

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

New York Independent System Operator, Inc.)
New York Transmission Owners) Docket No. ER06-311-001

**REQUEST FOR REHEARING OR CLARIFICATION OF
THE NEW YORK INDEPENDENT SYSTEM OPERATOR, INC. AND
THE NEW YORK TRANSMISSION OWNERS**

Pursuant to Rule 713 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.713 (2006), the New York Independent System Operator, Inc. (“NYISO”) and the New York Transmission Owners¹ (“New York Transmission Owners”) (collectively, “the Joint Filing Parties”) respectfully seek rehearing or clarification of certain limited, but important, aspects of the February 20, 2007 order issued by the Commission in the above-captioned proceeding.²

The February 20 Order accepted in part and rejected in part the Joint Filing Parties’ filings (“Compliance Filings”) submitted on December 8, 2005 in compliance with Order Nos. 2006 and 2006-A, and on October 27, 2006 in compliance with Order No. 2006-B.³ Order Nos. 2006, 2006-A, and 2006-B established *pro forma* Small Generator Interconnection Procedures (“SGIP”) and a *pro forma* Small Generator

¹ For purposes of this filing, the New York Transmission Owners are: Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation, d/b/a National Grid, Orange and Rockland Utilities, Inc. and Rochester Gas and Electric Corporation and LIPA. LIPA is not a FERC-jurisdictional public utility, and therefore, is a signatory to this filing only to the extent the filing concerns small generator interconnections to the New York State Transmission System.

² *New York Independent System Operator, Inc.*, 118 FERC ¶ 61,130 (2007) (“February 20 Order”).

³ *Standardization of Small Generator Interconnection Agreements and Procedures*, Order No. 2006, FERC Stats. & Regs. ¶ 31,180 (“Order No. 2006”), *order on reh’g*, Order No. 2006-A, FERC Stats. & Regs. ¶ 31,196 (2005), *clarified*, Order No. 2006-B, FERC Stats. & Regs. ¶ 31,221 (2006), *appeal pending sub nom. Consolidated Edison Co. of New York, Inc., et al. v. FERC*, (U.S.C.A., D.C. Circuit, Docket Nos. 06-1018, *et al.*).

Interconnection Agreement (“SGIA”). The Joint Filing Parties are concurrently submitting a filing to comply with the February 20 Order.

The Commission should, in particular, grant the requested effective date of February 20, 2007 to benefit all involved, especially the small generators that were the focus of the Commission’s Order No. 2006 proceeding. Thus, the Commission should reconsider its requirement of establishing three separate and retroactive effective dates and grant the request for a single, prospective effective date so that all pending projects would be transferred from the New York Transmission Owners’ interconnection procedures to those of the NYISO as of February 20, 2007. This effective date is not only consistent with the clear language of Order No. 2006, but it would also provide greater certainty as to the status of pending projects.

If the Commission does not grant this request, then projects that have been processed between the effective date of Order No. 2006 and February 20, including those that have been completed, will be adversely affected. These small generators would be harmed by this result if the NYISO and the New York Transmission Owners had to reprocess Interconnection Requests (including completed ones) under the SGIP, which would likely lead to delays in getting the projects interconnected.

I. Specifications of Error and Statement of Issues

In accordance with Rules 713(c)(1) and (2) of the Commission’s Rules of Practice and Procedure, the Joint Filing Parties state the following specification of errors with regard to the February 20 Order.

