISO-NE OATT for the delivery of station power. NUSCO states that it has subsequently verified with ISO-NE that PSEG Trading is taking RNS, and intends to discuss with UI and the PSEG Companies whether the RNL values that UI reports for PSEG Trading do in fact reflect the loads of New Haven and Bridgeport. If appropriate, NUSCO will submit an LCRA proposing to charge PSEG for its allocated share of the SWCT Projects' Localized Costs in the same manner that NUSCO is proposing to charge other generators in Connecticut.

25. Finally, NUSCO states that it does not agree with UI's interpretation that UI does not fall under any of the categories under the definition of "Eligible Customer." NUSCO points out that the proposed LCRA with UI is identical to the one that the Commission accepted for the B-N Project. NUSCO states however, that if the Commission determines that UI's language is preferable, it will submit a revised LCRA reflecting UI's requested modification in a compliance filing.

26. NUSCO states that good cause exists to grant a waiver from the notice requirements. First NUSCO states that the June 1, 2008, effective date will coincide with the annual adjustment to transmission rates under the ISO-NE OATT.<sup>39</sup> Second, NUSCO submitted the instant filing promptly after CL&P and UI submitted the joint TCA application for the M-N Project with ISO-NE on April 11, 2008, and it is using the Localized Costs estimates submitted to ISO-NE as projections.<sup>40</sup> Third, NUSCO has diligently engaged in extensive discussions with the parties upon whom NUSCO proposed to allocate Localized Costs in the May 1 Filing. NUSCO held off on making its filing until it had the opportunity to discuss with each affected party the reasons for the Localized Costs filing, the rationale for the allocation methodology, as well as issues relating to rate impacts.

27. In its answer, UI argues that NUSCO did not effectively refute that it is premature for the Commission to allocate the Localized Costs for the M-N and Glenbrook Projects, and that the Localized Costs for the Glenbrook Projects should not be allocated across all load in Connecticut.

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<sup>39</sup> LNS and RNS rates under the ISO-NE's OATT change June 1 of each year, and transmission owners must submit their projected revenue requirements before this date.

<sup>40</sup> NUSCO Answer at 16.

#### IV. Commission Determination

##### A. Procedural Issues

28. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,<sup>41</sup> the notices of intervention and the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Given the early stage of the proceeding, its interests, and the absence of undue prejudice or delay, we will grant the unopposed motion to intervene out-of-time of PSEG. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure prohibit an answer to a protest and answer unless otherwise order by the decisional authority.<sup>42</sup> We will accept NUSCO's and UI's answer because they have provided information that assisted us in our decision-making process.

##### B. NUSCO's Proposal

29. The Commission finds that NU's proposal is just and reasonable, not unduly discriminatory or preferential, and not otherwise unlawful. It is supported by the CT DPUC, will not result in rate shock, and is consistent with the ISO-NE OATT. As the Commission stated in approving the Localized Costs associated with the B-N Project, its determinations are based, in large part, on considerations of fairness and other policy matters, rather than on a precise calculation of exact costs and benefits to particular customers.<sup>43</sup> As with the B-N Project, NUSCO has established that these projects bring significant reliability benefits to the region and to all Connecticut customers. We thus approve statewide allocation of Localized Costs associated with the M-N and Glenbrook Projects.

30. Although ISO-NE has not made a final determination of the level of these costs, and UI contends that recovery should not be permitted until a final determination is made, the Commission finds it appropriate to begin the recovery of the Localized Costs now to coordinate with the recovery of the regional cost of these projects through RNS rates. Further, NUSCO has provided a mechanism that will ensure that any differences between estimated and actual amounts of Localized Costs will be appropriately reconciled such that both RNS customers and those paying the Localized Costs will ultimately pay only their finally determined shares of the costs of the M-N and Glenbrook Projects.

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<sup>41</sup> 18 C.F.R. § 385.214 (2008).

<sup>42</sup> 18 C.F.R. § 385.213(a)(2) (2008).

<sup>43</sup> *Northeast Utilities*, 116 FERC ¶ 61,094 at P 25.

