

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

Central Hudson Gas & Electric Corporation)	
Consolidated Edison Company of New York, Inc.)	
Long Island Lighting Company)	
New York State Electric & Gas Corporation)	
Niagara Mohawk Power Corporation)	Docket Nos. ER97-1523-000
Orange and Rockland Utilities, Inc.)	OA97-470-000 and
Rochester Gas and Electric Corporation)	ER97-4234-000
Power Authority of the State of New York)	(not consolidated)
)	
New York Power Pool)	

**ANSWER OF THE MEMBER SYSTEMS
OF THE NEW YORK POWER POOL**

Pursuant to the Federal Energy Regulatory Commission's ("Commission") Rules of Practice and Procedure, the Member Systems of the New York Power Pool¹ ("Member Systems") hereby respond to the protests and comments² filed concerning the Member Systems' September 1, 1999 errata filing³

¹ Central Hudson Gas & Electric Corporation ("Central Hudson"), Consolidated Edison Company of New York, Inc. ("Con Edison"), LIPA, New York State Electric & Gas Corporation ("NYSEG"), Niagara Mohawk Power Corporation ("Niagara Mohawk"), Orange and Rockland Utilities, Inc. ("O&R"), Power Authority of the State of New York ("NYPA"), and Rochester Gas and Electric Corporation ("RG&E").

² See, e.g., Protest of the Municipal Electric Utilities Association of New York State ("MEUA"), Comments of Sithe/Independence Power Partners, L.P. ("Sithe"), and Comments of the Public Service Commission of the State of New York ("NYPSC").

³ "ISO Open Access Transmission Tariff/ISO Services Tariff Errata Filing," Central Hudson Gas & Electric Corp., et al., ER97-1523-000, et al. (September 1, 1999) ("September 1 Filing" or "Errata Filing").

to the "Filing in Compliance with the Commission's Order of January 27, 1999 Regarding the Comprehensive Proposal to Restructure the New York Wholesale Electric Market," April 30, 1999 ("Compliance Filing") in the above-captioned dockets.

The Member Systems request waiver of the Commission's Rules to submit this response and respectfully submit that this response will assist the Commission in its analysis of these issues and will facilitate the expeditious approval of the September 1 Filing.⁴ In support hereof, the Member Systems state as follows:

Protesters basically claim that the Errata Filing contains substantive changes to the rights of customers.⁵ As it will be more fully discussed below, the changes proposed in the Errata Filing are made to clarify or to conform provisions between the two ISO Tariffs (the Services Tariff and the ISO OATT). They do not substantively modify the rights of customers. The comments and protests fail to demonstrate that the changes are beyond the scope of proper errata filings and, accordingly, should be summarily dismissed. This Answer will address the protests in the context of the individual tariff sheets submitted as part of the September 1 Filing.

⁴ The Member Systems submit that good cause exists for the Commission to grant waiver of Rules 213(a)(2) regarding the filing of answers to protests. The Commission has consistently waived the requirements of Rule 213(a)(2) where, as here, a responsive pleading will assist the Commission's analysis, provide useful and relevant information, or otherwise facilitate a full and complete record upon which the Commission can base its decision. See, e.g., East Tennessee Natural Gas Co., 81 FERC ¶ 61,219 at n.4 (1997); Natural Gas Pipeline Co. of America, 81 FERC ¶ 21,216 at n.3 (1997); Pacific Interstate Transmission Co., 80 FERC ¶ 61,369 at n.2 (1997); Florida Gas Transmission Co., 79 FERC ¶ 61,147 at n.7 (1997); Williams Natural Gas Co., 70 FERC ¶ 61,306 at 61,932 n.6 (1995); Tennessee Gas Pipeline Co., 55 FERC ¶ 61,437 at 62,306 n.7 (1991); Michigan Consolidated Gas Co., 55 FERC ¶ 61,001 at 61,006 (1991).

⁵ MEUA at 2, Sithe at 1.

I. ISO OATT Revised Sheet 48

MEUA objects to the provision in 7.1 (i) stating that the ISO will only post bills to transmission customers electronically via the ISO's Bid-Post System. MEUA contends that this rule subjects customers to additional expense and is not errata.⁶

The Member Systems disagree with MEUA's premise that this change would subject customers to additional expense and that it is not a proper errata. First, considering that all transactions for the transmission of energy will be scheduled through the Bid/Post System, no extra expense will be incurred because all entities engaged in energy transactions, that will receive bills will also have had to install software necessary to interact with the ISO. If anything, the elimination of paper copies will reduce the expenses that the ISO will incur to bill entities engaged in the transactions. This clarification does not change the billing process. It merely explains how the billing process is implemented.

Additionally, MEUA objects to the proposed change to 7.1 (ii) requiring transmission customers to make payments by the first business day after the 15th day of the month.⁷ The Member Systems are hereby withdrawing this proposed change. Instead, the ISO will be making a separate Section 205 filing to implement this change and will provide a more detailed explanation in its filing.

II. ISO OATT Revised Sheet 49

MEUA objects to the reduction in Section 7.2A, from 24 to 12 months, for the time period

⁶ MEUA at 3.

⁷ MEUA at 3.

during which a customer may challenge a bill.⁸

This change simply corrects an obvious typographical error as can be evidenced by reviewing Section 6.4 of the ISO OATT filed December 19, 1997 which also contains the 12-month period. As such, this change is properly included as part of the Errata Filing. Additionally, the Member Systems would note that MEUA has not indicated why it needs more than 12 months to challenge a bill.