1. The Commission erred in rejecting the Joint Filing Parties’ request that the Commission grant an effective date for their compliance filing consistent with the express

direction of Order No. 2006 that compliance filings submitted by Independent System Operators (“ISOs”) and Regional Transmission Organizations (“RTOs”) are effective as of the date those filings are acted upon by the Commission.⁴

2. The Commission erred in rejecting the request by the New York Transmission Owners for a waiver to permit existing and established New York Transmission Owner small generator interconnection procedures and agreements to remain in effect from August 8, 2005 (the effective date of Order No. 2006) to February 20, 2007, particularly in light of Order No. 2006’s direction that ISO/RTO Order No. 2006 compliance filings will become effective on the date that the Commission acts on them,⁵ as well as the Commission’s unconditional acceptance of a number of small generator interconnection agreements filed by New York Transmission Owners since August 8, 2005.⁶

3. The Commission erred in rejecting the Joint Filing Parties’ proposed addition of section 3.1.3 of the SGIP, which would establish standardized specifications that describe the existing transmission and distribution system that is to be modeled in each Interconnection Study performed under the SGIP, tracks similar language in Order No. 2003, and does not, contrary to the February 20 Order, address a scenario that was “impossible.” This proposed revision benefits Interconnection Customers, and it should remain in place.

⁴ Order No. 2006 at P 545.

⁵ *See id.*

⁶ *See, e.g.,* Letter Order, Docket No. ER06-1385-000 (Sept. 25, 2006) (accepting small generator interconnection agreement filed by Niagara Mohawk Power Corp. d/b/a National Grid); Letter Order, Docket Nos. ER06-694-000, et al. (March 31, 2006) (accepting three small generator interconnection agreements filed by Niagara Mohawk Power Corp. d/b/a National Grid).

4. The Commission erred in rejecting, as an “unexplained deviation” from the *pro forma* SGIA,⁷ the Joint Filing Parties’ proposed deletion of article 5.4 of the SGIA, which addressed “other rights.” In fact, the Joint Filing Parties explained this proposed modification in their December 8, 2005 Compliance Filing and demonstrated that it was consistent with or superior to the *pro forma* language because these “other rights” had no applicability in the New York Control Area.

5. The Commission erred in requiring the Joint Filing Parties to revise the *pro forma* SGIP and SGIA provisions regarding a three-way allocation of costs associated with dispute resolution procedures. The revisions submitted by the Joint Filing Parties in the SGIA appropriately reflected the Commission-required three-party process in New York involving the NYISO, the applicable New York Transmission Owner, and the Interconnection Customer. In the SGIP, the Joint Filing Parties intended to allocate those dispute resolution costs among the three parties; however, as a result of a drafting error, it did not squarely address the three-way split. The Joint Filing Parties should be permitted to resolve the discrepancy in a way that makes sense in light of the three-party process in New York.

6. The Commission erred in rejecting the Joint Filing Parties’ proposed revision to Section 3.4.7 in its entirety.

⁷ February 20 Order at P 57.

II. Requests for Rehearing

A. **The Commission Should, on Rehearing, Permit an Effective Date Consistent with the Commission's Direction in Order No. 2006 Concerning Effective Dates for ISO/RTO Compliance Filings**

The Joint Filing Parties respectfully request that the Commission revise the February 20 Order to permit an effective date of February 20, 2007 for their Order No. 2006 Compliance Filings. That is the date the Commission acted on the Compliance Filings. The February 20 Order instead requires three different retroactive effective dates, which is inconsistent with the Commission's express directive in Order No. 2006. A single effective date would also avoid administrative and equity issues that would be likely to arise.

The February 20 Order states that the Joint Filing Parties have requested two different effective dates for the package of tariff sheets they filed to comply with the Commission small generator interconnection orders.⁸ The Commission states that the Joint Filing Parties have requested that the SGIP and related tariff sheets filed to comply with Order Nos. 2006 and 2006-B become effective upon Commission action (*i.e.*, February 20, 2007), but have requested that the limited number of tariff sheets filed to amend the SGIP in response to Order No. 2006-A become effective on an *earlier* date, December 30, 2005.

The Commission has misunderstood the effective dates requested by the Joint Filing Parties. Throughout this proceeding, the Joint Filing Parties have clearly and consistently requested that the entirety of proposed Attachment Z to the NYISO OATT, which includes both the SGIP and SGIA, become effective at the same time, upon

⁸ See *id.* at PP 11, 78.

