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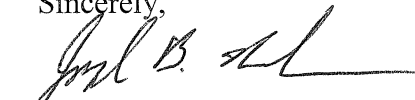
C/o Mr. William J. Museler
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**Re: Notice of Appeal by the Long Island Power Authority and LIPA
of the Management Committee's February 20, 2003 Approval of the Supplemental
Congestion Reduction Proposal**

Dear Chairman Grossi:

Pursuant to the Procedural Rules for Appeals to the NYISO Board, the Long Island Power Authority and LIPA hereby submit three copies of a Notice of Appeal of the Management Committee's February 20, 2003 approval of the Supplemental Congestion Reduction Proposal. A copy of this Notice of Appeal has been electronically transmitted to NYISO Staff for purposes of service.

Sincerely,



Joseph B. Nelson, Esq.

Attachments

Notice of Appeal by the Long Island Power Authority and LIPA of the Management Committee's February 20, 2003 Approval of the Supplemental Congestion Reduction Proposal

Decision Appealed: February 20, 2003 NYISO Management Committee action on agenda item #9, the Supplemental Congestion Reduction Proposal Motion (Motion #4).

Summary: The Long Island Power Authority and LIPA (collectively "LIPA") respectfully requests that the NYISO Board reject the February 20, 2003 decision of the Management Committee to adopt the Supplemental Congestion Reduction Proposal ("SCRP") and direct NYISO Staff to work with market participants on a comprehensive proposal to address the continuing deficiencies in the allocation of shortfalls and surpluses in transmission congestion contract ("TCC") revenues and congestion rents. The SCRP continues to have significant deficiencies that must be corrected including: the lack of consistent treatment for inter-zonal and intra-zonal congestion; inconsistent allocations between day-ahead congestion and real-time congestion rent imbalances; potential inconsistencies between the Capability Period Auction and Monthly TCC Reconfiguration Auction; and a failure to resolve inherent flaws in transmission outage modeling that exacerbate the TCC revenue and congestion rent imbalances. LIPA notes that the SCRP has made strides by proposing to modify allocations in the Monthly TCC Reconfiguration Auction, develop a more realistic set of TCCs and develop a dynamic rating program. However, in order to have an effective comprehensive proposal, there must be simultaneous implementation of the critical elements of this program. The SCRP sets in place one piece of the proposal while leaving later elements to be developed and jeopardizes the desired goal of addressing the underlying root of the TCC revenue/congestion rent imbalances problem.

Appeal

I. Introduction

On February 20, 2003, the Management Committee approved the “Supplemental Congestion Reduction Proposal” (the “SCRP”) with a majority of 66.37%. The SCRП revisits a matter that was brought before the NYISO Board in March, 2002. In a April 17, 2002 decision, the NYISO Board rejected a proposed Congestion Reduction Proposal noting that “[t]he CRP provides an ostensibly equitable ‘quick fix’ for only one symptom of a larger problem.” *NYISO Board of Directors Decision on Con Ed’s and LIPA’s Appeals of the Management Committee Vote on a Congestion Reduction Proposal at p. 2 (April 17, 2002)*. Further, the NYISO Board urged that the Management Committee revisit this matter and develop a comprehensive solution that had consensus support from all sectors. *Id.* In particular, the NYISO Board stated that “a consensus proposal should provide proper signals to promote necessary transmission investment and appropriate transmission operations and maintenance.” *Id.* The SCRП suffers from many of the same weaknesses as the Congestion Reduction Proposal initially rejected by the NYISO Board. In particular, the SCRП remains an unfinished work that fails to develop a comprehensive and effective program for addressing the TCC revenue and congestion rent imbalances problem in a fair and equitable manner.

