

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

New York Independent System Operator, Inc.)	
Central Hudson Gas and Electric Corporation)	
Consolidated Edison Company of New York, Inc.)	
Niagara Mohawk Power Corporation)	Docket No. RT01-95-000
New York State Electric and Gas Corporation)	
Orange & Rockland Utilities, Inc.)	
Rochester Gas and Electric Corporation)	
-----)	
The New England Transmission Owners)	
Bangor Hydro-Electric Company)	
Central Maine Power Company)	
National Grid USA)	Docket No. RT01-86-000
Northeast Utilities Service Company)	
The Untied Illuminating Company)	
Vermont Electric Power Company)	
)	
ISO New England Inc.)	
-----)	
PJM Interconnection, LLC)	
Allegheny Electric Cooperative, Inc.)	
Atlantic City Electric Company)	
Baltimore Gas and Electric Company))
Delmarva Power & Light Company)	
Jersey Central Power and Light Company)	Docket No. RT01-2-000
Metropolitan Edison Company)	
PECO Energy Company)	
Pennsylvania Electric Company)	
PPL Electric Utilities Corporation)	
Potomac Electric Power Company)	
Public Service Electric and Gas Company)	
UGI Utilities, Inc.)	
-----)	
Regional Transmission Organizations.)	Docket No. RT01-99-000

**JOINT MOTION OF
NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.
AND ISO NEW ENGLAND INC.
FOR LEAVE TO ANSWER, AND JOINT RESPONSE
TO ANSWER OF CENTRAL MAINE POWER COMPANY, ET AL.**

The New York Independent System Operator, Inc. (“NYISO”) and ISO New England Inc. (“ISO-NE”) (collectively, the “ISOs”) hereby seek leave to answer and hereby answer the “Answer of Central Maine Power Company, New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation to Answer of Mirant Americas, Inc. and Mirant Americas Energy Marketing, L.P.” (hereinafter, “Answer of Energy East Companies”).¹ As explained herein, none of the relief requested by the Energy East Companies should be granted by the Commission, and none of the findings that the Energy East Companies would have the Commission make, or directives or guidance they would have the Commission issue, are appropriate at this time.

Request for Leave to Respond

The Energy East Companies have used the artifice of an Answer to an Answer filed by the Mirant Companies to ask the Commission among other matters to: (1) stop the process currently under way to establish a common market design and to form a regional transmission organization (“RTO”) encompassing New York and New England; (2) clarify that the appropriate size and scope of a Northeast RTO would combine the markets of PJM Interconnection, Inc. (“PJM”), ISO-NE and the NYISO and (3) prejudge the conclusions of a benefit-cost study being conducted by ISO-NE and the NYISO with stakeholder input. The Energy East Companies argue that they should be entitled to respond to the Mirant Answer because that pleading “contains various requests for Commission action which go beyond answering the Motion of New England Consumer - Owner Entities (“NECOE Motion”), thereby

¹ New York State Electric & Gas Corporation and Central Maine Power Company are subsidiaries of Energy East Corporation. Energy East has announced a merger with Rochester Gas and Electric Corporation.

rendering the filing a Motion.”² The Answer of Energy East Companies takes the same approach. Thus, for the same reasons cited in the Answer of Energy East Companies, the ISOs should be permitted to respond.

Answer of NYISO and ISO-NE

Background

As the Commission is aware, the ISOs have announced an Agreement pursuant to which they are conducting an “in-depth evaluation of the feasibility, including the benefits, of the formation of a regional transmission organization.” The scope of the benefit-cost analysis they have undertaken encompasses the implications of including or not including PJM. Thus, the study will provide the thoughtful analysis that the Commission and market participants, including the Energy East Companies, should have to make a carefully reasoned decision. The ISOs are also developing a plan to establish a common market design.

In addition, the process the ISOs are following includes extensive stakeholder input. The Canadian Provinces have been invited to participate. The Independent Electricity Market Operator in Ontario, TransEnergie, the transmission provider for Quebec, and NB Power have accepted the invitation. Thus, the Energy East Companies, should they choose to participate, will have every opportunity to convince the other stakeholders and the ISOs of the merits of their position.

Finally, the NYISO and PJM announced on March 14, 2002 the execution of an “Interregional Coordination and Issue Resolution Agreement.” To achieve the requirements of Order No. 2000 and the Commission’s RTO regulations, that Agreement establishes:

² Motion of Energy East Companies at 3.