Commission action on the combined compliance filing of the Joint Filing Parties.⁹ The position of the Joint Filing Parties is based on the unambiguous language of Paragraph 545 of Order No. 2006, where the Commission directed that existing ISO/RTO small generator interconnection processes would remain in effect until the Commission acts on the ISO's or RTO's Order No. 2006 compliance filing. Nothing in Order Nos. 2006-A or 2006-B changed that direction.

After misreading the Joint Filing Parties' requested effective date, the Commission clearly erred in establishing three different effective dates for a single package of procedures and agreements. The February 20 Order mandated that the tariff sheets filed in compliance with Order No. 2006 are effective on August 12, 2005, the tariff sheets filed in compliance with Order No. 2006-A are effective on December 30, 2005, and the tariff sheets filed in compliance with Order No. 2006-B are effective on August 28, 2006.¹⁰

The Commission directive ordering retroactive effective dates is clearly at odds with Order No. 2006. In Order No. 2006, when discussing compliance timing issues, the Commission stated: "As in the Order No. 2003 proceeding, until the Commission acts on the compliance filing of an RTO or ISO that seeks variations, the RTO's or ISO's existing Commission-approved interconnection procedures and agreement remain in

⁹ "The Joint Filing Parties respectfully request that the tariff sheets filed herewith [in response to Order Nos. 2006 and 2006-A] become effective upon action by the Commission on this filing." (December 8, 2005 filing letter, Section III., page 6) "The Joint Filing Parties respectfully request that the tariff sheets filed herewith [in response to Order No. 2006-B] become effective upon action by the Commission on the December 8 filing, as amended by this filing." (Oct. 27, 2006 Compliance Filing transmittal letter, Section III., page 4).

¹⁰ See February 20 Order at P 79 and Ordering Paragraphs (B) and (C).

effect.”¹¹ That is clearly the case here. The NYISO has sought variations, most of which the Commission has accepted. This is precisely the same circumstance as the Joint Filing Parties’ Order No. 2003 compliance filing. In that case, the Commission accepted the prospective effective date requested by the Joint Filing Parties.¹²

The Commission has not required similarly situated parties to adopt the multitude of effective dates that it required the Joint Filing Parties to adopt. In particular, the Commission approved the requested effective date of March 10, 2006 for the Order Nos. 2006 and 2006-A compliance filings submitted by ISO New England, Inc. and the New England Transmission Owners.¹³ This March 10 effective date falls after both the August 8, 2005 effective date for Order No. 2006 and the December 30, 2005 effective date for Order No. 2006-A. The Commission has not provided a rational basis for requiring the Joint Filing Parties to adopt three separate effective dates, including retroactive dates going back to August 2005, but permitting ISO New England and the New England Transmission Owners to have a single effective date that is later than the effective dates of Order Nos. 2006 and 2006-A.¹⁴ The Commission’s decision is also inconsistent with its statement in Order No. 2006-B that independent entities that had not

¹¹ Order No. 2006 at P 545.

¹² See *New York Independent System Operator, Inc. and New York Transmission Owners*, 108 FERC ¶ 61,159 at Ordering Paragraph (A) (2004) (conditionally accepting the Joint Filing Parties’ Order Nos. 2003 and 2003-A compliance filings, effective as of the date of the Commission order).

¹³ See *ISO New England, Inc., et al.*, 115 FERC ¶ 61,050 (2006). But see *PJM Interconnection, LLC*, 116 FERC ¶ 61,021 (2006) (requiring PJM to adopt an effective date of August 12, 2005 for its Order No. 2006 compliance filing).

