

101 FERC ¶ 61, 099  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

KeySpan Energy Development Corporation,  
KeySpan-Ravenswood, LLC, New York Power  
Authority, Electric Power Supply Association,  
and Independent Power Producers of New York, Inc.

v.

Docket No. EL02-125-000

New York Independent System Operator, Inc.

ORDER ESTABLISHING HEARING PROCEDURES

(Issued October 30, 2002)

1. In this order addressing a complaint filed by KeySpan Energy Development Corporation and KeySpan-Ravenswood, LLC (KeySpan), New York Power Authority (NYPA), Electric Power Supply Association (EPSA), and Independent Power Producers of New York (IPPNY), (collectively, Complainants) against the New York Independent System Operator, Inc. (NYISO), we set for hearing NYISO's application of its cost allocation procedures for generator interconnections and merchant transmission projects (project developers). The Commission's action benefits customers by ensuring the proper implementation of Attachment S of NYISO's Open Access Transmission Tariff (OATT).

**Background**

**A. Attachment S to NYISO's OATT**

2. NYISO's Attachment S to its OATT provides rules for the allocation of responsibility for the cost of interconnection facilities required for new generation

projects and merchant transmission projects (cost allocation rules or rules).<sup>1</sup> Basically, the process allocates to transmission owners the costs of facilities they would have to build "anyway," even without the project developers' proposals, and allocates to the project developers the remaining costs. The cost allocation method is a two-step process consisting of an Annual Transmission Baseline Assessment<sup>2</sup> (Baseline Assessment or the "anyway" costs) and an Annual Transmission Reliability Assessment (Reliability Assessment).<sup>3</sup> The costs identified in the Baseline Assessment are subtracted from the costs identified in the Reliability Assessment, and the resulting net amount of system upgrade facility costs is allocated among project developers.<sup>4</sup>

### **B. Cost Allocation for System Upgrade Facilities for the Class of 2001**

3. The NYISO is applying this cost allocation method for the first time to the Class of 2001. On May 15, 2002, the NYISO Staff issued the Report on Cost Allocation of New Interconnection Facilities to the New York Transmission System (Cost Allocation Report) for the Class of 2001.<sup>5</sup> The projected costs for System Upgrade Facilities for Class 2001 are \$72.7 million, with \$59.7 million allocated to project developers and \$13 million to Consolidated Edison Company of New York, Inc. (ConEd). KeySpan

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<sup>1</sup>The Commission accepted Attachment S with conditions. New York Independent System Operator, Inc., 97 FERC ¶ 61,118 (2001), order on reh'g, 100 FERC ¶ 61,103 (2002) (NYISO). See also 98 FERC ¶ 61,201 (2002) (order on compliance filing).

<sup>2</sup>The Baseline Assessment determines the system upgrade facilities needed to comply with reliability requirements.

<sup>3</sup>The Reliability Assessment determines the system upgrade facilities that are required for the reliable interconnection of project developers' projects.

<sup>4</sup>Project developers may opt out of a class year by declining to accept their respective cost allocations and the cost responsibility is then recalculated for the remaining members of the Class.

<sup>5</sup>See Complaint, Exhibit 6.

appealed to the NYISO's Management Committee and the NYISO Board. Both appeals were denied, and KeySpan removed its project from the Class of 2001.<sup>6</sup>

### **The Complaint**

4. Complainants argue that NYISO is shifting costs that should be borne by the transmission owners to project developers. They challenge the depiction of the baseline power system facilities ("anyway" facilities) used in the Baseline Assessment, the selection of generic generating units in the Baseline Assessment, and the short circuit data depicting the transmission system of the neighboring PJM ISO.<sup>7</sup>

5. Specifically, Complainants argue that when defining the existing baseline system facilities, NYISO excluded certain generating projects owned by NYPA and ConEd even though the projects were brought on line to meet reliability requirements in the Summer of 2001.

6. Complainants contend further that NYISO included certain generic facilities as a proxy for generating units that were not "feasible."<sup>8</sup> They point out that these facilities are not "feasible" because the plants will not be on line for at least the years 2001 through 2003. According to Complainants, almost 50 percent of the generic generating capacity proposed in the Baseline Assessment for 2001 and 2002 has not come on line yet, and will not be built any time soon.