(1) procedures to identify seam issues as well as opportunities to harmonize market rules; (2) procedures to prioritize seam issues and opportunities; (3) procedures to resolve identified issues and pursue market improvement opportunities, including referral of matters to the Commission for mediation or resolution when appropriate, and (4) procedures to track and report to the Commission, applicable state Commissions and stakeholders the progress toward resolution of these issues and opportunities.

The ISOs disagree with virtually every legal conclusion asserted, and every policy recommendation made, by the Energy East Companies in their Answer. Nevertheless, the Commission should not resolve any of those legal or policy issues at the present time. The ISOs have committed to make a filing with the Commission no later than June 30, 2002. The issues raised by the Energy East Companies, if they are still relevant, should not be addressed by the Commission until after the ISOs make that filing, assuming the economic evaluation confirms that it is appropriate to proceed. That filing would include a market implementation plan and a detailed analysis of how the RTO proposal meets the Order No. 2000 characteristics and functions.

The Benefit-Cost Study

Despite having found previous benefit-cost studies to be flawed,³ the Energy East Companies, nevertheless, conclude that the “benefits of the three-region RTO are irrefutable.”⁴ That is one of the issues the ISOs are examining and they should be given a reasonable opportunity to complete their analysis. In any event, in the benefit-cost analysis undertaken for

³ Answer of Energy East Companies at 2.

⁴ *Id.* at 4.

the Commission it is clear that the benefits accruing from standardized markets are far more significant than whether there are four RTOs nationwide⁵ rather than nine RTOs.⁶ Moreover, the Energy East Companies completely ignore the trading benefits of the cooperative arrangements with Canadian entities anticipated by the ISOs' proposal.

Legal Issues

Nothing about the actions taken to date by the NYISO is contrary to the NYISO enabling agreements or contrary to law.⁷ Nor is it correct to conclude that the NYISO “does not have the authority to implement a plan to consolidate markets or services or merge into a NY-NE RTO without the approval of the New York TOs.”⁸ The NYISO is not yet implementing such a plan. It and ISO-NE are moving in parallel to study such a plan and to develop the details of such a plan should those studies demonstrate the feasibility of the plan. The NYISO certainly has the authority to “negotiate with ISO-NE to develop a common market design or merge the two ISOs.”⁹ Second, the two ISOs are working closely with the transmission owners in New York

⁵ Contrary to the statements of the Energy East Companies, each of the ISOs is *not* pursuing its “*own* standard market design.” Instead, the market implementation plan provided to the Commission clearly contemplates a convergence of market design across all three ISOs.

⁶ The nine-RTO scenario leaves New York, New England and PJM as separate RTOs. The ISOs are still reviewing the Commission’s analysis and plan to file comments thereon.

⁷ The NYISO does not here respond to the Energy East Companies’ argument that the NYISO/ISO-NE proposal is “contrary to the Commission’s previous directives.” See Answer of Energy East Companies at 10. The scope of the Commission’s July, 2001 Order in Docket No. RT01-95-000 and the Commission’s authority to issue that Order are pending on rehearing.

⁸ Answer of Energy East Companies at 13.

⁹ The illogic of the position of the Energy East Companies is demonstrated by their argument that the NYISO cannot study and recommend improvements.

and New England to solicit their input and support. The NYISO has not assigned any rights or obligations in derogation of the NYISO/TO Agreement.¹⁰ Nor has it transferred or assigned control over any TO facilities. The scope of an application under Section 203 of the Federal Power Act and a determination of the necessary parties to such an application will be the subject of extensive discussions among the transmission owners and the ISOs.

Similarly, with respect to ISO-NE, the Energy East Companies' "authority" arguments should be rejected. In essence, these arguments fly in the face of Commission policy, because they all amount to a challenge to ISO-NE's appropriate efforts to comply with Order No. 2000.

¹⁰ The ISOs will, if necessary, consider asking the Commission to review the justness and reasonableness of the relevant provisions of the NYISO/TO Agreement.

WHEREFORE, the Commission should take no action on the affirmative relief requested by the Energy East Companies.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in the above-captioned proceedings in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure 18 C.F.R. § 385.2010 (2001).

Dated at Washington, D.C. this 28th day of March.

Arnold H. Quint