¹⁴ ISO New England and the New England Transmission Owners had originally requested an effective date for their Order No. 2006 filing of January 9, 2006. They subsequently requested additional time, in part because of their Order No. 2006-A compliance filing would soon be submitted. The Commission granted this request. The Commission thus never required ISO New England and the New England Transmission Owners to adopt the effective dates provided for in Order Nos. 2006 and 2006-A.

yet submitted their Order Nos. 2006 and 2006-A compliance filings should include the changes required in Order No. 2006-B in the resulting filing.¹⁵

In addition, the three required effective dates would unnecessarily cause serious administrative issues. Without the requested revision, the Joint Filing Parties must address the status of a number of previously submitted interconnection requests, all of which have been fully or partially processed under the Transmission Owners' respective procedures. All of these interconnection requests are impacted to varying degrees, based on the date each interconnection activity was conducted, by the Order No. 2006 *pro forma* materials, the Order No. 2006-A revisions to those materials, or the later Order No. 2006-B revisions. Not only would this retroactive application of new procedures cause administrative problems, it may also prove inequitable to a number of small generators, whose interconnection requests have been fully or partially processed. Such additional processing will likely result in further delay of the interconnection of these facilities, a result that is at direct odds with the purpose of Order Nos. 2006, 2006-A, and 2006-B.

Nor have those small generators been harmed during the period from August 8, 2005 until February 20, 2007. As noted below, the New York Transmission Owners have continued to process interconnection requests, and several of those requests have resulted in executed interconnection agreements that have been accepted by the Commission. In Part II.B, below, the Joint Filing Parties ask the Commission to revise the February 20 Order to grant the waiver sought by the New York Transmission Owners to permit that their existing small generator interconnection procedures and agreements to remain in effect from the effective date of Order No. 2006 to February 20, 2007.

¹⁵ See Order No. 2006-B at P 9.

The Joint Filing Parties thus renew their request, based on Order No. 2006, that the proposed Attachment Z to the NYISO OATT become effective as of February 20, 2007.

B. The Commission Should Permit the New York Transmission Owners' Existing Small Generator Interconnection Procedures to Remain in Effect Until February 20, 2007

In connection with Part II.A, above, the Joint Filing Parties also request that the Commission permit the New York Transmission Owners' existing procedures for interconnecting small generators to remain in effect from August 8, 2005 until February 20, 2007. Granting this clarification would be consistent with Order No. 2006's express direction that individual ISO/RTO compliance filings will become effective as of the date the Commission acts on such filings -- in this case, February 20, 2007.

The Joint Filing Parties recognize that the Commission's rule for the prospective effectiveness of Order No. 2006 does not automatically extend to the transmission owners that belong to an RTO or ISO. For that reason, throughout this proceeding, the Joint Filing Parties have asked the Commission to allow the New York Transmission Owners' existing small generator interconnection procedures and agreements to remain in effect until the Commission acted on the Joint Filings Parties' combined compliance filings.¹⁶

The Commission recognized, in the context of Order No. 2003, that it would have been counterproductive to require the New York Transmission Owners to implement separate interconnection procedures to handle a relatively small number of interconnection requests filed between the effective date of Order No. 2003 and the date

¹⁶ See December 8, 2005 Compliance Filing transmittal letter, Section III., PP 6-7. See also October 27, 2006 Compliance Filing transmittal letter, Section III., PP. 4-5.

in which the Commission accepted the joint Order No. 2003 compliance filing of the NYISO and the New York Transmission Owners.¹⁷ The Commission found that “it would not benefit consumers or market participants to require that the [NYTOs] go through the motions of adopting Order Nos. 2003 and 2003-A only to remove them upon acceptance of [the Order No. 2003] joint filing.”¹⁸ That same reasoning should apply to this proceeding where the parties have worked together to develop a combined compliance filing. That is why the Joint Filing Parties requested that the Commission waive any requirements that would otherwise prevent the New York Transmission Owners from continuing to use their existing interconnection procedures and agreements for small generators until the Commission acted on their joint compliance filings.

The February 20 Order essentially rejected this request, concluding that:

When we have granted waiver in the past, the Commission has stated that the waiver would last until such time as the Public Utility receives a request for interconnection service.¹⁹ Therefore, the Commission will grant the Joint Filing Parties a waiver if they have not received any requests for interconnection to facilities they control for the period between December 30, 2005, and the issuance date of this order. If NYISO or a Transmission Owner has received such a request, it must apply the *pro forma* SGIP and SGIA in Order Nos. 2006, 2006-A, and 2006-B to any requests for small generator interconnection.²⁰

¹⁷ See *New York Independent System Operator, Inc and New York Transmission Owners.*, 108 FERC ¶ 61,159 at P 123 (2004).

