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January 20, 2004

BY HAND

The Honorable Magalie R. Salas, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E., Room 1A
Washington, D.C. 20426

Docket No. RM02-1-000 Compliance Filing

Dear Ms. Salas:

The New York Independent System Operator, Inc. (“NYISO”) and the New York Transmission Owners¹ (the “Joint Filing Parties”) hereby submit² the standard interconnection procedures and a standard interconnection agreement pursuant to Order No. 2003.³ Order No. 2003 required all public utilities that own, control or operate facilities used for transmitting electric energy in interstate commerce to file such procedures and agreement.⁴ In New York State, as a general proposition, the NYISO controls such facilities and the Transmission Owners own and operate them.

I. Overview of the Filing

Pursuant to Order No. 2003, the Joint Filing Parties are filing Standard Large Facility Interconnection Procedures (“Interconnection Procedures”) as Attachment X of the NYISO’s OATT. Those Interconnection Procedures apply to a Large Generating Facility, *i.e.*, a Generating Facility having a capacity of more than 20 MW as well as to Merchant Transmission

¹ Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., LIPA, New York Power Authority, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation, a National Grid Company, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation.

² In an Order Denying Stay and Granting Extension issued October 7, 2003, the Commission granted an extension of time until January 20, 2004.

³ Standardization of Generator Interconnection Agreements and Procedures, Order No. 2003, 68 Fed. Reg. 49,845 (August 19, 2003), FERC Stats. & Reg., ¶ 31,146 (2003), *reh’g pending*, (“Order No. 2003”).

⁴ Order No. 2003, ¶ 1.

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Facilities.⁵ They are also filing a Standard Large Generator Interconnection Agreement (“Interconnection Agreement”) as Appendix 6 to the Interconnection Procedures. The Joint Filing Parties have utilized the Commission’s *pro forma* Procedures and Agreement included in Order No. 2003 except as noted herein.

The Joint Filing Parties have adopted the following approach to this Compliance Filing:

- Both the Interconnection Procedures and the Interconnection Agreement utilize the Commission’s *pro forma* language except where it has been modified to reflect regional differences or current NYISO practices or to conform to NYISO Open Access Transmission Tariff (“OATT”) definitions and terminology.⁶
- The Compliance Filing refrains from addressing issues raised on rehearing by numerous parties including the New York Transmission Owners.⁷
- As discussed in greater detail below, the filing also retains Attachment S to the NYISO OATT, except for necessary conforming changes. Attachment S provides for the allocation of interconnection costs among project developers and Transmission Owners by “Class Year” groupings.
- The filing retains a single interconnection product--Network Access Interconnection Service--based upon the NYISO’s Minimum Interconnection Standard, as defined in Section I.B. of Attachment S. As discussed in greater detail below, the NYISO will perform a study to analyze the impact of including a deliverability product in New York.

⁵ Capitalized terms that are not otherwise defined herein shall have the meaning set forth in the NYISO OATT, Article 1 of the Interconnection Procedures or Article 1 of the Interconnection Agreement, as applicable.

⁶ The Commission has granted to independent Transmission Providers like the NYISO “more flexibility to customize an LGIP and LGIA to meet their regional needs” based on their independent status as well as existing regional practices. The flexibility applies to terms and conditions as well as pricing. Order No. 2003, ¶ 26. The Commission refers to such flexibility as the “independent entity variation.” *See also* ¶¶ 822-827. Attachments VII and VIII hereto provide an Explanation of Changes to the Standard Interconnection Procedures and Standard Interconnection Agreement, respectively.

⁷ See the Reservation of Rights in Section III of this filing letter.

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- The Compliance Filing adopts the Commission's Interconnection Study Sequence (a Feasibility Study, a System Impact Study (incorporating the NYISO's System Reliability Impact Study ("SRIS") procedures), a Facilities Study (incorporating the NYISO's Attachment S cost allocation procedures), and an Optional Study).
- In accordance with Order No. 2003, the Interconnection Agreement will be a three party document among the NYISO, the Transmission Owner and the Developer.
- Both the Interconnection Procedures and the Interconnection Agreement identify the respective roles and responsibilities of the NYISO and the Transmission Owners by replacing the term "Transmission Provider" with either "NYISO" or "Transmission Owner," as appropriate, or both. As a general proposition, the NYISO is responsible for administration of the interconnection process, including studies and cost allocation, while the Transmission Owners are responsible for implementation, including equipment procurement and construction of upgrade facilities.

