

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

101 FERC ¶ 61,060

Before Commissioners: Pat Wood, III, Chairman;  
William L. Massey, Linda Breathitt,  
and Nora Mead Brownell.

KeySpan-Ravenswood, Inc.

Docket No. EL02-59-000

v.

New York Independent System Operator, Inc.

ORDER ON MOTION

(Issued October 11, 2002)

1. On July 1, 2002, KeySpan-Ravenswood, Inc. (KeySpan) filed a motion requesting the Commission to direct the New York Independent System Operator, Inc. (NYISO) to immediately institute a stakeholder process related to in-City installed capacity (ICAP) bilateral transactions, and work to make a filing with the Commission by September 1, 2002 for implementation prior to the Winter 2002 capacity auction period. At a minimum, KeySpan argues, the Commission should order NYISO to make a compliance filing by December 1, 2002, to revise its rules related to bilateral transactions so that divested generation owners (DGOs) can participate in the bilateral market during the Summer of 2003. For the reasons provided below, the Commission denies KeySpan's motion. The Commission's action here benefits customers by providing regulatory certainty.

**Background**

2. On February 15, 2002, KeySpan filed a complaint against NYISO requesting that the Commission direct NYISO to make two limited modifications to the current localized in-City mitigation measures applicable to the ICAP market. Specifically, KeySpan requested: (1) to convert the current in-City ICAP price cap applicable to sales by DGOs into a bid cap of equal value; and (2) to eliminate the existing ban on bilateral sales of in-City ICAP by DGOs to in-City load-serving entities (LSEs). In an order issued May 31, 2002,<sup>1</sup> the Commission

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<sup>1</sup>99 FERC ¶ 61,252 (2002).

denied KeySpan's complaint, finding that in the existing market conditions in New York City, the changes proposed by KeySpan would not benefit customers.

3. With regard to the bilateral sales of in-City ICAP, the Commission stated that while bilateral contracts have value in competitive markets, allowing bilateral sales in the in-City ICAP market would not be appropriate at this time since such sales may not improve reliability, but rather may increase the costs and further complicate the market monitoring process. Further, the Commission found that KeySpan had not adequately addressed the concern that allowing such transactions will result in more gaming and opportunities to circumvent the ICAP price cap. In addition, because NYISO is to assume full responsibility for the New York City transmission grid, which will be transferred from Consolidated Edison Company of New York, Inc. (ConEd), as proposed in NYISO's comprehensive market mitigation plan filing in Docket No. ER01-3155-002, the Commission found it premature to order significant changes to the in-City ICAP market design. Given that NYISO had not taken a position on the merits of KeySpan's proposal, the Commission encouraged NYISO to examine, in consultation with its stakeholders, the feasibility and market impact of allowing in-City ICAP bilateral transactions.

### **KeySpan's Motion**

4. As mentioned above, in its motion, KeySpan requests the Commission to direct the New York Independent System Operator, Inc. (NYISO) to immediately institute a stakeholder process related to in-City installed capacity (ICAP) bilateral transactions, and work to make a filing with the Commission by September 1, 2002 for implementation prior to the Winter 2002 capacity auction period. At a minimum, KeySpan argues, the Commission should order NYISO to make a compliance filing by December 1, 2002, to revise its rules related to bilateral transactions so that divested generation owners (DGOs) can participate in the bilateral market during the Summer of 2003.

5. To date, KeySpan states, NYISO has not undertaken to engage in a process to address bilateral transactions and has given KeySpan no indication of when such a process will be initiated or its official views of the propriety of bilateral ICAP transactions. According to KeySpan, there have only been discussions of a yet to be scheduled joint meeting of NYISO's ICAP and AMP/In-City mitigation working groups. To support the view that most market participants generally concede that bilateral transactions are beneficial to the market, KeySpan cites two statements made by ConEd. KeySpan also asserts that because of the in-City mitigation measures recently approved by the Commission, in-City generators will increasingly depend on the ICAP market to recover fixed costs, and the ability to enter into bilateral transactions will assist in the recovery of such costs and enable market participants to hedge risks.

### **ConEd's Answer**

6. In its answer to KeySpan's motion, ConEd asserts that the motion is procedurally defective since KeySpan did not request rehearing of the May 31 Order. In ConEd's view, the motion is simply an attempt to force through the stakeholder process the changes that KeySpan was unable to substantiate a need for in its complaint, and merely reiterates the same arguments that were previously rejected by the Commission in the May 31 Order. ConEd maintains that even if the motion was procedurally appropriate, the relief KeySpan seeks should not be ordered by the Commission, but should be initiated voluntarily by NYISO. ConEd states that KeySpan misinterprets and takes comments made by ConEd representative in other proceedings out of context, and that ConEd supports bilateral transactions only where fully competitive markets exist, which is not the case here. In addition, ConEd states that until the changes in the New York City mitigation program are fully implemented and effective for at least a few months, it will be difficult if not impossible to ascertain whether, which, and to what extent further revisions to the market rules, including those governing the ICAP market, are necessary.

### **Commission Decision**

7. KeySpan's motion is essentially a request for reconsideration of the May 31 Order. However, KeySpan has not shown any significant change in circumstances since the issuance of that order that would require such reconsideration. Accordingly, the Commission will deny KeySpan's motion.

The Commission orders:

KeySpan's July 1, 2002 motion is denied, as discussed in the body of this order.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.