7. Finally, Complainants assert that NYISO used out-of-date short circuit data provided by ConEd, and did not adjust the cost allocation assessments for Class Year 2001 to incorporate the most recent short circuit data regarding the PJM and New England control areas. They argue that NYISO's failure to use available current data violates Attachment S and the System Reliability Impact Study Criteria and Procedures in NYISO's OATT.

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<sup>6</sup>Not all members of the Class of 2001 accepted their cost allocations. On July 19, 2002, NYISO issued the First Revised Project Cost Allocation for the remaining class members.

<sup>7</sup>See discussion at paragraphs 21 through 23 below for discussion of generic generating units.

<sup>8</sup>See discussion at paragraphs 22 through 31 below for discussion of "feasibility."

8. According to Complainants, NYISO's actions will affect not only the Class of 2001 projects but also cost allocations in succeeding years.

### **Notice and Further Filings**

9. Notice of the complaint was published in the Federal Register, 67 Fed. Reg. 56,994 (2002), with comments, protests, or motions to intervene due on or before September 17, 2002. NYISO filed, and the Commission granted, a request for an extension of time to file its answer until September 24, 2002. NYISO filed its answer on September 24, 2002.

10. Timely motions to intervene were filed by American National Power Inc., Calpine Eastern Corporation (Calpine), ConEd, Dynegy Power Marketing, Inc., New York Transmission Owners, the NRG Companies, PSEG Power In-City I, LLC (In-City), the Participating Transmission Dependent Utility Systems, and Reliant Resources, Inc. The Public Service Commission of New York (NYPSC) filed a notice of intervention and protest on September 24, 2002. On October 11, 2002, Complainants filed a request to submit a limited response to NYISO's answer and ConEd's motion to intervene. NYISO filed a protest to Complainants' October 11 limited response on October 18, 2002.

11. In-City asserts that NYISO's implementation of its cost allocation procedures is not consistent with good utility practice, is unjust and unreasonable, and will stifle development of generation in New York.<sup>9</sup> In-City supports Complainants' contention that NYISO failed to use up-to-date data from PJM when preparing the Baseline Assessment because NYISO used the ConEd data from a previous short-circuit model and did not attempt to update the information when it began the Baseline Assessment in May 2001. Similarly, In-City contends that the generic generating units used by NYISO were neither sited or chosen consistent with good utility practice and the cost allocation rules.

12. Calpine agrees with the Complainants that the Baseline Assessment for Class Year 2001 distorts the allocation of cost responsibility, and consequently overstates the costs allocated to project developers. Calpine asserts that NYISO failed to comply with the cost allocation rules to include the costs of generic generators as a component of the

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<sup>9</sup>In-City plans to interconnect a 550 MW generating unit in Bergen County, New Jersey to ConEd's West 49th Street Substation.

System Upgrade Facilities in the Baseline Assessment, thereby understating the true baseline reliability costs to the detriment of project developers.

13. In its answer, NYISO first argues that the Complainants lack standing to file this complaint because KeySpan dropped out of the Class of 2001, NYPA accepted its cost allocation for the Class of 2001, and EPSA and IPPNY are trade associations. According to NYISO therefore the complaint is moot.

14. NYISO also maintains that it properly excluded certain generating units from the Baseline Assessment because these units had not first been through the cost allocation process, as required by Attachment S. It contends that its selection of generic generating units in the Baseline Assessment identified a "feasible" hypothetical generation portfolio consistent with the purpose of the Baseline Assessment. NYISO also contends that by using the ConEd short circuit model, it followed the planning procedures and the draft cost allocation rules in effect when the studies commenced in May 2001. NYISO retained a consultant to review its evaluation of the short circuit issues and the consultant's report validated NYISO's findings.

15. Finally, NYISO warns that further delay in implementing the cost allocation for the Class of 2001 would disrupt the NYISO cost allocation process and impede the development of the competitive power supply projects that are needed in the area.

16. ConEd echoes NYISO's arguments and maintains that NYISO acted in accordance with the cost allocation rules in Attachment S. The NYPSC contends that granting the complaint will jeopardize reliability in New York City because of uncertainty, which could delay construction of needed supply.

## **Discussion**

### **A. Procedural Matters**

17. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2002), the timely, unopposed motions to intervene and notice of intervention serve to make the entities that filed them parties to this proceeding. Rule 213 of the Commission's Rules of Practice and Procedure prohibits an answer unless

otherwise ordered by the decisional authority.<sup>10</sup> We are not persuaded to accept Complainants' limited response, and therefore will reject it. We also reject NYISO's protest to Complainants' response.

