

DE 06-057

VERMONT ELECTRIC POWER COMPANY

**Petition for Authorization to Transfer
New Hampshire Facilities to Vermont Transco, LLC**

Order *Nisi* Granting Petition

ORDER NO. 24,628

June 1, 2006

I. BACKGROUND

On April 14, 2006, Vermont Electric Power Company (VELCO) filed a petition with the New Hampshire Public Utilities Commission (Commission) requesting authorization to transfer certain New Hampshire facilities to Vermont Transco LLC, (LLC) a Vermont limited liability company. VELCO is a Vermont corporation subject to the jurisdiction of the Vermont Public Service Board. VELCO stated in its petition that its principal business is the transmission of electric power at high voltage (115 kV and above) within Vermont but that the company owns limited facilities located in New Hampshire. VELCO itself is owned by 20 companies which are municipal, cooperative, or investor-owned.

VELCO's New Hampshire facilities include conductors, poles, cross-arms and associated transmission equipment on three transmission lines which connect VELCO to the Public Service Company of New Hampshire (PSNH) substations in Monroe and Littleton as well as a transmission line operated in New Hampshire by National Grid. VELCO also owns and operates a microwave passive reflector in Hinsdale. Although VELCO has no retail customers in New Hampshire nor any rates that are regulated by the Commission, VELCO noted that its physical presence in New Hampshire brings the company within the definition of "public utility" for certain purposes as set forth in RSA 362:2.

Pursuant to previous orders of this Commission,¹ VELCO has received authority under RSA 371:17 and 371:20 to construct and maintain electric transmission lines crossing the Connecticut River and authority under RSA 374:26 to conduct an interstate public utility business in New Hampshire through the ownership and maintenance of certain facilities used in VELCO's interstate business.

According to VELCO, its high voltage electrical transmission system can be improved, owned and operated more efficiently, with a resulting lower cost to retail ratepayers, if VELCO transfers substantially all of its assets to the limited liability company (LLC). Following the proposed transfer, the LLC would own and operate all of VELCO's existing assets in Vermont and New Hampshire, and any assets acquired or constructed in the future. VELCO states that lower costs result from the more favorable tax treatment available to the owners of a limited liability company, as compared to owners of a corporation, especially for tax-exempt municipal and cooperative owners. VELCO attests that VELCO and the existing VELCO owners would own, control and manage the LLC.

VELCO states that VELCO and the LLC would act as a "Single Participant" with respect to regional transmission of electricity, as that term is defined in the New England Power Pool Second Restated NEPOOL Agreement. VELCO indicated that it is working with staff at the regional transmission organization, ISO New England, to develop necessary and appropriate amendments to regional tariffs for the Federal Energy Regulatory Commission (FERC) to consider. VELCO asserts that as a result of lower operating costs arising from the use of the

¹ See 55 NH PUC 522 (1970); 55 NH PUC 738 (1970); 55 NH PUC 783 (1970); 56 NH PUC 289 (1971) and 56 NH PUC 508 (1971).

limited liability form of business, lower FERC-authorized regional transmission rates will ultimately also benefit New Hampshire ratepayers.

VELCO proposes that the Commission condition its approval on a similar endorsement by the Vermont Public Service Board. In addition to authorization of the transfer, VELCO seeks an explicit determination of the Commission that Vermont Transco may assume all of the approvals previously granted by the Commission to VELCO without further proceedings. On May 2, 2006, Staff filed a memorandum with the Commission recommending the approval of the petition.

II. COMMISSION ANALYSIS

We have reviewed the petition and Staff's recommendation. As noted by VELCO, its ownership and operation of facilities in New Hampshire for purposes of transmitting high voltage electric power brings the company under the Commission's jurisdiction pursuant to RSA 362.2.² Consequently, any transfer of the New Hampshire assets of VELCO is subject to RSA 374:30 review by the Commission. RSA 374:30 permits a transfer by a public utility of any works or system located in New Hampshire upon a determination by the Commission that the transfer is for the public good.

We note that Staff agrees with VELCO's contention that the transfer would result in more efficient operation with lower resulting costs to retail customers due to tax savings, and that, according to VELCO, lower FERC rates (including regional rates passed along by distribution companies to New Hampshire customers) would ultimately result from the reduced costs of operating a limited liability corporation form of business. .

² The Commission authorized VELCO to do business as an electric interstate public utility by Order No. 10,307 (June 18, 1971). *See* 56 NH PUC 289.

We find that the benefit of lower operating costs and the potential for reduced FERC rates offered by the proposed transfer of VELCO's New Hampshire facilities to the LLC is for the public good. As suggested by VELCO, we condition our transfer authorization on the approval of the Vermont Public Service Board (Board) of both the formation of the LLC and the transfer of assets by VELCO to the new entity. We direct VELCO to file a copy of any applicable orders of the Board immediately following their issuance. Finally, subject to satisfaction of the condition described above, we grant as consistent with the public interest VELCO's request that we explicitly determine that the LLC may assume the rights and responsibilities reflected in all prior authorizations obtained from the Commission by VELCO with respect to New Hampshire facilities.

Based upon the foregoing, it is hereby

ORDERED *NISI*, that subject to the effective date below, the Petition of Vermont Electric Power Company, Inc. for authorization to transfer its New Hampshire facilities to Vermont Transco, LLC (LLC) is hereby GRANTED subject to the Vermont Public Service Board's approval of the LLC and the transfer of assets by VELCO to the LLC; and it is

FURTHER ORDERED, that the prior authorizations granted by this Commission to VELCO pursuant to 55 NH PUC 522 (1970), 55 NH PUC 738 (1970), 55 NH PUC 783 (1970), 56 NH PUC 289 (1971) and 56 NH PUC 508 (1971), shall be transferred to the LLC subject to the conditions stated above; and it is

FURTHER ORDERED, that VELCO file with the Commission a copy of any orders of the Vermont Public Service Board concerning the authority of VELCO to transfer assets to the LLC; and it is

FURTHER ORDERED, that VELCO shall cause a copy of this Order *Nisi* to be published once in a statewide newspaper of general circulation or of circulation in those portions of the state where operations are conducted, such publication to be no later than June 9, 2006 and to be documented by affidavit filed with this office on or before June 28, 2006; and it is

FURTHER ORDERED, that all persons interested in responding to this Order *Nisi* be notified that they may submit their comments or file a written request for a hearing which states the reason and basis for a hearing no later than June 16, 2006 for the Commission's consideration; and it is

FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than June 23, 2006; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective June 28, 2006, unless VELCO fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the Public Utilities Commission of New Hampshire this first day of June, 2006.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Clifton C. Below
Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary