

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

New York State Electric and Gas Corporation)

**Docket Nos. EL09-26-000
 EL09-26-001**

INITIAL COMMENTS OF NEW YORK INDEPENDENT SYSTEM OPERATOR, INC. IN SUPPORT OF THE SETTLEMENT AGREEMENT AND OFFER OF PARTIAL SETTLEMENT

Pursuant to 18 C.F.R. § 385.602(f), the Federal Energy Regulatory Commission’s (“FERC” or the “Commission”) notice (“Notice”), issued on October 13, 2009; and the Commission’s Notice Clarifying Prior Notice, issued October 21, 2009; the New York Independent System Operator, Inc. (“NYISO”) hereby files its Initial Comments (“Comments”) on the Settlement Agreement and Offer of Partial Settlement (“Proposed Settlement”), filed on September 21, 2009 by New York State Electric & Gas Corporation (“NYSEG”), Niagara Mohawk Power Corporation d/b/a National Grid (“Niagara Mohawk” or “National Grid”), and the New York Municipal Power Agency (“NYMPA”) (collectively, the “Settling Parties”). The Proposed Settlement reserves the issue for the Commission as to whether adjustments should be made to the relevant invoices based on corrected metering data discovered after the challenge and correction periods in the NYISO’s tariffs had expired (the “Reserved Issue.”) Subject to the comments below, the NYISO supports the Settlement Agreement and respectfully requests that the Commission approve the Settlement Agreement and issue an order resolving the Reserved Issue.

The NYISO supports the Stipulated Methodology, as described in Exhibit 2 to the Proposed Settlement, as the mechanism to adjust invoices should the Commission order invoice adjustments in this proceeding. The NYISO actively participated in the Commission-supervised settlement discussions which occurred over several months and lead to the Proposed Settlement. It is important to note that the time period of interest in this proceeding spans nearly a decade, from late 1999 to 2008, which includes over 100 monthly invoices to be adjusted should the Commission order adjustments.

The Stipulated Methodology does not include a resettlement of the market. A full resettlement of the market would be impossible for the time period of November 1999 through January 2005 because the software platform upon which the markets were settled during that time no longer exists. For subsequent years, the amount of effort required to fully resettle the market would require such a monumental effort so as to be impracticable. The Stipulated Methodology does provide a reasonable mechanism that the NYISO could implement to make invoice adjustments should the Commission order such adjustments. For the foregoing reasons, the NYISO respectfully requests that the Commission not deviate from the Stipulated Methodology in the event adjustments are ordered.

As drafted, the Proposed Settlement would require the NYISO to follow its tariff provisions and thereby socialize any bad debt losses resulting from this proceeding among all of its market participants. NYSEG filed comments on the Proposed Settlement stating:

If the NYISO is unable to collect these amounts [referring to potential bad debt losses] from certain LSEs because they are no longer a customer of the

NYISO, or some other reason, some amounts might be collected through the NYISO bad debt mechanism. NYSEG anticipates that any amounts that would need to be collected by the NYISO by use of the bad debt provision are small in comparison to the overall amounts that would need to be refunded to NYSEG from the LSEs in National Grid's subzones, including National Grid. However, to allay any concerns that there was not proper notice to certain customers that they may be subject to some small charge as a result of the use of the bad debt mechanism or if there is any other concern about the use of that mechanism as set out in the Stipulated Methodology, NYSEG is willing to surrender any claims to the amounts owed by these entities.¹

The NYISO supports NYSEG shouldering this burden, as opposed to socializing these losses among all market participants, and respectfully requests that the Commission make clear that NYSEG will be responsible for such amounts that would otherwise result in bad debt losses.

The NYISO respectfully requests that should the Commission order adjustments, the Commission should not deviate from the Stipulated Methodology in how those adjustments are made and that NYSEG should shoulder the financial burden of any amounts that would otherwise result in a bad debt loss.

Respectfully Submitted,

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November 12, 2009

¹ *Initial Comments of New York State Electric & Gas Corporation in Support of Settlement Agreement and Offer of Partial Settlement*, Docket Nos. EL09-26-000, EL09-26-001, at page 8 (November 10, 2009.)

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 this proceeding.

Dated at Rensselaer, NY this November 12, 2009.

/s/ Andrew S. Antinori
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