## **B. Complainants' Standing to File Complaint**

18. As a threshold matter, we reject NYISO's contention that the Complainants lack standing in this case. We find that the Complainants do have standing to file this instant complaint. Rule 206 of the Commission's Rules of Practice and Procedure,<sup>11</sup> sets forth the requirements applicable to complaints. Rule 206(a) states that "[a]ny person may file a complaint seeking Commission action against any other person alleged to be in contravention or violation of any statute, rule, order or other law administered by the Commission, or for any other alleged wrong over which the Commission may have jurisdiction."<sup>12</sup> Rule 206(b)(3) requires the complaint to "set forth the business, commercial, economic or other issues presented by the action or inaction as such relate to or affect the complainant."<sup>13</sup> The Complainants in this case are alleging that NYISO is violating the terms of its OATT, and that as a result, project developers are harmed. This is sufficient to meet the standing requirement.<sup>14</sup>

19. We also find that the complaint is not moot simply because KeySpan decided not to participate in the Class of 2001. The complaint highlights the chilling effect NYISO's action could have on the development of future generation projects if, as Complainants allege, NYISO is shifting the costs for system upgrades from transmission owners to project developers.

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<sup>10</sup>18 C.F.R. § 385.213 (2002).

<sup>11</sup>18 C.F.R. § 385.206 (2002).

<sup>12</sup>Id. at 206(a).

<sup>13</sup>Id. at 206(b)(3).

<sup>14</sup>Cf. Southern Union Gas Company v. Northern Natural Gas Company, 71 FERC ¶ 61,198, at p. 61,717. (1995).

### **C. Analysis**

20. We will set the issues discussed below for hearing. We have found that the cost allocation rules in Attachment S are reasonable and can produce equitable solutions for allocating interconnection costs.<sup>15</sup> The purpose of the Baseline Assessment is to determine the needs of the transmission owners to reliably meet load growth in the absence of new generator projects and to thus identify the System Upgrade Facilities that would be needed "anyway." However, our review indicates that NYISO's application of the rules may be inconsistent with this purpose when selecting the generic generating units and excluding certain existing generating units from the Baseline Assessment. We also believe that some of the issues may be a result of the fact that this is the first time these rules have been applied, and we need more information in order to decide these issues. In addition, the issues may affect later years' cost allocations. Our approach is intended to correct any flaws in the initial year to ensure proper results in the future. Lastly, because succeeding years' allocations depend upon the prior year's Baseline Assessment, we shall order an expedited hearing procedure on the three issues discussed below.

#### **1. Selection of Generic Generating Units**

21. Under Attachment S for the Baseline Assessment, NYISO must identify the System Upgrade Facilities<sup>16</sup> that will be needed during the five year period to meet the reliability needs of the New York Control Area. In doing so, if NYISO determines that the existing transmission or generating facilities are insufficient to meet the reliability

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<sup>15</sup>Supra note 1.

<sup>16</sup>System Upgrade Facilities are defined as: "The least costly configuration of commercially available components of electrical equipment that can be used, consistent with good utility practice and Applicable Reliability Requirements, to make the modifications to the existing transmission system that are required to maintain system reliability due to: (i) changes in the system, including such changes as load growth, and changes in load patterns, to be addressed in the form of generic generation or transmission projects; and (ii) proposed New Interconnections. In the case of proposed New Interconnection projects, System Upgrade Facilities are the modifications or additions to the existing New York State Transmission System that are required for the proposed project to connect reliably to the system in a manner that meets the NYISO Minimum Interconnection Standard." (Complaint Exhibit 2, Cost Allocation Rules, Original Sheet Nos. 658A-658B, and First Revised Sheet No. 659.)

requirements, ". . .then the NYISO staff will develop feasible solutions that include the identification of System Upgrade Facilities that are sufficient to either interconnect additional generic generation and/or increase transmission transfer capability in order to satisfy the Applicable Reliability Requirements."<sup>17</sup> The System Upgrade Facilities must be selected consistent with good utility practice and on a "least-cost" basis. This means that NYISO must develop generic generating units and transmission upgrades in the Baseline Assessment to maintain reliability without considering the project developers' new generators.

