

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

Central Hudson Gas & Electric Corporation)	
Consolidated Edison Company of New York, Inc.)	
LIPA)	
New York State Electric & Gas Corporation)	Docket No. ER00-556-000
Niagara Mohawk Power Corporation)	
Orange and Rockland Utilities, Inc.)	
Rochester Gas and Electric Corp.)	
)	
New York Power Pool)	
)	
New York Independent System Operator, Inc.)	

**ANSWER OF
NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.
TO PROTEST OF 1st ROCHDALE COOPERATIVE GROUP, LTD.**

The New York Independent System Operator, Inc. (“NYISO”), by counsel, hereby answers the Protest of 1st Rochdale Cooperative Group, Ltd. and Coordinated Housing Services Inc. (“Protest”). Although the Protest of 1st Rochdale and Coordinated Housing Services (collectively, “Rochdale”) is styled as a “protest,” it seeks rejection of the filing made here and requests a hearing on other unrelated matters. Protest at 6. As a result, this Answer is appropriate.

Rejection is Not Appropriate

Because Rochdale has intertwined a number of unrelated issues, its Protest is confusing. As a result, this Answer focuses on the limited scope of this filing and on the issues that are not raised by this filing. The filing for which Rochdale seeks rejection was apparently the proposed change to Sheet No. 144 of the ISO Open Access Transmission Tariff (“ISO OATT”) filed on November 17, 1999 by the NYISO. The sole change to which Rochdale should be responding, and the sole purpose of the filing,

was the addition of the following language to the list of “Costs associated with the operation of the NYS Transmission System by the ISO and Administration of this Tariff by the ISO” included on Schedule 1 of the ISO OATT:

Refunds, if any, ordered by the Commission to be paid by the ISO, at the conclusion of *Central Hudson Gas & Electric Corp.*, Docket Nos. ER97-1523-011, OA97-470-010, and ER97-4234-008.

As the revised Tariff language makes clear, and the filing letter made even clearer, the NYISO has not taken a position on whether any refunds should be required in Docket Nos. ER97-1523-011, OA97-470-010 and ER97-4234-008 at the conclusion of the hearing ordered by the Commission in its September 30, 1999 order in *Central Hudson Gas & Electric Corp.*, 88 FERC ¶ 61,306 (1999) (“September 30 Order”). Nor is it clear that refunds, if required, should be the responsibility of the NYISO. What is clear is that the NYISO must have a source of funds from which to pay refunds, but only if and to the extent that refunds are ordered and the NYISO is directed to make those refunds.

Moreover, the filing in this docket does not address cost causation because that is irrelevant here. The issue of which party is to pay refunds, if any, should be addressed in Docket Nos. ER97-1523-011 *et al.* It is only if the Commission concludes that the NYISO has any obligation to pay refunds that the issue would even arise in this docket. If Rochdale had read the NYISO’s Motion to Intervene in Docket Nos. ER97-1523-011 *et al.*, it would have realized that the NYISO is not willingly assuming any refund obligation.¹ Moreover, the NYISO’s Request for Clarification or, in the Alternative, for Rehearing filed in that same docket similarly made clear that a refund obligation should not necessarily be that of the NYISO and that any refund obligation imposed on the NYISO must be

¹ *Cf.* Protest at 6.

accompanied by a source of funds from which the NYISO can make such refunds. The proposal made here would simply assure the NYISO that it has such a source of funds.

A Hearing Would be Inappropriate

Despite the confusion created by Rochdale, this filing does not relate to any other costs recovered through Schedule 1 of the ISO OATT. Those other costs were accepted by the Commission in *Central Hudson Gas & Electric Corp., et al.*, 86 FERC ¶ 61,062 at 61,215 and 61,239 (1999). Rochdale's request for a hearing is a collateral attack on the Commission's order and has no place in this docket.

The NYISO's filing here does not relate to the recovery of particular start-up costs, which are one element under Schedule 1. These costs have been set for hearing by the Commission's October 13, 1999 Order in *Central Hudson Gas & Electric Corp.*, 89 FERC ¶ 61,032 (1999).

The approach to Schedule 1 adopted by the NYISO in its approved ISO OATT is similar to that used by PJM Interconnection for the recovery of its Schedule 1 costs. Here, however, the types of costs are listed in detail. No cost allocation is required until the NYISO makes a proposal to the Commission to revise its funding mechanism to allocate costs for non-transmission services to parties who benefit from those services. The filing in this docket simply adds one more item to the list of costs recoverable by the NYISO under Schedule 1, if and only if such recovery becomes necessary. The NYISO simply concluded that it would not wait for the outcome of the hearing resulting from the September 30 Order to address the issue.

WHEREFORE, Rochdale's request to reject this filing should be denied. It has provided no basis for rejection. The modification proposed to Schedule 1 is reasonable as filed and should be accepted for filing. Similarly, Rochdale has provided no basis for expanding the scope of this proceeding.

Respectfully submitted,

NEW YORK INDEPENDENT SYSTEM
OPERATOR, INC.

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December 27, 1999

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document has this day been served upon each person designated on the service list in this proceeding.

Dated at Washington, D.C., this 27th day of December, 1999.

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