

107 FERC ¶ 61, 202  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

May 27, 2004

In Reply Refer To:  
New York Independent System Operator, Inc.  
Docket No. EL01-50-003

Hunton & Williams  
Attn: Ted J. Murphy, Esq.  
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Dear Mr. Murphy:

1. On December 20, 2002, the New York Independent System Operator, Inc. (NYISO) filed a revised tariff sheet<sup>1</sup> to comply with Ordering Paragraph (B) of the Commission's November 22, 2002 Order in Docket No. EL01-50-002.<sup>2</sup> Specifically, as discussed in paragraph 25 of the Compliance Order, the NYISO was directed to revise section 4.24 to clarify that any energy that falls under the definition of station power, regardless of voltage or point of receipt, must be netted against any energy produced by that facility in a given month. The revised tariff sheet complies with the Compliance Order and is accepted effective March 22, 2003, as proposed.

2. The instant compliance filing modifies the language of section 4.24(b)(2) to read (revised language is underlined):

(b) A Generator's net output for the month may be positive because either: ...

2. The Generator's Station Power requirements for the month, including all Energy received for use as Station Power, regardless of its voltage or

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<sup>1</sup> First Revised Sheet No. 108 to NYISO's FERC Electric Tariff, Original Volume No. 2.

<sup>2</sup> 101 FERC ¶ 61,230 (2002) (Compliance Order), reh'g denied, 107 FERC ¶ 61,142 (2004) (Order Denying Rehearing).

the metering point of receipt, are less than the amount of Energy that the Generator injects into the New York State Power System for the month.

3. Notice of the filing was published in the Federal Register, 68 Fed. Reg. 553 (2003), with interventions and protests due on or before January 16, 2003. A timely motion to intervene and protest was filed by the New York Transmission Owners (Transmission Owners).<sup>3</sup>
4. The Transmission Owners argue that the revision establishes a means by which generators could circumvent their obligations to pay for transmission or local distribution services. Specifically, the Transmission Owners are concerned that a generator that self supplies from a remote supply not be able to simply net away its applicable transmission and distribution charges.
5. In its Order Denying Rehearing issued May 10, 2004 in Docket No. EL01-50-004, the Commission addressed paragraph 25 of the Compliance Order, stating:

We intended paragraph 25 of the Compliance Order to be read consistently with footnote 55 of PJM II. Therein, we noted that a facility can be physically configured so that it cannot self-supply on site. But this is an exception to the general rule. Thus, we reaffirm that, apart from this exception with respect to on-site self-supply, the existence of multiple interconnections for the import and export of energy, and the location or voltage level of meters, are not per se obstacles to generators utilizing section 4.24.<sup>4</sup>

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<sup>3</sup> The Transmission Owners are comprised of the following entities: Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., LIPA, New York State Electric & Gas Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation, and Niagara Mohawk Power Corporation. They were previously granted intervention status, see 99 FERC ¶ 61,167 at 61,677, 61,679, order on reh'g, 100 FERC ¶ 61,201 (2002), and so their motion to intervene is dismissed.

<sup>4</sup> 107 FERC ¶ 61,142 at P 63. In the Order Denying Rehearing, the Commission also stated: “We specifically reject the contention (e.g., Transmission Owners Rehearing at 4) that in footnote 55, we held that netting must occur over the same set of interconnection facilities. That is a misreading of our precedent.” Id. at P 63+ n.69.

6. In light of this explanation, we accept NYISO's revised tariff sheet to become effective March 22, 2003, as proposed.

By direction of the Commission.

Linda Mitry,  
Acting Secretary.