



Law Department  
June 15, 2001

**VIA AIRBORNE EXPRESS**

Richard J. Grossi  
Chairman  
New York Independent System Operator  
3890 Carman Road  
Schenectady, NY 12303

c/o William J. Museler  
President and Chief Executive Officer  
New York Independent System Operator  
3890 Carman Road  
Schenectady, NY 12303

Re: Con Edison's and O&R's Appeal of a Decision of the Management Committee  
To Approve Certain System Upgrade Cost Allocation Rules

Dear Chairman Grossi:

Pursuant to the "Procedural Rules for Appeals to the ISO Board," Consolidated Edison Company of New York, Inc. ("Con Edison") and Orange and Rockland Utilities ("O&R") respectfully submit three copies of their appeal of the Management Committee's decision at its June 6, 2001 meeting to approve the "Rules to Allocate Responsibility For the Cost of New Interconnection Facilities." This item was listed at Motion #5 on the agenda.

Con Edison and O&R are appealing this decision because the Cost Allocation Rules provide for an inequitable allocation of System Upgrade Facility costs. Specifically, these rules inequitably assign as much as 100% of System Upgrade Facility costs to a single generator, with a two percent contribution to short circuit current, while allowing all other generators, whose collective contribution to the fault duty is higher than the developer's, to avoid any payments. The rules are also inconsistent with the NYISO OATT.

A copy of this appeal has been electronically transmitted to Mollie Lampi, Esq. of the NYISO staff who has agreed to serve it on each member of the Management Committee on this date. Thank you.

Sincerely,

Neil H. Butterklee  
Senior Staff Attorney  
(212) 460-1089

cc: Mollie Lampi, Esq.  
Ira Frielicher, Esq.

**Appeal Of Consolidated Edison Company Of New York, Inc.  
And Orange and Rockland Utilities, Inc. Of The Management Committee's Decision  
With Respect To Cost Allocation Rules For System Upgrade Facilities**

**I. Summary of Argument**

In accordance with Article 5 of the ISO Agreement and Section 1.02 of the NYISO's "Procedural Rules for Appeals to the ISO Board," Consolidated Edison Company of New York, Inc. ("Con Edison") and Orange and Rockland Utilities, Inc. ("O&R," collectively, the "Companies") file this appeal of the Management Committee's decision at its June 6, 2001 meeting to approve the "Rules to Allocate Responsibility For the Cost of New Interconnection Facilities" (the "Cost Allocation Rules"). This motion was listed on the agenda as Motion #5.

The approved Cost Allocation Rules would result in an inequitable allocation of costs among generation developers for System Upgrade Facilities. As currently written, if one or more generators have a two percent or greater contribution to short circuit current at the relevant substation, all of the System Upgrade Facility costs will be allocated to those generators. Any generator with a short circuit current contribution less than two percent will avoid paying for their fair share of the costs (i.e., be given a free ride). If, however, no generator has a two percent or greater contribution to fault duty, then the System Upgrade Facility costs will be shared equitably on a pro rata basis. The rules are also inconsistent with the NYISO OATT.

As described in more detailed below, the two percent threshold is totally arbitrary and would inequitably assign as much as 100% of the System Upgrade Facility costs to a single developer with a two percent contribution to short circuit current, while allowing all other generators, whose collective contribution to the fault duty is higher than the developer's, to avoid any payments for a System Upgrade Facility. Accordingly, the Companies respectfully request that the NYISO Board reject the decision of the Management Committee.

## **II. Background**

The NYISO established the Interconnection Issues Task Force (“IITF”) with a mission of creating a method of allocating the costs associated transmission System Upgrade Facilities for new generation projects. To that end, the IITF developed a series of Cost Allocation Rules that allocate System Upgrade Facility costs in one of two manners. If one or more generators have a two percent or greater contribution to short circuit current at the relevant substation then all of the System Upgrade Facility costs will be allocated to those parties. Any generator with a fault duty contribution less than two percent will be given a free ride. If, however, no generator has a two percent or greater contribution then the costs are shared equitably on a pro rata basis as long as their short circuit contribution is greater than the de minimis level of 100 amperes.

On May 24, 2001, the Cost Allocation Rules were approved by the Business Issues Committee (“BIC”). These rules were subsequently approved on June 6<sup>th</sup> by the Management Committee.