¹⁸ *Id.*

¹⁹ See Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at PP 830-31.

²⁰ February 20 Order at P 77. The statement regarding the NYISO is inconsistent with both Order No. 2006 and the retroactive effective date for OATT Attachment Z ordered in the February 20 Order. Prior to the effective date of the Joint Filing Parties’ SGIP and SGIA, the NYISO did not take part in the interconnection study process or interconnection agreements for small generators. This was solely in the province of the New York Transmission Owners.

The Joint Filing Parties ask that the Commission reconsider its February 20 Order and permit the New York Transmission Owners to use their procedures and agreements for the interconnection of small generators between August 12, 2005 and February 20, 2007. The logic of the Joint Filing Parties' earlier requests has been borne out by events since August 12, 2005.

Since August 12, 2005, the New York Transmission Owners have processed approximately 18 small generation projects subject to the Commission's jurisdiction through one or more steps of their respective procedures. Approximately 14 of these projects are either in the interconnection study process or have begun negotiation of an interconnection agreement. Significantly, at least four projects have resulted in the execution of interconnection agreements that have been accepted for filing by the Commission.²¹ The interconnection agreements that have been filed with, and accepted by, the Commission have been two-party interconnection agreements. If the new NYISO procedures are to become effective on August 12, 2005, those procedures, as directed by the Commission, require a three-party agreement.

It would be wasteful and disruptive to the New York interconnection process and, perhaps most of all, an unfair burden to small generator developers now to try to unwind all this work and retroactively impose the Commission's SGIP and SGIA on any small generator project that has moved ahead between August 12, 2005 and February 20, 2007. The Joint Filing Parties fully expected, based on the Commission's previous orders, including Order No. 2006 itself, that proposed Attachment Z to the NYISO OATT would become effective prospectively. The New York Transmission Owners and their Interconnection Customers justifiably relied on the expectation that Attachment Z would

²¹ See footnote 6, above.

apply prospectively. Indeed, the Commission's unconditional acceptance of at least four two-party interconnection agreements clearly supports the legitimacy of these shared expectations. The Joint Filing Parties strongly reiterate their request that the interconnection work done by the New York Transmission Owners prior to February 20, 2007 not be undone.

Finally, the Commission's denial of a prospective effective date and its denial of a waiver for the New York Transmission Owners is inconsistent with, and renders moot, the *pro forma* text of section 1.1.3 of the SGIP. That section provides for a 60-day transition period after the effective date of these procedures, during which Small Generating Facilities may be interconnected or be approved for interconnection. This provision would be meaningless with a retroactive effective date and the inability of the New York Transmission Owners to process interconnection agreements during the interim period.

Consistent with this *pro forma* rule, the Joint Filing Parties proposed clarifying variations to section 1.7 of the SGIP that would reconcile the Commission's transition period provided in section 1.1.3 with the need, after the transition period, to incorporate numerous small generator projects with numerous different queue dates issued by the interconnecting New York Transmission Owners into a single unified NYISO interconnection queue without changing the original queue dates of the projects incorporated. The Commission rejected the proposed variations.²² The Joint Filing Parties ask that the Commission, when reconsidering its mandate of numerous retroactive effective dates and the disruptive implications of that directive, clarify that the transition period remains in effect for qualifying projects.

²² See February 20 Order at PP 39-41.