II. Discussion

A. The SCRП Creates Different Allocations for Inter-Zonal Transmission Interfaces as Compared to Intra-Zonal Conditions.

The SCRП proposes the use of different allocation methodologies between congestion rent imbalances due to inter-zonal conditions and intra-zonal conditions. Under the SCRП, inter-zonal shortfalls and surpluses will be first allocated to the inter-

zonal interface and then assigned to “individual transmission facilities and the associated Transmission Owners based on their impact to an interface’s capability (as determined by the NYISO.)” *SCRIP at 2*. In contrast, the SCRIP applies a different allocation methodology to intra-zonal conditions by which imbalances within zones such as Long Island are allocated to parties outside of Long Island. In particular, intra-zonal revenue imbalances are classified as “residuals” from “unknown outages” and then “allocated to each of the three interfaces on the basis of TCCs subject to full-funding weighted by the average TCC price for each interface.” *Id.*

In providing different allocation methodologies, the SCRIP singles out a single condition, outage-related congestion over inter-zonal interfaces, for a specific treatment while continuing to lump all other conditions creating congestion imbalances into a separate category that is subject to a wholly different allocation scheme. However, there is no basis for treating an outage occurring within a zone that creates congestion imbalances any differently than an outage that occurs on a line that happens to be on an inter-zonal interface. While classifying such occurrences as “unknown outages” suggests that intra-zonal congestion imbalances may be more difficult to track, to LIPA’s knowledge, there has been no effort to determine that fact. Rather, the disparate treatment appears to be nothing more than the quick fix mentality that ignores the larger, fundamental problems that actually drive the congestion rent imbalance problems.

B. The SCRIP Acknowledges That The Intra-Zonal Allocation Methodology Needs Further Consideration.

While applying the new methodology for “unknown” outages to intra-zonal congestion (i.e. allocation based on a proportion to the product of the number of fully funded TCCs and the difference in the congestion component of price of adjoining

zones), the SCRP states an intention to “evaluate the allocation of TCC revenues and shortfalls and congestion surpluses and shortfalls generated within a zone to the TOs within that zone.” *SCRP at 3*. Further, the SCRP provides that the NYISO should “present the analysis at a [Congestion Reduction Task Force] meeting and determine which proposal will serve as a long-term solution.” *Id. at 4*. There is, however, no commitment to a time-table for developing such a solution.

In the interim, however, the SCRP will apply an allocation methodology that is significantly flawed in its application to intra-zonal congestion. First, the “unknown” outage methodology allocates intra-zonal congestion surpluses or shortfalls arising within a zone in proportion to the congestion and capability to that zone even though the interior of that zone could be nearly congestion free (except for example during intra-zonal transmission outages). In doing so, the SCRP fails to address the amount of congestion within the zone that is covered by intra-zonal TCCs and hence unlikely to cause shortfalls or surpluses. Additionally, allocating the costs of intra-zonal outages through the sharing methodology adopted by the SCRP can create perverse incentives to schedule maintenance on intra-zonal transmission facilities. Transmission owners will have an incentive to schedule outages, not on the basis of minimizing congestion, but rather during the period in which the allocation of the congestion costs associated with that outage to the owner is minimized. Take, for example, an upstate transmission owner that, because of fully funded TCCs and the seasonal pattern of congestion prices would have under the SCRP an allocation of intra-zonal surpluses and shortfalls of 30 percent during the winter period and 10 percent in the summer period. Under such circumstances, that transmission owner will have a perverse incentive to schedule intra-zonal outages in the

summer at which time they would be allocated a much lower share of the resulting congestion rent shortfalls--even if congestion was up to three times higher for that period.