## **III. The Cost Allocation Rules Provide For An Inequitable Sharing of Costs**

The Cost Allocation Rules, as approved by the NYISO Management Committee, will result in an inequitable allocation of the cost of System Upgrade Facilities among generation developers in any given generator class year. This is of particular concern to Con Edison as the developer of the East River Repowering Project.

By establishing a two percent “Material Impact” threshold for cost responsibility, the Cost Allocation Rules assign all costs for an interconnection to those generation projects that have a greater than two percent contribution to the interconnection’s short circuit current. All other projects get an unjustifiable free ride regardless of their collective contribution to the short circuit current. A more equitable method of allocating costs would be to have each generator

pay its pro rata share, as is provided for in the Cost Allocation Rules for those instances where no generator has met the two percent threshold or when all generators exceed the two percent threshold.

**A. The Two Percent Threshold Is Arbitrary**

The provision for the two percent Material Impact threshold is arbitrary and unnecessary. The threshold was selected, without any analysis of its impact on actual cost allocations, for two reasons. First, to protect generation developers whose generating projects are electrically remote from the location where the System Upgrade Facilities are required. Second, it was included because the PJM ISO had a similar threshold. However, neither reason is compelling, much less justifies the inequities that would result.

With respect to the need to protect generators who are electrically remote from the transmission upgrade, a detailed short circuit study will have to be conducted as part of the Annual Transmission Reliability Assessment and, therefore, the study results would be available to allocate the System Upgrade Facility costs without application of a threshold. Developers' projects that are electrically remote from the location where the System Upgrade Facilities are required will, by the nature of the electrical properties of the system, contribute very little to the short circuit current at that location and would, therefore, be allocated a very small amount of the System Upgrade Facility costs. A dollar threshold could be established to avoid having to bill such developers for very small cost allocations.

Moreover, neither the Management Committee nor the BIC nor the IITF conducted an analysis of the impact of the two percent threshold or any other threshold to determine the impact or equity on actual cost allocations. Instead, the thresholds were adopted because they were included in the PJM ISO cost allocation rules. Indeed, when the PJM ISO rules originally

included a three percent material impact threshold for short circuit contributions, the earlier drafts of the Cost Allocation Rules similarly included a provision for a three percent threshold. When the PJM ISO revised its threshold to two percent because it found that the three percent level was not workable, the IITF followed suit and lowered its threshold to two percent.

**B. System Upgrade Facility Costs Should Be Shared on a Pro Rata Basis**

While the application of a two percent threshold creates an inequitable sharing of system upgrade costs, a pro rata sharing of costs does not. Table 1(attached) lists those generation projects that comprise Class Year 2001 and their respective short circuit contributions at Con Edison's Farragut 345 kV Substation. Only two projects (the Ravenswood Project and the East River Repowering Project) contribute short circuit currents at the Farragut Substation above the two percent threshold. As such, the Cost Allocation Rules would have those two projects pick up 100% of the cost of the System Upgrade Facilities. The other projects would be free riders, and would be unjustly enriched to the detriment of those generators who paid for the costs.

Table 1 also shows the cost responsibility for System Upgrade Facilities that would occur if the cost were shared using a de minimis threshold (i.e., on a pro rata basis). With a de minimis approach, all projects in Class Year 1, with the exception of the LI-CT DC Tie-line and the Heritage Station, would fall above the de minimis threshold of 100 amperes and, therefore, would all share in the cost of the System Upgrade Facilities that would be required to manage short circuit currents at the Farragut Substation. Use of the de minimis threshold would reduce, if not eliminate, the number of "free riders" and would result in a more equitable allocation of the cost of System Upgrade Facilities.

Table 1 also demonstrates that the two percent threshold will result in very significant changes to the percentage allocation to projects. For example, Ravenswood's contribution would

increase from 34.5% to 53.7% while Ramapo Energy would decrease from 13.1% to 0%. In this example, Ramapo Energy would be unjustly enriched to the detriment of Ravenswood.