22. The Complainants, Calpine, and In-City argue that NYISO did not consider the capital costs of the generic generators as part of its least cost assessment and instead selected units that minimize system upgrade costs to transmission owners. Complainants state that if NYISO had to arrange for the construction of such units, it would do so on the most cost-effective basis overall, not based on just what the transmission system upgrade costs would be.<sup>18</sup> As an example, Complainants allege that by not considering the capital costs of a generic plant, NYISO may select a plant that would have life-cycle costs of \$500 million and no System Upgrade Facilities costs in preference to an alternative plant with life-cycle costs of \$100 million with \$10 million in System Upgrade Facilities costs. According to Complainants, NYISO's sole criterion when selecting a generic unit was to minimize the costs to transmission owners. Complainants argue that this is inconsistent with good utility practice as required by the cost allocation rules and integrated utility planning. In addition, the Complainants assert that NYISO's selection of the generic units is inconsistent with the "not-in-Central-Park" requirement that generic generating units be realistic as reflected in the rules' requirement that generic units be "feasible."<sup>19</sup>

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<sup>17</sup>See Exhibit 2, Cost Allocation Rules First Revised Sheet No. 667.

<sup>18</sup>Complaint at 17.

<sup>19</sup>Complainants explain that the "not-in-Central-Park" criterion was developed because it was recognized during the development of the rules that the location of generic generating units could affect the determination of System Upgrade Facilities, since a unit located in area with ample transmission capability would not necessarily require any System Upgrade Facilities, while a unit located in an area with severe transmission constraints would require extensive System Upgrade Facilities. (Complaint, Exhibit 4 at 3.)



23. NYPA, in a letter to the NYISO Board in support of KeySpan, echos KeySpan's assertion that the NYISO used the single criterion of minimizing the effect on the transmission system when it chose the sites for the generic generators. NYPA also states that its claim is not that the NYPA facilities should have been included in the Baseline Assessment, but that all the generic units should have been located on the sites on which NYPA's units were located.<sup>20</sup>

24. NYISO claims that it is not required under the rules to consider the life-cycle costs of generic generating projects when determining the feasible solutions to maintain reliability. It says that the purpose of the rules is to allocate the costs of interconnection facilities, not entire power projects. NYISO also contends that it cannot consider solutions that would impose a higher cost for System Upgrade Facilities, as given in the example, since it must hold the cost of System Upgrade Facilities to a minimum for all market participants to avoid over-building or "gold-plating."<sup>21</sup>

25. The Commission finds that the Complainants may have raised valid concerns regarding the generic generating unit criteria used by NYISO under the cost allocation rules for the Baseline Assessment. The Complainants assert that a single criterion was applied to the siting of the generic generating units, *i.e.*, to minimize the costs to the transmission owners rather than consider all the other factors in meeting its reliability obligations from an integrated utility planning perspective. Accordingly, we shall set for hearing whether NYISO's selection of generic generating units was consistent with the feasibility criterion in the cost allocation rules.

## 2. Baseline Assessment Generating Units

26. In order to begin the Baseline Assessment, NYISO must take a "snapshot" or examination of the transmission system as it exists to determine what would be needed if no new projects were proposed. The rules state that the baseline will be determined using the NYISO Load & Capacity Data Report (Report) to project system load growth and changes in load patterns.<sup>22</sup> The rules also state that in order to be considered part of

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<sup>20</sup>Complaint Exhibit 12 at 2.

<sup>21</sup>Answer at 27-28.

<sup>22</sup>Attachment S, First Revised Sheet No. 665. The Report is an annual NYISO survey of electric load and capacity resources in New York filed in compliance with the  
(continued...)

the existing system, any new interconnections must have had their costs allocated under the rules before the projects and their costs are added to the Baseline Assessment.<sup>23</sup>

27. Complainants allege that certain units were improperly excluded from the Baseline Assessment, since generic units may only be used when "existing" facilities are insufficient to meet reliability needs. Complainants assert that NYPA's 10 gas turbine units and ConEd's Hudson Avenue No. 10 did exist and were on line in the Summer of 2001 to meet reliability requirements.<sup>24</sup> Complainants argue that the provision that NYISO relies on to exclude those units from the Baseline Assessment simply sets forth the process for adding developer-sponsored proposed projects in the future and should not be read to exclude existing plants so that System Upgrade Facility costs can be reduced for transmission owners.<sup>25</sup> Complainants allege that the effect of NYISO's excluding the existing units is to shift the costs from transmission owners to project developers. Specifically, Complainants' witness conducted a study demonstrating that a total of 22 circuit breakers at two ConEd substations would be have to be replaced by ConEd, not by the project developers, with the attendant cost shift estimated at approximately \$25 million.<sup>26</sup>

