

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

Consolidated Edison Company of)	Docket No. EL01-45-
New York, Inc.)	Docket No. ER01-1385-
)	

**ANSWER OF NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.
TO MOTION BY CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.
FOR PROCEDURES TO EXTEND AND EVALUATE
LOCALIZED MARKET-POWER MITIGATION MEASURES**

The New York Independent System Operator, Inc. (“NYISO”), hereby answers the Motion for Procedures to Extend and Evaluate Localized Market-Power Mitigation Measures and Request for Expedited Consideration of Consolidated Edison Company of New York, Inc. (“ConEd Motion”), dated October 5, 2001. The NYISO supports keeping in place the currently-effective Localized Market-Power Mitigation Measures (“LMM”), pending a review by the NYISO in consultation with its stakeholders of in-City mitigation revisions in the context of the other mitigation measures administered by the NYISO for New York State as a whole, and the current market conditions in New York City. This process would have as its objective determining and implementing such revised in-City mitigation measures as are determined to be appropriate in time for implementation for the Summer 2002 Capability Period.¹ In the meantime, the transmission and generation capacity situation in New York City has not changed significantly since the Commission’s approval of the LMM for this summer. Accordingly, it would be appropriate for the currently-implemented set of LMM revisions to remain in place as requested by ConEd pending completion of the foregoing review.

¹ Capitalized terms not otherwise defined herein having the meaning ascribed to them in Article 2 of the Services Tariff, or in Appendix H of the Services Tariff.

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Answer

- A. The Nature and Extent of In-City Mitigation Measures Revisions for Next Summer Should be the Subject of Review and Evaluation by the NYISO and Its Stakeholders

In an Order issued July 20, 2001 in the above-captioned dockets, the Commission authorized certain LMM revisions requested by the Consolidated Edison Company of New York, Inc. (“ConEd”). The Commission stated, however, that “it wished to prevent uncoordinated development of market mitigation proposals that could result in duplicative or conflicting mitigation measures within New York, and that might discourage additional investment and thus prevent rather than support the development of effective competition.”² The Commission went on to provide that it would “allow the proposed mitigation to be in place during NYISO’s 2001 summer capability period while NYISO and the market participants gain experience with the operation of those procedures and consider whether ConEd’s proposal should be incorporated into NYISO’s overall mitigation measure program.”³ The

² *Consolidated Edison Company of New York, Inc.*, 96 FERC ¶ 61,095 at 61,382 (2001).

³ *Id.* at 61,384.

Commission expressed similar concerns in its Order Denying Rehearing issued October 15, 2001, in these dockets, and in addition identified certain concerns about the LMM additions that have been raised by generators that should be addressed.⁴ In addition, in the development of a Northeast RTO, the unique market power needs of New York and New York City must be accommodated by the RTO's "best practices."

In consideration of the range of issues raised by the LMM, the NYISO believes that it should initiate a process for review and evaluation by the NYISO and its stakeholders of any proposed revisions to the in-City mitigation measures. To provide a focus for this process, the NYISO intends to develop a strawman proposal for consideration by the appropriate stakeholder committees that would integrate in-City mitigation with the other mitigation measures administered by the NYISO throughout the State (*i.e.*, the MMM). Prior to the stakeholder review process, the NYISO will evaluate appropriate means of in-City mitigation in Real-Time, and in connection with the stakeholder review process will also undertake an evaluation of: (i) the extent to which market conditions in New York City may warrant structural triggers for market power mitigation; (ii) whether in-City mitigation measures should apply only to reliability must-run units, or more broadly, and whether reliability must-run units are adequately addressed by any in-City mitigation measures; (iii) whether in-City mitigation measures should apply to all generation in New York City, or just to units divested by ConEd; and (iv) other matters relevant to addressing the issues raised by the Commission. Since the current LMM are set

⁴ Order Denying Rehearing, *Consolidated Edison Company of New York, Inc.*, Docket Nos. EL01-45-004 and ER01-1385-002, 97 FERC ¶ 61,050 (Oct. 15, 2001), *slip op. at 5*.

forth in a ConEd tariff, the NYISO will coordinate with ConEd on any additional filings with the Commission that may be necessary.

B. The Existing LMM Should be Kept in Place Pending Implementation of Appropriate in-City Mitigation Measure after Consultation with the Market Participants

In its October 15 Order Denying Rehearing, the Commission stated that: “In the July 20 Order, the Commission noted that previously it had agreed with ConEd’s assertion that the in-City sellers may have market power when there are transmission and reliability constraints and supply outside of the constrained area cannot compete for the last increment of demand.”⁵ Similarly, the ConEd Motion is based on the premise that “the localized market-power problems in the City that the Commission recognized in its July 20, 2001 Order remain unchanged.”⁶ The ConEd Motion goes on to state that: “No major transmission improvements into the City are projected before the end of summer 2002, nor are any significant generating capacity additions feasible before that time. Thus, the situation facing in-City consumers for next summer remains precisely the same as it did for this summer on July 20, 2001.”⁷

The NYISO concurs in ConEd’s assessment that significant transmission and generating capacity additions in New York City have not occurred, and are unlikely to occur for some time. In an August 14, 2001 filing in these dockets, the NYISO set forth a timetable for implementing certain

⁵ Order Denying Rehearing, *slip op.* at 1.

⁶ ConEd Motion, at 4.

⁷ *Id.*

aspects of the LMM revisions proposed by ConEd, and has since complied with that timetable.⁸ Since those measures have now been implemented, the NYISO believes it would be appropriate to continue to keep them in place as requested by ConEd while the development, evaluation and review process for in-City measures described above is carried out.

Conclusion

WHEREFORE, for the foregoing reasons, the New York Independent System Operator, Inc., supports the ConEd's request to extend and evaluate the LMM. In addition, the implementation of further or different revisions to the in-City measures should be considered as may be reasonable in light of the evaluation, development and review process described above.

Respectfully submitted,

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October 22, 2001

⁸ New York Independent System Operator, Inc., Supplemental Implementation Schedule for Consolidated Edison Co. of New York Localized Market Power Mitigation Measures, Docket Nos. EL01-45-005 and ER01-1385-006 (August 14, 2001).

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each party designated on the official service list compiled by the Secretary in Docket Nos. ER01-1385-000 and EL01-45-000, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and

Dated at Washington, DC this 22d day of October, 2001.

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