C. The Commission Should Accept Proposed New Section 3.1.3 of the SGIP

The Joint Filing Parties request that the Commission accept their proposed section 3.1.3 of the SGIP. The Commission may have misunderstood the intent of this provision. Proposed section 3.1.3 provided:

Except with respect to facilities studies conducted in accordance with Attachment S of the NYISO OATT, the Interconnection Studies conducted under these procedures shall consider the distribution facilities potentially affected by the Interconnection Request, and the Base Case and, if not already included in the Base Case, all generating and merchant transmission facilities (and with respect to (iii), any identified Upgrades) that, on the date the study is commenced: (i) are directly interconnected to the New York State Transmission System or distribution facilities, (ii) are interconnected to Affected Systems and may have an impact on the Interconnection Request, (iii) have a pending higher queued Interconnection Request, and (iv) have no queue position but have executed an interconnection agreement or requested that an unexecuted interconnection agreement be filed with FERC.

In the February 20 Order, the Commission rejected this proposed section.²³ Each of the Interconnection Studies conducted under the SGIP is done to evaluate the electrical impact of each Interconnection Request on the existing system. The purpose of the proposed section was to clearly define the existing system—that is, the transmission, distribution, and generation facilities that are required to be modeled in each Interconnection Study performed under the SGIP.

As noted by the Joint Filing Parties in their December 8, 2005 Compliance Filing,²⁴ the proposed new section 3.1.3 is patterned closely after the detailed definition of the existing system included in Order No. 2003, and now included in Attachment X of

²³ See February 20 Order at PP 49, 55.

²⁴ See Section I.G. of Attachment VII to the December 8, 2005 Compliance Filing transmittal letter of the Joint Filing Parties.

the NYISO OATT.²⁵ The Joint Filing Parties proposed the revision because it will help significantly to expedite the standardized processing of Interconnection Requests, while reducing the potential for disputes and helping to ensure consistent treatment of Interconnection Requests -- all to the benefit of Interconnection Customers.

The February 20 Order, however, rejected the proposal based on a finding that it is “impossible to have either an executed or unexecuted interconnection agreement and not have a Queue Position, since a Queue Position is assigned upon receipt of the Interconnection Request.”²⁶ This conclusion is apparently based on the fact that the proposed definition of the existing system includes generating and merchant transmission facilities that, on the date the Interconnection Study is commenced, “(iv) have no queue position but have executed an interconnection agreement or requested that an unexecuted interconnection agreement be filed with FERC.”²⁷

The purpose of clause (iv) relates to the need in New York to transition small generator projects from multiple Transmission Owner queues to the unified procedures and agreements administered by the NYISO. The transitional purpose of clause (iv) is to include Interconnection Requests in the system to be analyzed if they have an interconnection agreement with a Transmission Owner, but they have not yet been constructed and actually interconnected. Contrary to the February 20 Order’s interpretation of the provision, it is not “impossible” for at least some Interconnection

²⁵ See Sections 6.2 and 7.3 of the Standard Large Facility Interconnection Procedures contained in Attachment X to the OATT. These sections are identical to the *pro forma* text issued in Order No. 2003, except for the Commission approved use of regional defined terms such as System Upgrade Facilities and New York State Transmission System.

²⁶ February 20 Order at P 55. *See also id.* at P 49.

²⁷ SGIP, proposed section 3.1.3.

Requests to have an interconnection agreement with a New York Transmission Owner, not be part of the NYISO study queue, but still not be interconnected. These projects are appropriately included in the existing system modeled for the next Interconnection Study, even if they are not in the NYISO study queue.

The Joint Filing Parties thus ask the Commission to clarify that based on the interpretation of subsection (iv) discussed above, it is appropriate to include proposed section 3.1.3 in the SGIP.

D. The Commission Should Clarify that the Joint Filing Parties' Proposed Deletion of Article 5.4 of the SGIA is Reasonable in Light of the NYISO's Existing Rules Regarding Interconnection Cost Allocation

The Joint Filing Parties also request that the Commission permit them to delete Article 5.4 of the *pro forma* SGIA. The February 20 Order rejected the Joint Filing Parties' proposed deletion of this article, concluding that the Joint Filing Parties "have neither explained nor justified" the proposed deletion.²⁸ The Commission directed the Joint Filing Parties to restore this Article 5.4.²⁹

In fact, the Joint Filing Parties did offer an explanation to support the proposed deletion, one based upon the Commission's prior approval of the interconnection cost allocation rules contained in Attachment S, "Rules to Allocate Cost Responsibility for the Costs of New Interconnection Facilities," to the NYISO OATT.³⁰ Article 5.4 of the *pro forma* SGIA talks about the "other rights" the Interconnection Customer has as a result of

²⁸ February 20 Order at P 57.