28. Complainants also argue that two of the six generic units cannot meet the in-service schedule needed to satisfy reliability requirements and therefore violate the requirement of Attachment S that the facilities must be feasible solutions for the year that

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<sup>22</sup>(...continued)

regulations implementing the New York State Energy Law.

<sup>23</sup>"When interconnection facility costs have been allocated to proposed Developer projects using these rules, then those projects and related upgrades will be added to the baseline system studied in the next Annual Transmission Baseline Assessment." Complaint at Exhibit 2, First Revised Sheet No. 666.

<sup>24</sup>Complaint at 20. NYISO however, modeled three of NYPA's units as generic units along with two other ConEd projects in the Baseline Assessment.

<sup>25</sup>Id. at 20-21.

<sup>26</sup>Complaint Exhibit 5 at 3-6 and corresponding Impact Report prepared by KeySpan submitted as Exhibit 15.

they are needed.<sup>27</sup> Complainants state that due to environmental siting factors and the need for a reasonable construction schedule, these plants can not be on line for the relevant year.<sup>28</sup>

29. NYISO argues that it properly excluded the NYPA units since they had not been through the cost allocation process in accordance with the rules. NYISO explains that it excluded the Hudson Avenue unit because, while it was reactivated in 2001, it had been mothballed and was not in the 2001 Report. NYISO notes that the Hudson Avenue unit is included in the 2002 Report and will be included in the Baseline Assessment for Class Year 2002.<sup>29</sup>

30. NYISO also argues that the "feasible" standard means that the generic units should be "reasonable and plausible in the context of the former regulated utility planning process," not one that imposed any criteria on generic units and their System Upgrade Facilities related to the feasibility of permitting and construction of actual power projects.<sup>30</sup> NYISO states that under the rules, the generic units do not have to be operational at a certain time during the assessment period, or ever, for them to be included in the Baseline Assessment; they simply need to be plausible.<sup>31</sup>

31. The Commission finds that the Complainants have raised issues regarding the NYISO's selection of generating units in the Baseline Assessment that warrant investigation. Accordingly, we will set this issue for hearing. As noted, the purpose of the Baseline Assessment is to determine the needs of the transmission owners to reliably meet load growth in the absence of new generator projects and to thus identify the System Upgrade Facilities that would be needed "anyway." Therefore, we direct that a record be developed as to whether NYISO acted consistently with this purpose.

### 3. Use of Most Recent Short Circuit Data

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<sup>27</sup>Complaint at 18.

<sup>28</sup>*Id.* Exhibit 4 at 5-6.

<sup>29</sup>Answer Attachment 4 at 6. See also, Attachment 6, 2002 Report at 18.

<sup>30</sup>*Id.* Attachment 4 at 7.

<sup>31</sup>Answer at 27.

32. Complainants allege that NYISO used out-of-date data bases to assess the short circuit effects of the Class Year 2001 projects on the ConEd transmission system. Specifically, they allege that the representation of the PJM system was at least one and possibly more years out of date when NYISO began the Baseline Assessment in May 2001.<sup>32</sup> Complainants assert that if a readily available, up-to-date representation of the PJM system had been used by NYISO, a significant number of System Upgrade Facilities would need to be installed by ConEd.<sup>33</sup> In particular, an Impact Report prepared by KeySpan shows that at least 30 circuit breakers on the ConEd system would exceed their short circuit capability and therefore be ConEd's responsibility. Complainants point out that these circuit breakers were not included in the Baseline Assessment.<sup>34</sup> Instead, the costs of replacing many of these circuit breakers were allocated to Class Year 2001 members, since the out-of-date information indicated that their projects caused the circuit breakers to exceed their short circuit capability.