II. Stakeholder Process

This Compliance Filing results from an extensive stakeholder process in which: (i) the NYISO proposed a process for developing the Compliance Filing; (ii) the NYISO Staff presented its position on key issues; (iii) the NYISO provided three drafts of the Interconnection Procedures and the Interconnection Agreement; (iv) the NYISO provided drafts of discussion papers on the major issues to be addressed in this filing letter; (v) the NYISO's Transmission Planning Advisory Subcommittee held five meetings to conduct a detailed review of the issues and documents and (vi) separate sector meetings were held with generators and Transmission Owners.

III. Reservation of Rights

The Joint Filing Parties agree that this filing does not in any way waive, diminish or expand the rights of the New York Transmission Owners including, without limitation, their rights under the Federal Power Act and the Agreement Between the New York Independent System Operator and Transmission Owners to recover all of their reasonably incurred costs and to protect their interests in their transmission facilities and other assets.

LIPA's and NYPA's participation in this Compliance Filing shall in no way be considered a waiver of their non-jurisdictional status pursuant to Section 201(f) of the Federal Power Act ("FPA") with respect to the Commission's exercise of the FPA's general ratemaking

authority. Modifications have been made to Section 5.18 of the *pro forma* Interconnection Agreement consistent with LIPA's and NYPA's non-jurisdictional and tax status.

Notwithstanding anything to the contrary herein, the New York Transmission Owners reserve their rights with respect to their petition(s) for rehearing of Order No. 2003 and any subsequent judicial review. However, regardless of the ultimate resolution of the legal issues raised in their petition(s) for rehearing, if this Compliance Filing is approved by the Commission, without material modification, the New York Transmission Owners will continue to support three party interconnection agreements as well as the provisions of this Compliance Filing relating to the filing of such agreements in Sections 2.1 and 3.2 of the Interconnection Agreement and Section 11 of the Interconnection Procedures.

The New York Transmission Owners also reserve their right to comment and propose changes to the Commission with respect to limited aspects of this Compliance Filing on which the NYISO and the Transmission Owners were not able to reach a consensus.

IV. Documents Submitted

This Compliance Filing consists of the following documents:

1. This filing letter;
2. Clean version of Standard Large Facility Interconnection Procedures as Attachment X to the NYISO OATT (Attachment I hereto)⁸;
3. Blacklined comparison of Standard Large Facility Interconnection Procedures compared to Commission *pro forma* version (Attachment II);
4. Clean version of Standard Large Generator Interconnection Agreement (Attachment III);⁹

⁸ The Joint Filing Parties also request a partial waiver of Section 35.10 of the Commission's Regulations. They are not supplying a marked version of the Interconnection Procedures or the Interconnection Agreement showing additions and deletions to the existing NYISO OATT since all of that language is new. Not filing that will avoid tens of thousands of pages of unnecessary copying.

⁹ In the NYISO OATT, the Standard Large Generator Interconnection Agreement appears as Appendix 6 to the Interconnection Procedures, which are provided as Attachment X to the OATT.

5. Blacklined version of Standard Large Generator Interconnection Agreement compared to Commission *pro forma* Agreement (Attachment IV);
6. Clean sheets revising Sections 19B and 32B of the NYISO OATT and Attachment S of the NYISO OATT (Attachment V);
7. Blacklined sheets revising Sections 19B and 32B of the NYISO OATT and Attachment S of the NYISO OATT (Attachment VI);
8. Explanation of Changes to Standard Interconnection Procedures (Attachment VII);
9. Explanation of Changes to Standard Interconnection Agreement (Attachment VIII);
10. A form of *Federal Register* Notice (Attachment IX).

V. Significant Topics Discussed with the Market Participants

A. Applicability of the Interconnection Procedures and the Interconnection Agreement

1. *Interconnections to Transmission Facilities*

The Interconnection Procedures and the Interconnection Agreement submitted herewith apply to interconnections by generation projects that are larger than 20 MW and that are seeking interconnection to any of the transmission facilities within the New York Control Area. That is because the term “New York State Transmission System” means “the entire New York State transmission system which includes: (1) the Transmission Facilities under NYISO Operational Control; (2) the Transmission Facilities Requiring NYISO Notification; and (3) all remaining transmission facilities within the New York Control Area.” However, this filing does not confer on the NYISO any greater operational control with respect to transmission facilities than is currently the case.