²⁹ *Id.*

³⁰ See December 8, 2005 Compliance Filing at Attachment VIII, section I.E.

the transmission capacity created by the System Upgrade Facilities³¹ installed to interconnect its project. The other rights referred to in Article 5.4 include firm transmission rights, capacity rights and transmission credits.³²

None of these concepts has meaning for the Interconnection Customer under the Commission-approved interconnection and cost allocation rules contained in Attachment S and Attachment X to the NYISO OATT.³³ The deleted provisions simply have no applicability in the New York Control Area. The Joint Filing Parties therefore ask that the Commission reconsider its directive rejecting the proposed deletion of Article 5.4 in the *pro forma* SGIA.

E. The Commission Should Permit Costs Related to Dispute Resolution be Allocated Evenly Among the NYISO, the Applicable New York Transmission Owner, and the Interconnection Customer

The Joint Filing Parties request that the Commission permit, in accordance with the three-party approach to small generator interconnections that the Commission has required, that the costs of any dispute resolution procedure be equally split among the three parties (*i.e.*, the NYISO, the Transmission Owner, and the Interconnection Customer) to the study process and, ultimately, to an interconnection agreement. The Commission rejected the proposed change to the *pro forma* language that had required all costs associated with dispute resolution be split equally between two parties (*i.e.*, the

³¹ System Upgrade Facilities is the Commission-approved term in New York for interconnection Network Upgrades.

³² See *pro forma* SGIA, Article 5.4

³³ See Attachment S filing letter dated Aug. 29, 2001 in Docket No. ER01-2967-000, sections III.C.(3)-(5), pp 6-8; see also *New York Independent System Operator, Inc.*, 97 FERC ¶ 61,118 (2001) (conditionally accepting Attachment S); *New York Independent System Operator, Inc. and New York Transmission Owners*, 108 FERC ¶ 61,159 at PP 49-59 (2004) (accepting proposed Attachment X to the NYISO OATT).

Transmission Provider and the Interconnection Customer) when a two-party approach was envisioned.

The Commission may have misread the Joint Filing Parties' intent when it rejected the proposed variation and required the restoration of the *pro forma* language.³⁴ The Joint Filing Parties simply proposed in the SGIA, consistent with the three-party approach that it developed in their Compliance Filings, that the costs associated with dispute resolution be evenly divided among the three parties.³⁵ Elsewhere in the February 20 Order, the Commission endorsed the three-party approach.³⁶

The Commission's *pro forma* SGIP section 4.2.5 and *pro forma* SGIA article 10.5 require each Party to be responsible for one-half of any costs paid to neutral third parties to resolve disputes arising out of the interconnection process. That *pro forma* cost allocation would have applied in the context of the *two-party* interconnection process envisioned in the *pro forma* SGIP and SGIA. However, it does not make sense in regions where, as here, *three* parties would be involved in the dispute resolution process.

The February 20 Order noted a discrepancy between the Joint Filing Parties' proposed revisions to SGIP section 4.2.5 and SGIA article 10. That discrepancy was the unintended result of a drafting error. The Joint Filing Parties intended to propose the same variation in both SGIP 4.2.5 and SGIA 10.5. The Joint Filing Parties thus ask the Commission to clarify that the intent of the February 20 Order is for the Joint Filing

³⁴ See February 20 Order at PP 25-27.

³⁵ As explained below, the Joint Filing Parties inadvertently failed to expressly include this three-party split in its proposed revision to SGIP section 4.2.5; however, they had intended to do so.

³⁶ See, e.g., *id.* at P 15 ("The Commission will accept most of the proposed independent entity revisions requested by the Joint Filing Parties.") and P 61 ("Order No. 2006 requires a three-party agreement in areas where the Transmission Provider and Transmission Owner are different entities."). The Commission has also accepted the Joint Filing Parties' three-party approach in the context of Order No. 2003.

Parties to resolve the discrepancy noted, and to do so in a manner that makes sense in light of the fact that in New York the interconnection process, and disputes arising out of that process, will involve three parties instead of two.

III. Request for Clarification

A. The Commission Should Grant a Limited Clarification Regarding its Rejection of Proposed Revisions to Section 3.4.7 of the SGIP

The Joint Filing Parties proposed revisions to sections 3.4.7³⁷ and 4.9 of the SGIP intended to limit, in certain ways, the participation of Affected Systems in the Interconnection Studies conducted by the NYISO under the SGIP. The February 20 Order rejected these proposed revisions.³⁸ The Joint Filing Parties make no request for clarification or rehearing as to the involvement of Affected Systems in Interconnection Studies. The February 20 Order, however, includes the blanket statement that “[w]e therefore reject the Joint Filing Parties’ proposed variations in SGIP sections 3.4.7 and 4.9.”³⁹ The *pro forma* section 3.4.7, in addition to talking about Affected Systems, also includes a first sentence discussing the Interconnection Customer’s contacts with, and project coordination work with, multiple transmission entities. The Joint Filing Parties proposed deleting this sentence because it appeared inconsistent with, and potentially confusing in light of, the NYISO-administered “one-stop shopping” small generator interconnection service proposed by the Joint Filing Parties for New York.

The Joint Filing Parties thus ask the Commission to clarify that its rejection of the proposed revisions to section 3.4.7 of the SGIP only covered the variation relating to

³⁷ Because the Commission directed the NYISO to reinsert sections 3.4.4 and 3.4.5 of the SGIP, section 3.4.7 is renumbered as section 3.4.9 in the Joint Filing Parties’ compliance filing. For purposes of this filing, the section will be referred to as section 3.4.7.

³⁸ See February 20 Order at PP 64-67.

³⁹ *Id.* at P 67.

Affected Systems, and not the variation deleting the first sentence of section 3.4.7. The Joint Filing Parties thus request that section 3.4.7 (which will become section 3.4.9) read in its entirety:

3.4.9 Affected Systems shall participate in the study and provide all information necessary to prepare the study.

III. Conclusion

As explained above, rehearing or clarification on each of the issues is necessary to ensure that: (1) the Joint Filing Parties' proposed SGIP and SGIA reflect the correct effective date, as established by the Commission in Order No. 2006; (2) the New York Transmission Owners' existing small generator interconnection procedures and agreements were effective from August 8, 2005 until February 20, 2007; (3) proposed SGIP section 3.1.3 is restored because it benefits Interconnection Customers, serves an important transitional purpose, and is consistent with similar language from Order No. 2003; (4) the Commission recognizes that the NYISO's proposed deletion of SGIA article 5.4 was not an "unexplained deviation" and is entirely consistent with existing and approved NYISO tariff provisions; (5) costs in connection with dispute resolution are evenly divided among the NYISO, the applicable New York Transmission Owner, and the Interconnection Customer; and (6) certain proposed language in section 3.4.7 of the SGIP, which appears to be unrelated to the February 20 Order's rationale to delete it, is restored.

Without these requested revisions or modifications, the February 20 Order is legally untenable.

Wherefore, for the foregoing reasons, the New York Independent System Operator, Inc. respectfully requests rehearing or clarification of certain parts of the Commission's February 20 Order.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this day electronically served the foregoing document on the official service list compiled by the Secretary in this proceeding in accordance with 18 C.F.R. § 385.2010 (2006).

Dated at Washington, DC this 22nd day of March, 2007.

/s/ Michael E. Haddad
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