33. NYISO argues that the Class Year 2001 Baseline Assessment used the most accurate and current short-circuit models of the PJM and New England systems available under the data collection procedures and practices in existence when the study commenced.<sup>35</sup> In addition, NYISO states that an updated model for the PJM system only became available to NYISO in December 2001, after the scheduled completion date for the 2001 studies.<sup>36</sup> NYISO also notes that in response to the Commission's directive in NYISO,<sup>37</sup> NYISO hired GE Power Systems (GE) to evaluate the short circuit model

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<sup>32</sup>Complaint at 22 citing Exhibit 5 at 12.

<sup>33</sup>KeySpan states that it received from PJM an updated short circuit model in June 2002 to conduct its studies, the results of which are contained in the Impact Report. (See Impact Report at 3.)

<sup>34</sup>Complaint at 8 citing Exhibit 15, Impact Report at 1 and 8-10.

<sup>35</sup>Answer Attachment 4 at 11.

<sup>36</sup>Id. at 12.

<sup>37</sup>In NYISO, the Commission directed the NYISO to amend its procedures to eliminate any decision-making role of the transmission owners in the development of the Baseline Assessment. This was to protect against any undue influence the transmission owners might have on determining System Upgrade Facilities (NYISO at 61,575).

provided by ConEd.<sup>38</sup> NYISO states that GE validated the input of the transmission owners and the data bases used for the short circuit assessment.<sup>39</sup> NYISO's witness contends that based on his preliminary preparation for the 2002 studies, incorporating a newer PJM model would not necessarily result in a substantial change to the 2001 Baseline Assessment. NYISO also states that the cost allocation rules are based on annual assessments which take months to conduct and that NYISO staff could never complete the assessments if it were required to revise them continually to incorporate updated data.

34. We agree with NYISO that the cost allocation rules are based on annual cycles of technical assessments. However, we cannot from the record before us determine if the most recent PJM model available at the time the studies commenced was used to conduct the Baseline Assessment. Nor can we determine from the record what effects an updated model might produce. Accordingly, we shall set these issues for hearing.

#### **D. Hearing Procedures**

35. We are unable to resolve the complaint summarily, since the parties have raised issues of fact about the justness and reasonableness of the application of the cost allocation methodology in Attachment S of NYISO's OATT to the Class of 2001 that should be determined in the context of a trial-type evidentiary hearing. Accordingly, we will set the complaint for hearing under Section 206 of the Federal Power Act (Act), 16 U.S.C. § 824e (1994), as ordered below.

36. Although we do not have the benefit of a presiding judge's report, based on our review of the record, we expect this case to be resolved expeditiously. Accordingly, the presiding judge should be able to render a decision within three months or by January 31, 2003. Briefs on Exceptions shall be due no later than February 10, 2003, and Briefs Opposing Exceptions shall be due no later than February 17, 2003. If the presiding judge is able to render an initial decision by that date, we estimate that we will be able to issue our decision within approximately six weeks of the filing of briefs opposing exceptions, or by March 31, 2003.

The Commission orders:

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<sup>38</sup>Answer Attachment 4 at 11.

<sup>39</sup>Answer at 29-30.

Docket No. EL02-125-000

- 14 -

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by Section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly Section 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 C.F.R. Chapter I), a public hearing shall be held on the complaint in Docket No. EL02-125-000. We direct the ALJ to develop a factual record on the following three issues, as discussed above:

- 1) whether NYISO's selection of generic generating units was consistent with the feasibility criterion in the cost allocation rules;
- 2) whether NYISO's exclusion of certain generating units from the Baseline Assessment was consistent with the cost allocation rules; and
- 3) whether the most recent PJM model available at the time the studies commenced was used to conduct the Baseline Assessment, and what effects an updated model might produce.

(B) A presiding judge to be designated by the Chief Judge shall convene a conference in this proceeding to be held within approximately five (5) days of the date the Chief Judge designates the presiding judge, at a hearing room of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. Such conference shall be held for the purpose of establishing a procedural schedule. The presiding judge is authorized to establish procedural dates, consistent with paragraph (C) below, and to rule on all motions (except motions to dismiss), as provided in the Commission's Rules of Practice and Procedure.

(C) The presiding judge should issue an initial decision no later than January 31, 2003. Briefs on Exceptions shall be due no later than February 10, 2003, and Briefs Opposing Exceptions shall be due no later than February 17, 2003.

By the Commission.

( S E A L )

Linwood A. Watson, Jr.,  
Deputy Secretary.

Docket No. EL02-125-000

- 15 -