

105 FERC ¶ 61,327
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, and Joseph T. Kelliher.

RTO Informational Filings	Docket No. RT01-1-003
Baconton Power, LLC	Docket No. RT01-11-001
Bangor Hydro-Electric Co. Central Maine Power Company National Grid USA Northeast Utilities Service Company United Illuminating Company Vermont Electric Power Company ISO New England Inc.	Docket No. RT01-86-004
Central Vermont Public Service Corp. Citizens Communication Co. Green Mountain Power Corp. Vermont Electric Power Co.	Docket No. RT01-97-001
Citizens Communication Co.	Docket No. RT01-3-000
Citizens Communication Co.	Docket No. RT01-89-003
Concord Electric Co. Exeter & Hampton Electric Light Co.	Docket No. RT01-39-001
Fitchburg Gas and Electric Co. Concord Electric Co. Exeter & Hampton Electric Light Co.	Docket No. RT01-90-003
Florida Keys Electric Cooperative	Docket No. RT01-30-001
ISO New England, Inc. New York Independent System Operator, Inc.	Docket No. RT02-3-001
Maine Electric Power Co.	Docket No. RT01-19-001

Maine Public Service Co.	Docket No. RT01-5-001
New York Independent System Operator, Inc.	Docket No. RT01-95-004
Northern Maine Independent System Administrator, Inc.	Docket No. RT01-61-001
NSTAR Services Co.	Docket No. RT01-94-004
Regional Transmission Organizations	Docket No. RT01-99-005
Sowega Power, LLC	Docket No. RT01-16-001

ORDER GRANTING CLARIFICATION IN PART
AND TERMINATING PROCEEDING

(Issued December 22, 2003)

1. On September 16, 2003, the Commission issued an order¹ that terminated various Regional Transmission Organization (RTO) proceedings. On October 16, 2003, the New York Transmission Owners² individually and collectively filed a request for clarification and alternative request for rehearing of several aspects of the Commission's September 16, 2003. In this order, we will grant the New York Transmission Owners' request for clarification in part, as discussed below. In addition, we terminate a Citizens Communication Company proceeding that we inadvertently failed to include in our prior order.

Background

2. On January 16, 2001, the New York Transmission Owners and the New York Independent System Operator (NYISO) jointly filed with the Commission in response to Section 35.34(h) of the Commission's regulations and the Commission's July 20, 2000 Notice of Guidance for Processing Order No. 2000 Filings. This proceeding was

¹ RTO Informational Filings, et al., 104 FERC ¶ 61,296 (2003) (September 16 Order).

² Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., LIPA, New York Power Authority, New York State Electric & Gas Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation, and Niagara Mohawk Power Corporation (collectively, the New York Transmission Owners).

docketed by the Commission as Docket No. RT01-95-000. The January 16 Filing set forth the proposal of the Applicants to modify, in certain respects, the NYISO's tariffs and agreements to transform the NYISO from an independent system operator into a RTO.

3. On July 12, 2001, the Commission issued a series of orders related to the January 16 Filing, including an "Order on RTO Compliance Filing"³ and an "Order Initiating Mediation."⁴ The Mediation Order was issued in Docket No. RT01-99-000, in which numerous parties, including New York Transmission Owners and NYISO, were directed to participate in mediation efforts to develop a single Northeast RTO.

4. On August 13, 2001, the New York Transmission Owners filed a timely request for rehearing of both the New York RTO Order and the Mediation Order, which was docketed as Docket Nos. RT01-95-001 and RT01-99-001.

5. On September 10, 2001, the Commission issued a tolling order, extending the time period in which it must rule on the New York Transmission Owners' rehearing request, among others.

6. The Commission's September 16 Order terminated sixteen RTO proceedings, including those docketed as Docket Nos. RT01-95-001, and RT01-99-000 and RT01-99-001.

Request for Clarification and Alternative Request for Rehearing

7. The New York Transmission Owners request that the Commission clarify that: (1) the September 16 Order terminated the entire RT01-95 and RT01-99 dockets and all subdockets thereto; (2) the Commission did not take substantive action in the September 16 Order on the rehearing requests filed in Docket No. RT01-95-001 and RT01-99-001; (3) as a result of the September 16 Order, the Commission's New York RTO Order and Mediation Order do not represent final Commission action on the issues

³ New York Independent System Operator, Inc., et al., 96 FERC ¶ 61,059 (2001) (New York RTO Order). This order, in conjunction with the Mediation Order discussed below, which at that time we viewed as together providing "guidance" to negotiations (ultimately unsuccessful) to create a single Northeast RTO, see id. at 61,184, has since been overtaken by the failure of the negotiations to create such an RTO and other subsequent events. See 104 FERC ¶ 61,296 at P 5-7.

⁴ Regional Transmission Organization, 96 FERC ¶ 61,065 (2001) (Mediation Order). The mediation to produce a single Northeast RTO proved unsuccessful, and also has since been overtaken by other subsequent events. See 104 FERC ¶ 61,296 at P 5-7.

addressed therein and have no binding effect; (4) the Commission will reconsider all issues addressed in the New York RTO Order and Mediation Order at such time as it addresses any future filings submitted by the New York Transmission Owners and the NYISO, including filings submitted pursuant to Order No. 2000, et seq.; and (5) the New York RTO Order and the Mediation Order issued in Docket Nos. RT01-95-000 and RT01-99-000 are moot.

Discussion

8. The Commission clarifies that the September 16 Order terminated the entire RT01-95 and RT01-99 dockets, including all subdockets. Additionally, the Commission's order did not constitute a substantive action on the rehearing requests filed in Docket Nos. RT01-95-001 and RT01-99-001.

9. However, the New York Transmission Owners' further requests for Commission action essentially amount to a request to vacate the New York RTO Order and the Mediation Order. Our September 16 Order does not warrant our vacating those prior orders, nor have the New York Transmission Owners provided sufficient basis to vacate those prior orders.⁵

10. Finally, the Commission's September 16 Order inadvertently omitted an additional RTO status report filed by Citizens Communication Company in Docket No. RT01-3-000. That proceeding is terminated for the same reasons provided in the September 16 Order.

The Commission orders:

(A) New York Transmission Owners' motion for clarification is hereby granted in part, as discussed in the body of this order.

(B) Citizens Communication Company's Docket No. RT01-3-000 is hereby terminated, as discussed in the body of this order.

By the Commission.

(S E A L)

Linda Mitry,
Acting Secretary.

⁵ See, e.g. *Constellation Power Source, Inc. v. California Power Exchange Corp.*, 100 FERC ¶ 61,380 at P 20-21 (2002); *Florida Power & Light Co.*, 81 FERC ¶ 61,337 at 62,544 (1997).