2. *Interconnections to Distribution Facilities*

This filing does not apply to facilities being interconnected to distribution facilities, even if the facility to be interconnected is larger than 20 MW. The Commission has indicated that Order No. 2003 applies to “a request to interconnect to a public utility’s ‘distribution’ facilities used to transmit electric energy in interstate commerce on behalf of a wholesale purchaser

pursuant to a Commission-filed OATT.”¹⁰ The Commission has also acknowledged, however, that it expects a majority of interconnections to jurisdictional “distribution” will be made by generators no larger than 20 MW and expects that interconnection requests of this kind will be rare.¹¹ The Joint Filing Parties agree with the Commission’s views and expect that very few generators larger than 20 MW will be interconnected to distribution facilities. Moreover, the Commission has also indicated that some of those issues are likely to be addressed in the Small Generator rulemaking.¹² Likewise, the Commission has recognized that different procedures may be appropriate in the context of interconnections at the distribution level and has allowed a Transmission Provider to file an amendment to its OATT “upon receipt of a request for jurisdictional interconnection to a jurisdictional ‘distribution’ or low-voltage facility”.¹³ Finally, some Transmission Owners and other affected parties have sought rehearing with respect to the application of the final rule to interconnections at the distribution level, or take the position that any compliance for interconnections at the distribution level should be appropriately handled by the owner and operator of the distribution facilities.

For all of these reasons, the Joint Filing Parties propose that compliance with any requirements for interconnection to distribution facilities be deferred pending a Commission rulemaking order in the Small Generator rulemaking and a Commission ruling on pending rehearing requests.

3. *Treatment of Merchant Transmission*

Order No. 2003 grants to independent Transmission Providers like the NYISO certain flexibility to make modifications to the Commission’s Interconnection Procedures and *pro forma* Interconnection Agreement based on existing regional practices reflected in ISO tariffs and related ISO procedures.

In this Compliance Filing, the Joint Filing Parties propose to modify the *pro forma* Interconnection Procedures to cover interconnection requests submitted by merchant transmission projects as well as those submitted by generation projects. Merchant transmission projects play an important role in the competitive wholesale power markets administered by the

¹⁰ Order No. 2003, ¶ 804.

¹¹ *Id.* at ¶ 806.

¹² *Id.*

¹³ *Id.*

NYISO. The current interconnection and cost allocation procedures of the NYISO already cover merchant transmission projects as well as generation projects. Three merchant transmission projects have filed interconnection requests with the NYISO. One of these has completed the interconnection and cost allocation process. Two others currently stand at earlier points in the process.

The Joint Filing Parties are not, in this Compliance Filing, proposing to modify the *pro forma* Interconnection Agreement to cover merchant transmission projects. The NYISO has not previously been a party to interconnection agreements filed by New York utilities. Consequently, the NYISO has no established practice regarding such agreements. The NYISO is currently discussing with merchant transmission developers, Transmission Owners and other market participants the changes that might be appropriate to make the *pro forma* Interconnection Agreement cover merchant transmission projects in New York. The NYISO hopes to complete these discussions later this year and then propose to the Commission in a separate filing appropriate merchant transmission modifications to the *pro forma* Interconnection Agreement.

B. Continuation of Attachment S

Order No. 2003 allows an independent Transmission Provider to adopt, or maintain, an interconnection pricing policy, such as the “but for” approach, that differs from the crediting approach required for non-independent entities, so long as that alternative is consistent with Commission policies.¹⁴

In this Compliance Filing, the NYISO proposes to exercise the flexibility granted by Order No. 2003 to retain the current Commission-approved “but for” process for allocating interconnection costs among Transmission Owners and project developers that is set forth in Attachment S to the NYISO OATT. The rules in Attachment S allocate to each Developer responsibility for the cost of the net impact of the interconnection of its project on the reliability of the transmission system. The Developer is held responsible for the cost of the interconnection facilities that would not be needed “but for” its project. The Developer is not responsible for the cost of facilities that are required anyway, without the construction of its project, to maintain transmission system reliability. The cost of these “anyway” facilities is borne by Transmission Owners. The net cost impact of a Developer’s project is determined by comparing the results of annual transmission system assessments and interconnection studies that are conducted, or reviewed and approved, by the NYISO staff.

¹⁴ *Id.* at ¶¶ 698-703.

The interconnection cost allocation process currently reflected in Attachment S is consistent with Commission transmission pricing policy. The NYISO cost allocation process avoids “and pricing”; the project developer is not charged twice for the cost of any piece of interconnection equipment. The NYISO cost allocation process ensures comparability; the NYISO and its staff maintain independent decisional control over the entire assessment and cost allocation process. Finally, the “but for” pricing embodied in Attachment S produces efficient locational price signals that help promote the development of competitive wholesale markets.

As a part of this Compliance Filing, the NYISO has made limited changes to Section 8 of the *pro forma* Interconnection Procedures to explain that Interconnection Facilities Studies will be performed for each Class Year group of Developers, as that group is defined in accordance with Attachment S to the NYISO OATT, to fulfill the requirements of that Section 8, and the requirements of the Annual Transmission Reliability Assessment called for by Attachment S. Also as a part of this Compliance Filing, the NYISO has made limited changes to Attachment S to conform that part of the NYISO OATT to the requirements of Order No. 2003. Separate from this Compliance Filing, the NYISO is working with New York market participants to develop other changes and improvements to the interconnection cost allocation process contained in Attachment S. When these changes have been reviewed and approved in accordance with established NYISO governance procedures, the NYISO will submit these tariff amendments to the Commission in a separate filing. The NYISO is also working with New York market participants to develop NYISO procedures to support the interconnection and cost allocation process, including procedures dealing with interconnection construction schedule and budget status reporting.

C. Joint Filing of Interconnection Agreements

Consistent with the approach of the Joint Filing Parties to identify the respective roles and responsibilities of the NYISO and the Transmission Owners in lieu of a reference to “Transmission Provider,” the Joint Filing Parties have proposed a joint approach to the tender, negotiation and filing of Interconnection Agreements under the Interconnection Procedures filed herein. Unlike the current practice in New York where all Interconnection Agreements are two-party agreements between a Transmission Owner and Developer, under the proposed joint process, the NYISO will be a participant at every step to facilitate a fair and balanced negotiation process. At the conclusion of the contract negotiations, the NYISO and Transmission Owners will jointly file an executed Interconnection Agreement with the Commission. Also, as part of the joint process, Section 11.3 of the Interconnection Procedures calls for the NYISO and the Transmission Owners to make a joint filing of an unexecuted Interconnection Agreement upon the request of a Developer. Under these shared responsibilities, the Transmission Owner will provide language for the portions of the Interconnection Agreement in dispute and assume the

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burden of justifying any departure from the *pro forma* Interconnection Agreement. The filing letter will also include any comments the NYISO may have on the disputed language provided by the Transmission Owner, including any alternative language with respect to the portions of the agreement that are in dispute. By providing alternate views on the disputed issues, the joint filing should permit faster review by the Commission. Because of the NYISO's participation in the negotiation process, it will be able to bring an informed and independent opinion as to the nature of the dispute to the Commission in the joint filing.

D. NYISO Interconnection Product

The FERC pro-forma interconnection procedures provide for two interconnection products—Energy Resource Interconnection Service and Network Resource Integration Service. The Joint Filing Parties have included in this Compliance Filing a single interconnection product—called Network Access Interconnection Service—which is consistent with the NYISO's current practice and Commission-approved Tariffs. This service is based upon the NYISO's existing Minimum Interconnection Standard, which fully satisfies all applicable regional reliability criteria, but does not include a “deliverability” requirement. In accordance with Order No. 2003, Network Access Interconnection Service does not constitute a reservation for transmission service. An Interconnection Customer, who desires to reserve transmission service, may do so, under separate provisions of the NYISO's OATT. In the alternative, such an Interconnection Customer may choose to purchase Transmission Congestion Contracts (“TCCs”), either directly from a Primary Holder of such TCCs, or in the NYISO's periodic TCC auctions, and such TCCs can provide a financial hedge for congestion costs otherwise applicable for the delivery of the generator output to any specific load(s). In New York, the NYISO is the sole provider of transmission service, including interconnection service, for the New York Control Area, thus satisfying any potential concerns regarding comparability.

While Network Access Integration Service is the single interconnection product currently offered by the NYISO, a number of the NYISO's market participants have expressed the view that the NYISO should adopt locational or regional deliverability requirements for installed capacity resources in the New York Control Area. While there is not universal agreement among the NYISO's stakeholders regarding this issue, sufficient interest has been expressed on this topic such that the NYISO has agreed to work within its existing committee process to analyze the implications of locational and regional deliverability requirements in New York. Both the NYISO and its stakeholders recognize that this would be a substantial change in its current practice and that issues such as the impact on existing resource adequacy procedures, cost and cost allocation issues, and the need for grandfathering provisions must be thoroughly investigated and resolved.

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Accordingly, the NYISO will initiate a stakeholder process to analyze these issues. The NYISO plans to complete this analysis within six months after this filing. Upon its completion, and following consideration of this analysis through the NYISO governance process, the NYISO will make a filing with the Commission providing the results of the analysis along with any proposed changes to its tariffs related to the adoption of deliverability requirements. To ensure a full and fair study of the interconnection products issue, the Joint Filing Parties have agreed not to take a position in this Compliance Filing on the desirability of preserving or making any change to the current single interconnection product offered in New York, and will work with stakeholders in good faith to explore the implications of maintaining the status quo or adopting a locational or regional deliverability requirement. Several of the filing parties wish to reserve their right to address the issue of deliverability requirements until completion of the NYISO's deliverability analysis and the related NYISO filing.

VI. Communications

The following persons should be included on the official service list in this proceeding, and all communications concerning these comments should be addressed to the following:

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¹⁵ The NYISO respectfully requests waiver of 18 C.F.R. § 385.203(b)(3) (2001) to permit service on counsel for the NYISO in both Washington, D.C. and Richmond, Virginia.

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VII. Effective Date

Consistent with Order No. 2003 and the Notice Clarifying Compliance Procedures issued January 8, 2004, the Joint Filing Parties request that the tariff sheets filed herewith become effective upon action by the Commission on this filing.

VIII. Service List

Copies of this filing are being served on all parties designated on the official service list maintained by the Secretary of the Commission in these proceedings. The NYISO is also serving a copy of this filing to all parties that have executed Service Agreements under the NYISO's OATT or Services Tariff, the New York State Public Service Commission and to the electric utility regulatory agencies in New Jersey and Pennsylvania.

IX. Federal Register Notice

A form of *Federal Register* Notice is provided as Attachment IX hereto. Also enclosed is a diskette with a copy of the notice in WordPerfect format.

X. Conclusion

WHEREFORE, for the foregoing reasons, the Joint Filing Parties respectfully request that the Commission accept this Compliance Filing.

Respectfully submitted,

NEW YORK TRANSMISSION OWNERS

NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.

By: _____
Counsel

By: _____
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cc: All Parties in Docket No. RM02-1-000
All Signatories to NYISO OATT and Services Tariff
Daniel L. Larcamp
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Attachment I

Attachment II

Attachment III

Attachment IV

Attachment V

Attachment VI

Attachment VII

Attachment VIII

Attachment IX

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

Standardization of Generator Interconnection) Docket No. RM02-1-000
Agreements and Procedures)

NOTICE OF FILING

Take notice that on January 20, 2004, the New York Independent System Operator, Inc. (“NYISO”) and the New York Transmission Owners filed a joint Compliance Filing.

The NYISO has served a copy of this filing to all parties in Docket No. RM02-1-000 and upon all parties that have executed Service Agreements under the NYISO’s Open-Access Transmission Tariff or Services Tariff, the New York State Public Service Commission and to the electric utility regulatory agencies in New Jersey and Pennsylvania.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission’s Rules of Practice and Procedure (18 CFR §§ 385.211 and 385.214). Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designed on the official service list. This filing is available for review at the Commission or may be viewed on the Commission’s website at <http://www.ferc.gov>, using the eLibrary (FERRIS) link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov or call toll-free at (866) 208-3676, or for TTY, contact (202) 502-8659. Protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission’s website under the “e-filing” link. The Commission strongly encourages electronic filings.

Comment Date:

Magalie R. Salas, Esq.
Secretary