C. The SCRP Fails to Address Problems in TCC Revenue Imbalances Between the Capability Period Auction and Monthly TCC Reconfiguration Auction

The SCRP insufficiently addresses TCC revenue imbalances. While the SCRP proposes the potential development of a program to fully fund a more realistic set of TCCs (for implementation no earlier than Fall 2003), the SCRP does not explicitly change the methodology for allocation of TCC revenues or shortfalls resulting from the Capability Period Auction. In retaining the existing allocation methodologies for the Capability Period Auction, the SCRP creates a disparity of treatment since the proposal includes a modification of revenue/shortfall allocations from the Monthly TCC Reconfiguration Auction. While fully funding a more realistic set of TCCs for the Capability Period Auction will be an important enhancement, the implementation of such a measure will not remove the fact that there will be disparate allocation methodologies between the Capability Period Auction and the Monthly TCC Reconfiguration Auction.

Moreover, the SCRP also fails to address inherent problems in the modeling of transmission outages in both the Capability Period Auction and the Monthly TCC Reconfiguration Auction which exacerbate TCC revenue/congestion rent imbalances. Presently, the NYISO employs what can be thought of as a 50% rule in the modeling of transmission outages. If a transmission facility is expected to be out 50% or less of the period that is the subject of the auction, it is included in the model. For transmission facilities subject to outages of longer than 50% of the auction period, the capability is excluded for the entire period. While initially employed in the Capability Period

Auction, this treatment has a cascade effect through the Monthly TCC Reconfiguration Auction, day-ahead congestion rent, and real-time congestion.

One effect of this modeling assumption is seen by comparing two scenarios for a Capability Period Auction. Scenario 1 has one planned outage for a transmission line crossing one interface that will last three months minus one day. Scenario 2 has a planned outage that will last three months plus one day. Also assume that the congestion consequences of each outage are substantially similar. Under the “50% rule,” the auction under Scenario 1 will include the transmission capability of the line subject to the planned outage. In contrast, the “50% rule” excludes the transmission capability of the line subject to the planned outage under Scenario 2 that will last more than 3 months. The length of the outage and its modeling in the Capability Period Auction, however, will trigger different allocations of the same amount of imbalances created by both scenarios.

Under Scenario 1 (i.e. outage of less than 3 months), residual auction revenues will be over-collected whereas under Scenario 2 (i.e. outage of more than 3 months), residual auction revenues will be under-collected. In Scenario 1, the transmission owner will receive a share of the over-collected Capability Period Auction revenues but will be liable for counterflows reflecting the planned outage in the Reconfiguration Auction.¹ In contrast, the transmission owner under Scenario 2, while foregoing a share of revenues from the Capability Period Auction, picks up Reconfiguration Auction revenues without being subject to any counterflow liability. Depending on market prices, the longer outage assumed in Scenario 2 could result in greater revenues for the transmission owner whose facility is out of service. Accordingly, this flaw in the modeling of transmission outages

¹ In fact, historically, counter-flow TCCs have tended to be priced above market giving a transmission owner an incentive to have outages treated under conditions outlined in Scenario 2.

could create an incentive to lengthen planned outages in order to ensure a favorable treatment between the Capability Period Auction and Reconfiguration Auction.

D. Allocation of Imbalances From Day Ahead Congestion and Real-Time Congestion Should be Treated Consistently

The SCRP does not apply day-ahead congestion rent imbalances in the same manner as real-time congestion rent imbalances. Rather, real-time congestion rent imbalances will continue to be allocated through NYISO OATT Schedule 1 on a MWH basis. *NYISO Accounting and Billing Manual, Section 3.14 Residual Adjustments & NYISO OATT, Schedule 1*. To be an effective and comprehensive proposal, however, there must be consistent treatment of these imbalances.

Inconsistent treatment of allocation methodologies between day-ahead and real-time congestion rent imbalances will have a significant discriminatory effect. For example, under the present SCRP, as much as 87% of a two-day unplanned (i.e. the first 42 hours of an outage occurring at 6 am which would be considered an outage in the real-time market) could be allocated according to the current real time congestion rent shortfall method (i.e., Schedule 1 load ratio share). In contrast, had the same unplanned outage lasted for one month, less than 5.8 percent (equaling the same 42 hour period of real-time outage) would be allocated in this manner. The remaining outages would be charged to the transmission owner causing the outage. Thus, the costs of a short outage during extremely high congestion and a longer outage during a period of low congestion, even if they caused the same total congestion, would be allocated differently. Further, there is even the potential that a short outage, that results in a higher imbalance than the longer period outage, will cause less financial exposure to the transmission owner

incurring the shorter (but higher cost) outage than the transmission owner incurring a longer outage.

