

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

New York Independent System Operator, Inc.)	
Central Hudson Gas & Electric Corporation)	
Consolidated Edison Company of New York Inc.)	
Long Island Lighting Company)	
New York State Electric & Gas Corporation)	Docket No. ER00-67-000
Niagara Mohawk Power Corporation)	
Orange and Rockland Utilities, Inc.)	
Rochester Gas and Electric Corp.)	
Power Authority of the State of New York)	
New York Power Pool)	

**ANSWER OF
NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.
TO PROTEST OF ORION POWER NEW YORK GP, INC.**

The New York Independent System Operator, Inc. (“NYISO”), by counsel, hereby answers the Protest of Orion Power New York GP, Inc. (“Orion”). This Answer should be permitted for two reasons. First, the proposed change in the dates on which payments are due to the NYISO and on which the NYISO makes payments is an important part of the NYISO’s cash management program designed to protect entities like Orion. Second, although the filing in this docket was made jointly by the Member Systems of the New York Power Pool (“Member Systems”) and the NYISO, the change in the payment dates was made at the request of the NYISO. Indeed, despite the argument of Orion to the contrary, what has changed since the Member Systems made their proposals to establish the NYISO is that the NYISO has now had the opportunity to review what has been submitted to the Commission and concluded that changes need to be made in order to permit the NYISO to operate

efficiently. In this Answer, the NYISO provides a comprehensive description of the changes it has found necessary to permit it to make prompt and full payments to suppliers of energy like Orion.

The NYISO has carefully reviewed its projected cash flows in order to permit the NYISO to pay suppliers of energy promptly and in full. To accomplish that goal, the NYISO has proposed in this proceeding and is proposing in another docket several changes to the ISO OATT and ISO Services Tariff.

Payment Deadlines. With respect to this docket, Section 7.1(ii) of the ISO OATT and Section 7.2(B) of the ISO Services Tariff state that customers must pay the NYISO within 20 days of receipt of an invoice. Conversely, Section 7.1(iii) of the ISO OATT and Section 7.2(C) of the ISO Services Tariff state that the NYISO shall pay all net monies owed within 20 days of the date of the invoice.¹ The inherent difficulty with this situation is the logistics required in processing all of these transactions on the same day. Even if all monies due the NYISO were actually received on the date due, the NYISO will not have confirmation that it has received payments in full until the time for bank wires closes. Because banks close off wire transfer activities at a fixed time, it will then be too late for the NYISO to turn those funds around and pay the suppliers on time. Additionally, there would be no time to review the accounts receivable and deal with any customers who have not made timely payments.

In order for the NYISO to collect and pay out funds in an orderly manner, the NYISO has proposed in this docket that invoices to customers be paid by the first business day after the fifteenth of

¹ Because of its use of electronic billing, the date of the invoice and the receipt of the invoice will occur on the same date.

the month and that all NYISO payments to suppliers be paid the first business day after the nineteenth of the month. The “four day lag,” which could be as little as one day with an intervening three day holiday weekend, allows the NYISO at least one business day to coordinate this settlement process. This timing will not only bring order to the billing process, but also limit to a large degree problems resulting from late payments and the likelihood of paying suppliers less than the NYISO owes them.

Line of Credit. The NYISO has also established a bank line of credit in the amount of \$12,000,000. That bank line was intended to deal with such matters as meeting the payroll and other operating expenses. In any event, the amount of the line of credit is not large enough to cover any significant cash shortfall.

Elimination of Escrow Account. Section 7.3 of the ISO OATT that deals with Customer Default presents the biggest challenge to the NYISO financial strength. This provision enables a customer who disputes a bill to pay the amount of the bill under dispute directly into an independent escrow account. The NYISO understands that customers in other ISOs have paid substantial amounts into escrow and thereby created significant cash flow problems for the ISO. From the NYISO’s financial perspective, the inability to use these escrowed funds to pay the market is tantamount to not being paid at all. The NYISO is proposing to eliminate the escrow provision in a filing being made today in Docket Nos. ER97-1523-000 *et al.*²

Working Capital. Finally, in that same docket, the NYISO is proposing to modify Sheet No. 144 of the ISO Tariff to have the explicit right to establish working capital as still another essential

² The Commission has recognized the difficulties an escrow account can create. *See, Pennsylvania-New Jersey-Maryland Interconnection*, 81 FERC ¶ 61,257 at 62,274 (1997), *reh’g pending*.

aspect of providing financial viability. Because the NYISO acts as a clearing-house to settle all market transactions on a monthly basis, the NYISO collects funds from customers and, in turn, pays suppliers with the collected funds. There are a number of uncertainties that can create an imbalance in the NYISO's monthly cash flow requirements. These uncertainties include, but are not limited to, the levels of congestion charges, uplift charges and the total market dollar volume, each of which can vary from month to month. Additionally, the possibility of disputed and unpaid invoices has already been discussed and is included among these uncertainties.

The actual amounts of these varying charges should be recovered in the month subsequent to their actual occurrence. Payment of these charges, however, to the suppliers entitled to them will be made in the current month. This timing difference between the collection of charges and the payments due suppliers may result in a shortage of funds available to pay suppliers for the current month.

It is the intent of the NYISO to maintain a reasonable level of working capital to meet its basic financial obligation to its market participants. The level of working capital will be reviewed in detail over the first few months of operations, and will be adjusted to reflect actual cash flow experience. Currently, the NYISO anticipates needing working capital of approximately \$15,000,000, which represents approximately 5% of the projected monthly cash flows.

The changes reflected in this filing, together with those being proposed today in another docket, should allow the NYISO to commence operations with an effective cash management plan.

WHEREFORE, New York Independent System Operator, Inc. respectfully requests that the Commission accept the tariff changes as proposed in this docket.

Respectfully submitted,

NEW YORK INDEPENDENT SYSTEM
OPERATOR, INC.

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November 12, 1999

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document has this day been served upon each person designated on the service list in this proceeding.

Dated at Washington, D.C., this 12th day of November, 1999.

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