31. UI next contends that the estimated \$150,000 of Localized Costs associated with the Glenbrook Project should be allocated locally rather than statewide consistent with the Commission's long-standing cost causation principle. The Commission disagrees. As with the B-N and M-N Projects, NUSCO has established that the Glenbrook Project brings significant reliability benefits to the region and to all Connecticut customers. The Commission agrees with NUSCO that the potentially Localized Costs arise from a local requirement in connection with getting the Glenbrook Project sited and constructed for the benefit of consumers in Connecticut, that it is a cost no different from any other cost of the project and that it is more appropriately assigned to all ratepayers in the State of Connecticut rather than only to the residents of the towns where the bike path will be located. Further, the CT DPUC supports statewide allocation of the costs of Glenbrook Project.<sup>44</sup> Further, contrary to UI's assertion, the Commission believes it would be impractical to try to identify exactly which customers "cause" or "benefit" from the Localized Costs of the Glenbrook facilities, and to what degree, and the courts recognize the need for administrative feasibility.<sup>45</sup> The Commission must exercise its judgment in setting rates and must decide whether a proposed rate is fair, after balancing all considerations. As such, we find that statewide recovery of the identified Localized Costs of the Glenbrook Project is appropriate.

32. NRG and Milford Power raise concerns with the 40-year term of service under the LCRA's. NUSCO states that it does not object to revising these LCRA's to allow them to terminate on the earlier of June 1, 2048 or the date upon which ISO-NE no longer provides RNS associated with the delivery of wholesale station power. NUSCO states that it will treat Dominion in a comparable manner. Accordingly, NUSCO is directed to submit revised LCRA's with NRG, Milford and Dominion as part of its compliance filing within 30 days of the date of this order.

33. UI also contends that NUSCO has failed to include all generators located in the State of Connecticut that take station power under the RNS, particularly PSEG Companies' New Haven and Bridgeport units. In its answer, NUSCO states that it intends to discuss with UI and the PSEG Companies whether the regional network load

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<sup>44</sup> See CT DPUC comments at 4.

<sup>45</sup> *Alabama Electric Coop. v. FERC*, 684 F.2d 20, 27 n.30 (D.C. Cir. 1982) ("No cost of service study -- a compilation endeavoring to allocate to the various categories of service the costs of supplying such service -- can be precise and factual. Rather than demonstrating with precision the revenue requirements to be assigned to each class of service, it simply reflects the opinion and approach of the individual making it. Thus, it can never be more than an aid to judgment in the design of a structure that will be fair and reasonable to all categories of customers.").

values that UI reports for PSEG Trading do in fact reflect the loads of the two units New Haven and Bridgeport, and if appropriate, NUSCO intends to submit an LCRA proposing to charge PSEG for its allocated share of the SWCT Projects' Localized Costs in the same manner that NUSCO is proposing to charge other generators in Connecticut. We agree that all generators in the state that take station service under RNS should be included in the allocation of Localized Costs. Accordingly, NUSCO is directed to submit a compliance filing within 30 days that includes LCRAs with all generation located within the State of Connecticut taking station service under RNS.

34. UI also contends that the LCRA between NUSCO and UI incorrectly categorizes UI as an "Eligible Customer" of NUSCO because UI does not fit the criteria for "Eligible Customer" under ISO-NE's Tariff. NUSCO states that if the Commission determines that UI's language is preferable, NUSCO will revise the LCRA with UI. We disagree that UI does not fit the definition of "Eligible Customer." UI is engaged in the "wholesale or retail electric power business" and as such meets the definition of "Eligible Customer."<sup>46</sup> Thus, we deny UI's request.

35. Finally, we will waive the sixty day notice requirement to allow the effective date to coincide with the annual rate changes for RNS under the OATT. This will protect NUSCO's customers in Massachusetts and New Hampshire from paying costs that should be recovered from Connecticut customers. *Central Hudson* allows for waiver of notice for good cause and the Commission believes that NUSCO has shown good cause.<sup>47</sup> Accordingly, we grant waiver of the Commission's notice requirements to allow the proposed allocation of Localized Costs to be effective June 1, 2008, as proposed.

The Commission orders:

(A) NUSCO's proposed service agreements and amendments to service agreements are hereby accepted for filing effective June 1, 2008, as discussed in the body of this order.

(B) Waiver of the 60-day notice requirement is granted to permit an effective date of June 1, 2008, as discussed in the body of this order.

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<sup>46</sup> Eligible Customer is: "(i) Any entity that is engaged, or proposes to engage, in the wholesale or retail electric power business is an Eligible Customer under the OATT..." See *ISO New England Inc.*, FERC Electric Tariff No. 3, section II.1 - Definitions, section II.1.22 (1st Rev. Sheet No. 424, Effective: October 11, 2007).

<sup>47</sup> *Central Hudson Gas & Electric Corp.*, 60 FERC ¶ 61,106, at 61,338, *reh'g denied*, 61 FERC ¶ 61,089 (1992) (*Central Hudson*).

(C) NUSCO is directed to submit revised LCRA's within 30 days of the date of this order, as discussed in the body of this order.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.