By allocating real-time imbalances to a transmission owner whose facility outage creates congestion (consistent with the day-ahead allocation methodology) there will be an additional incentive for transmission owners to increase their investment in real-time monitoring and re-rating of transmission facilities in order to maximize the transmission that can be used at any one time. Further, the risk of shortfalls in the real-time market places a premium on good utility practice in maintaining facilities.

E. Any Final Program for Addressing the Congestion Rent Shortfall Issue Must Allow for Contemporaneous Implementation of All Elements of the Program

The SCRP addresses four areas. First, the SCRP provides a detailed allocation methodology for the allocation of shortfalls and surpluses to transmission owners which is intended to become effective beginning May 1, 2003. Second, the SCRP “suggests” the use of a similar type of allocation methodology for use with respect to the Monthly TCC Reconfiguration Auction with a target date of making such changes effective on May 1, 2003. Third, the SCRP proposes the “development” of a method for fully-funding a realistic set of TCCs with a goal of having BIC consider the proposal for implementation in the Fall 2003 TCC Auction. Fourth, the SCRP proposes that the Congestion Reduction Task Force “meet” to discuss the feasibility and desirability of developing a Transmission Facility dynamic rating program. LIPA supports the development of each of these elements and believes that implementation of all such elements must be accomplished contemporaneously.

The SCRP, however, again sets into place a specific methodology for one element while leaving the other elements to be implemented at a later time. This approach will create a situation where, for an extended period, the SCRP will only fix one system of a much larger problem. A similar piecemeal approach was rejected by the NYISO Board in its April 17, 2002 decision in which it noted that “[t]he problems identified by the parties with the TCC provisions of the tariff may require more fundamental improvements to prevent the underlying problem—excessive levels of congestion rent shortfalls.” *April 17 Decision at p. 2*. It is these underlying measures such as addressing the problems inherent in the modeling of transmission outages in the Capability Period Auction, developing procedures for fully-funding a more realistic set of TCCs and developing dynamic rating programs which will alleviate the root cause of the problem. Moreover, without specific proposals and a commitment to implement such measures, this exercise may be nothing more than re-arranging the deck chairs while the boat continues to sink.

F. LIPA Supports and Adopts the Arguments Set Forth in the Appeal of Consolidated Edison Company of New York, Inc.

The appeal of Consolidated Edison Company of New York, Inc. (“Con Ed”) appeals the SCRP approval on the basis that the SCRP: (1) only modifies the allocation of congestion rent shortfalls without addressing the central issue of TCC availability; (2) unduly discriminates against owners of underground and underwater facilities; and (3) does not provide a comprehensive plan to eliminate congestion shortfalls. Further, Con Ed notes that unusual circumstances in the voting process create a mis-impression that consensus was achieved. LIPA supports and adopts the arguments set forth in Con Ed’s appeal.

III. Conclusion

LIPA respectfully requests that the NYISO Board: (1) reject the February 20, 2003 decision of the NYISO Management Committee to adopt the Supplemental Congestion Reduction Proposal pursuant to Motion #4; (2) direct NYISO Staff to work with LECG on a comprehensive proposal to address the existing deficiencies (as detailed above) in the Supplemental Congestion Reduction Proposal; (3) direct NYISO Staff and LECG to present options for implementing a comprehensive proposal to the NYISO Committees; and (4) require the elements of any finally adopted comprehensive proposal be implemented simultaneously.

Dated: March 6, 2003

Respectfully Submitted,

By: 

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