

FILED
OFFICE OF THE
SECRETARY

2003 DEC -1 P 4:46

FEDERAL ENERGY
REGULATORY COMMISSION

ORIGINAL

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

New York Independent System Operator, Inc.) Docket No. ER04-182-000

**MOTION TO INTERVENE AND COMMENTS IN SUPPORT OF TARIFF REVISIONS
OF THE NEW YORK TRANSMISSION OWNERS**

Pursuant to Rules 212 and 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. §§ 385.212 and 385.214 (2003), Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., LIPA, New York Power Authority, New York State Electric & Gas Corporation, Rochester Gas and Electric Corporation, Orange and Rockland Utilities, Inc. and Niagara Mohawk Power Corporation, a National Grid Company, (referred to herein as the "New York Transmission Owners") individually and collectively move to intervene in the above-captioned proceeding.¹ The New York Transmission Owners also provide herewith comments in support of the tariff revisions proposed by the New York Independent System Operator, Inc. ("NYISO" or "ISO") in this proceeding. In support hereof, the New York Transmission Owners respectfully state as follows:

I. COMMUNICATIONS AND NOTIFICATIONS

All communications, pleadings, and orders with respect to this proceeding should be sent to the individuals listed in Attachment A,² and to Counsel to the New York Transmission Owners:

¹ The New York Transmission Owners reserve the right to individually or collectively file supplemental comments in this proceeding.

² Waiver of the Commission's regulations (18 C.F.R. § 385.203) is requested to the extent necessary to permit the inclusion on the service list of all of the parties on Attachment A.

- (1) Elias G. Farrah
Rebecca J. Michael
LeBoeuf, Lamb, Greene & MacRae, L.L.P.
1875 Connecticut Avenue, N.W., Suite 1200
Washington, DC 20009-5728

and

- (2) Paul L. Gioia
LeBoeuf, Lamb, Greene & MacRae, L.L.P.
One Commerce Plaza, Suite 2020
99 Washington Avenue
Albany, NY 12210-2820

and

- (3) *Company Representatives Listed on Attachment A at the end of the filing.*

II. BACKGROUND

On November 10, 2003, the NYISO submitted proposed revisions to the NYISO Services Tariff to reflect a change in the methodology for forecasting peak electric loads in the New York Control Area. The Commission established a comment date of December 1, 2003.

III. COMMENTS

The New York Transmission Owners strongly support the proposed tariff amendments embodied in the NYISO's instant filing, which were overwhelmingly approved by the NYISO's Management Committee.

The NYISO has found it necessary to adjust individual Transmission District Installed Capacity ("ICAP") requirements, which are currently based on load in each Transmission District during its non-coincident peak load hour, in order to ensure that they sum to the overall New York Control Area ("NYCA") ICAP requirement calculated by the NYISO. The effect of these changes has often been modest, but for the 2003-04 Capability Year, these changes caused total

ICAP requirements for load-serving entities ("LSEs") to increase unexpectedly by about 400 MW. The timing of these adjustments has afforded little opportunity for LSEs to acquire resources to offset increases in the requirements. By basing ICAP requirements on the load in each Transmission District during the coincident peak load hour for the NYCA, the instant filing is intended to eliminate any need for the NYISO to adjust individual Transmission District ICAP requirements to account for differences between Transmission District ICAP requirements and the ICAP requirement calculated for the NYCA by the NYISO.

Additionally, by its filing, the NYISO is proposing consistent mechanisms for adjusting loads to account for transmission losses, weather normalization and the results of demand response programs. This will eliminate differences between the ICAP requirements applicable to LSEs in different Transmission Districts that have arisen due to differences between the procedures used by each Transmission Owner to account for transmission losses occurring within each Transmission District. Similarly, it will eliminate differences in ICAP requirements due to differences in procedures to adjust loads to account for the effects of various demand response programs, or to account for differences between actual weather conditions during the peak hour and conditions that would be expected during peak load hours in the future. The New York Transmission Owners support these changes and agree they are necessary to ensure that the ICAP requirement calculated for each individual Transmission District is consistent with that Transmission District's share of the NYCA peak load, thereby eliminating potential inequities between the ICAP requirements calculated for different Transmission Districts.

Finally, because adjustments to each Transmission District's ICAP requirements are now made shortly before LSEs are required to procure ICAP to meet their requirements, the NYISO effectively (albeit inadvertently) does not permit LSEs an opportunity to review or dispute the

adjustments it makes to each Transmission District's ICAP requirement, as described above.

The instant filing would afford LSEs (and other market participants) an opportunity to review the NYISO's calculation of the ICAP requirements for each Transmission District and a meaningful opportunity to protest those calculations, should they believe they have been calculated incorrectly.

The proposed changes also preserve the independence of the NYISO and its ability to fulfill its mandate to ensure reliable operation of the New York electric system. As the NYISO notes in its transmittal letter, "[t]he proposed amendments... authorize the NYISO to substitute its own measure of Adjusted Actual Load for a Transmission District if it determines that the Adjusted Actual Load calculated for the Transmission District does not reflect a reasonable expectation for Loads after taking into consideration adjustments for transmission losses, weather normalization, and demand reduction programs." Transmittal Letter at 4. Accordingly, the New York Transmission Owners urge the Commission to approve the instant filing expeditiously.