The Cost Allocation Rules also compound the inequitable sharing of system upgrade cost. If a similar situation occurs in Class Year 2002, those developers whose projects contribute to short circuit currents at levels below the two percent threshold would not have to reimburse those developers who paid for System Upgrade Facilities that provided headroom in Class Year 2001. On the other hand, those developers whose projects contribute two percent or more to the short circuit current would have to pay for both their short circuit contribution and also for the sum of the short circuit contributions of those projects that contribute at levels below the two percent threshold. This perpetuates a disproportionate allocation of the cost of the System Upgrade Facilities.

Thus, the two percent threshold should be eliminated and the de minimis standard should be used to allocate all System Upgrade Facility costs.

#### **IV. The Cost Allocation Rules Are Inconsistent With the NYISO OATT**

There is a contradiction between the NYISO OATT and the Cost Allocation Rules as approved because the Cost Allocation Rules hold a Transmission Owner responsible for causing a material adverse change in the circumstances to a project that did not sign an agreement in time to prevent a schedule impact. A material adverse change was discussed to mean a schedule impact. Specifically, the Cost Allocation Rules state that:

"These cost allocation rules will not preclude or supercede any binding cost allocation agreements that are executed between or among Developers and Transmission Owners provided however, that no such agreements will increase the cost responsibility or cause a material adverse change in the circumstances as determined by these rules of any Developer or Transmission Owner who is not a party to such agreement." (Emphasis added).

This contrasts with pages 181 and 182 of the NYISO OATT which state that:

“If the Eligible Customer decides to proceed with the construction of the facilities described in the Facilities Study, the Eligible Customer shall (1) enter into a construction contract with the Transmission Owner(s) whose system(s) will be directly modified, and with the entity that will construct the facilities under the supervision of the Transmission Owner (if other than the transmission Owner(s)) and guarantee to compensate the Transmission Owner(s) and construction entity (if other than the Transmission Owner(s)) for all costs incurred associated with the construction, and (2) provide each Transmission Owner with a letter of credit or other reasonable form of security acceptable to the Transmission Owner equivalent to the costs of new facilities or upgrades consistent with commercial practices as established by the Uniform Commercial Code. The construction contract shall contain terms and obligations of the Transmission Customer to pay for the facilities or additions pursuant to the contract.”

The Cost Allocation Rules need to be consistent with the terms of the NYISO OATT.

## **V. Conclusion**

Con Edison and O&R respectfully request that the NYISO Board reject the decision of the Management Committee to adopt Cost Allocation Rules that provide for an inequitable sharing of System Upgrade Facility costs in certain instances.

Instead, the Board should adopt Cost Allocation Rules that use exclusively the more equitable de minimis threshold for system upgrade cost responsibility and modify the Cost Allocation Rules so that they are not inconsistent with the NYISO OATT. In the alternative, the Companies respectfully request that the NYISO Board send this issue back to the committee structure with clear guidance that the issues identified herein must be addressed and that the Cost Allocation Rules must be designed in a manner which addresses cost avoidance by any individual developer.

Dated: June 15, 2001  
New York, N.Y.

Respectfully submitted,  
Consolidated Edison Company  
of New York, Inc.  
and  
Orange and Rockland Utilities, Inc.

By: \_\_\_\_\_  
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Their Attorney



Table 1

Appeal To The NYISO Board

IITF Cost Allocation Rules

Class Year 2001

Fault Contribution At Con Edison's Farragut 345 kV Substation

<u>Project</u>	<u>Contribution To Fault Current (%)</u>	<u>Cost Responsibility With 2% Threshold (%)</u>	<u>Cost Responsibility With De Minimis Threshold (%)</u>
CT-LI DC Tie-line	0	0	0
Ramapo Energy	1.1	0	13.1
Ravenswood	2.9	53.7	34.5
Poletti Project	0.3	0	3.6
Astoria 2 Restoration	0.2	0	2.4
East River Repowering	2.5	46.3	29.8
Bowline Point 3	0.3	0	3.6
Heritage Station	(1)	0	0
Astoria Energy	0.3	0	3.6
2001 NYC GTs	0.8 <sup>(2)</sup>	<u>0</u>	<u>9.5</u>
	Total	100.0	100.0

(1) Although the contribution of the Heritage Station to the fault current at the Farragut Substation was not determined, it is expected to be less than the de minimis threshold of 100 amperes.

(2) Based on the total fault current of all the year 2001 NYC GTs.