III. ISO OATT Revised Sheet 97

MEUA objects to the change in Section 22.1, Modifications On a Non-Firm Basis, which, it claims, would assess Transmission Customers unspecified charges related to changing the delivery or receipt point.⁹

MEUA is incorrect. This change simply clarifies the responsibility of Transmission Customers for charges associated with new secondary receipt or delivery points. As it is clearly stated in the tariff sheet, the change does not introduce additional charges: it simply establishes that the only TSC payable is the TSC for the final actual point of delivery.

IV. ISO Services Tariff Revised Sheets 4 and 4a

MEUA argues that the revisions to Section 2.9, Back-up Operation, are beyond the scope of errata. MEUA also objects to the introduction of completely new provisions at 2.9b, Market Participant and Transmission Customer Obligations, and 2.9c, Billing and Settlement.¹⁰

As stated in the Errata Filing, these provisions were necessary to conform the language of the Services Tariff to the language of the ISO OATT. The Member Systems have basically copied

⁸ MEUA at 3.

⁹ MEUA at 3.

¹⁰ MEUA at 3.

language from one companion tariff to another to clarify what was intended in the tariff. MEUA has not indicated any harm to them resulting from this change.

V. ISO Services Tariff Revised Sheet 51

Sithe contends that NYPP has not sufficiently explained the purpose, necessity, and effect of its proposal to grant the ISO authority to "limit the amount of Energy offered at any given time by a Generator into the Day-Ahead Market to the amount of Energy it reasonably believes that Generator is capable of producing." Accordingly, Sithe urges the Commission to reject the change and compel the NYISO to submit it in a filing subject to wider discussion.¹¹

The Member Systems are hereby withdrawing this proposed change. Instead, the ISO will be making a separate Section 205 filing to implement this change and will provide a more detailed explanation in its filing.

VI. ISO Services Tariff Revised Sheet 54

Sithe objects to the proposed change to Section 4.10 of the ISO Services Tariff which would give the NYISO the right to bind market participants' bids beyond the prescribed 11:00 a.m. deadline for posting the day-ahead schedule.¹²

This sheet has already been withdrawn by letter dated October 1, 1999.

VII. ISO Services Tariff Revised Sheet 87

MEUA objects to the proposed change to (B) requiring transmission customers to make

¹¹ Sithe at 2-3.

¹² Sithe at 3.

payments by the first business day after the 15th day of the month.¹³

As discussed above, the Member Systems are withdrawing these proposed changes. Instead, the ISO will be making a separate Section 205 filing to implement this change and will provide a more detailed explanation in its filing.

VIII. ISO Services Tariff Revised Sheets 136 and 136a

The NYPSC suggests that exempting some facilities with existing PURPA contracts from the regulation charges in Section 4.2 will likely create significant costs for market participants due to the magnitude of the exemption. Because these costs cannot be ascertained at present but must be allocated among market participants, NYPSC requests that the Commission approve the errata filing on the condition that the apportionment of these costs be reviewed six months after NYISO begins operation.¹⁴

As stated in the Errata Filing, the added language was included as a clarification and to correct its previous exclusion, due to administrative error. However, the Member Systems do not object to the NYPSC request.

IX. ISO Services Tariff Revised Sheets 173-74

Sithe argues that if the New York Power Pool ("NYPP") amends ISO Services Tariff Attachment B to expressly state that Transmission Customers taking service under the ISO OATT could be subject to penalty charges of 150% of the LBMP price or \$100/MWh then it must also expressly reference the $\pm 1.5\%$ deviation within which no penalty is assessed under the ISO OATT. Sithe contends that since the Commission compelled the NYPP to incorporate the $\pm 1.5\%$ deviation

¹³ MEUA at 4.

¹⁴ NYPSC at 1-2.

into the ISO OATT, and the ISO Services Tariff cross-references to the ISO OATT, then the NYPP should reference the allowable deviation in the ISO Services Tariff to avoid ambiguity between the two tariffs.¹⁵

As stated in the Errata Filing, the added language is required to clarify the charges to a Transmission Customer in the event it does not take service under the ISO Services Tariff. However, the Member Systems agree to amend the ISO Services Tariff to provide the cross reference requested.

CONCLUSION

WHEREFORE, for the foregoing reasons, the Member Systems respectfully request that the Commission approve the September 1 Errata Filing as modified herein, as expeditiously as possible.

Respectfully submitted,

Paul L. Gioia
Elias G. Farrah
Andrea J. Chambers
LeBoeuf, Lamb, Greene & MacRae, L.L.P.
1875 Connecticut Avenue, N.W.
Washington, D.C. 20009
(202) 986-8000

Of Counsel to the Member
Systems of the New York Power Pool

Dated: October 6, 1999

¹⁵ Site at 2.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served by first class mail the foregoing document upon each person who is designated on the service list compiled by the Secretary in these proceedings in accordance with the requirements of Rule 2010 of the Rules of Practice and Procedure.

Dated at Washington, D.C., this 6th day of October, 1999.

Sônia Mendonça
LeBoeuf, Lamb, Greene & MacRae,
L.L.P.
1875 Connecticut Ave., N.W.
Washington, D.C. 20009
(202) 986-8000

Of Counsel to the Member Systems
of the New York Power Pool