IV. MOTION TO INTERVENE

The New York Transmission Owners are comprised of the eight electric systems in the State of New York that own the transmission facilities operated by the NYISO. The NYISO commenced operations under the ISO Open Access Transmission Tariff ("NYISO OATT") and the ISO Market Administration and Control Area Services Tariff ("NYISO Services Tariff") on November 18, 1999.


The New York Transmission Owners are owners of the transmission facilities operated by the NYISO and recover their costs of operating those facilities under the NYISO OATT and Services Tariff. Because this filing will have a significant effect on the users of their transmission facilities, the New York Transmission Owners have a direct and substantial interest

in the Commission decision in this proceeding. No other party can adequately represent the New York Transmission Owners' interest. Accordingly, it is in the public interest to permit this intervention.

V. CONCLUSION

WHEREFORE, in view of the foregoing, the New York Transmission Owners respectfully request that they be permitted to intervene in this proceeding with all the rights that attend to such status and that the Commission issue an order consistent with the comments set forth herein.

Respectfully submitted,



Elias G. Farran
Rebecca J. Michael
LeBoeuf, Lamb, Greene and
MacRae, L.L.P.
1875 Connecticut Ave., N.W.; Suite 1200
Washington, D.C. 20009
(202) 986-8000

Paul L. Gioia
LeBoeuf, Lamb, Greene and
MacRae, L.L.P.
One Commerce Plaza
Suite 2020
99 Washington Avenue
Albany, NY 12210-2820

Counsel to the New York Transmission
Owners

Dated: December 1, 2003

ATTACHMENT A

Rebecca J. Michael
LeBoeuf, Lamb, Greene & MacRae, L.L.P.
1875 Connecticut Avenue, N.W.
Suite 1200
Washington, DC 20009-5728

Central Hudson Gas & Electric Corporation

Donald K. Dankner, Esq.
Raymond B. Wuslich, Esq.
Winston & Strawn
1400 L Street, N.W.
Washington, DC 20005

John W. Watzka
Section Engineer - Transmission Planning & Design
Central Hudson Gas & Electric
Corporation
284 South Avenue
Poughkeepsie, NY 12601

Consolidated Edison Company of New York, Inc.

Neil H. Butterklee, Esq.
Consolidated Edison Co.
of New York, Inc.
Room 1815-s
4 Irving Place
New York, NY 10003

Terry Agriss
Vice President, Energy Management
Consolidated Edison Co.
of New York, Inc.
Room 1138
4 Irving Place
New York, NY 10003

LIPA

David P. Yaffe, Esq.
Van Ness Feldman, P.C.
1050 Thomas Jefferson Street, N.W.
7th Floor
Washington, DC 20007

Stan Klimberg, Esq.
Roni Epstein, Esq.
Long Island Power Authority
333 Earle Ovington Boulevard
Suite 403
Uniondale, NY 11553

New York Power Authority

Edgar K. Byham, Esq.
New York Power Authority
123 Main Street
White Plains, NY 10601-3170

William Palazzo, Manager Transmission Services
and Interconnection Agreements
New York Power Authority
123 Main Street
White Plains, NY 10601-3170

New York State Electric & Gas Corporation

Stuart A. Caplan, Esq.
Huber Lawrence & Abell
605 Third Avenue
New York, NY 10158

Raymond P. Kinney
Consulting Engineer
New York State Electric & Gas Corporation
Corporate Drive
Kirkwood Industrial Park
P.O. Box 5224
Binghamton, NY 13902-5224

Niagara Mohawk Power Corporation

Roxane E. Maywalt, Esq.
National Grid USA Service Company, Inc.
300 Erie Boulevard - West
Syracuse, NY 13202-4250

Mary Ellen Paravalos
National Grid USA Service Company, Inc.
25 Research Drive
Westborough, MA 01582

Wesley Yeomans
Manager Energy Supply
Niagara Mohawk Power Corporation
300 Erie Boulevard - HCB
Syracuse, NY 13202

Orange and Rockland Utilities, Inc.

John D. McMahon, President
Orange and Rockland Utilities, Inc.
One Blue Hill Plaza
Pearl River, NY 10965

Neil H. Butterklee, Esq.
Consolidated Edison Co.
of New York, Inc.
Room 1815-s
4 Irving Place
New York, NY 10003

Rochester Gas and Electric Corporation

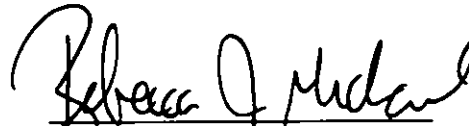
Stuart A. Caplan, Esq.
Huber Lawrence & Abell
605 Third Avenue
New York, NY 10158

Marjorie L. Perlman
Director, Federal Regulatory Proceedings
Rochester Gas and Electric Corporation
89 East Avenue
Rochester, NY 14649-0001

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list in this proceeding in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure.

Dated at Washington, D.C. this 1st day of December 2003.

A handwritten signature in black ink, appearing to read "Rebecca J. Michael". The signature is written in a cursive style with a horizontal line underneath the name.

Rebecca J. Michael
LeBoeuf, Lamb, Greene &
MacRae, L.L.P.
1875 Connecticut Avenue, N.W.
Washington, D.C. 20009-5728
202-986-8000