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August 29, 2001

FILE NO: 55430.000043

BY HAND

The Honorable David P. Boergers
Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

**New York Independent System Operator, Inc.
Filing of New Attachment S to Open Access Transmission Tariff to Implement
Rules to Allocate Responsibility for the Cost of New Interconnection Facilities,
and Request for Expedited Action**

Dear Mr. Boergers:

Pursuant to Section 205 of the Federal Power Act¹ and Section 35.13 of the regulations of the Federal Energy Regulatory Commission (“Commission”)² the New York Independent System Operator, Inc. (“NYISO”), by counsel, respectfully submits proposed new Attachment S to its Open Access Transmission Tariff (“OATT”). Attachment S contains a detailed set of rules to allocate responsibility for the cost of the facilities required for generation projects and merchant transmission projects to interconnect reliably to the New York State Transmission System.

The NYISO is making this filing in response to the Commission’s findings regarding new interconnections that are contained in the Commission’s July 29, 1999 *Order Conditionally Accepting Compliance Filing* in Docket Nos. ER97-1523-003, et al. (“July 29 Order”).³ In its

¹ 16 U.S.C. § 791a-825r.

² 18 C.F.R. § 35.13 (2000).

³ *Central Hudson Gas & Electric Corp.*, 88 FERC ¶ 61,138 (1999) (conditionally accepting the NYISO OATT, including the OATT procedures for interconnecting new power projects to the grid).

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July 29 Order, the Commission found that the NYISO interconnection procedures were sufficient for the NYISO's stage of development to that point.⁴ However, the Commission also found that the NYISO and Market Participants should work together to jointly develop guidelines for cost responsibility with regard to new interconnections.⁵ Attachment S is the result of extended efforts by the NYISO and Market Participants to respond to the Commission's findings on interconnections and cost allocation contained in its July 29 Order. Because of the urgent need for new sources of power supply in New York and the Northeast, the NYISO requests that the Commission take expedited action on this filing.

Unless otherwise defined, capitalized terms in this filing letter shall have the meaning set forth in the OATT as amended by the revisions submitted here.

I. List of Documents Submitted

The NYISO submits the following documents:

1. This filing letter;
2. Clean tariff sheets that set out the proposed new OATT Attachment S, clean tariff sheets that add Attachment S references to Sections 19B and 32B of the OATT, and clean tariff sheets that add new definitions to Section 1.0 of the OATT (filing Attachment I);
3. Blackline tariff sheets that add the proposed new OATT Attachment S, Attachment S references to Sections 19B and 32B of the OATT, and new definitions to Section 1 of the OATT (filing Attachment II); and
4. A Form of Notice suitable for publication in the *Federal Register* (filing Attachment III).

⁴ *Id.* at 61,384.

⁵ *Id.*

II. Copies of Correspondence

Copies of correspondence concerning this filing should be served on:

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III. The Proposed Cost Allocation Rules

A. The Need for the Rules

From the time the NYISO was first established, the NYISO staff, Market Participants and regulators have all recognized the need for a set of clear, objective and workable rules to allocate responsibility for the cost of the facilities needed for generation and merchant transmission projects to interconnect reliably to the transmission system.

Interconnection facilities, by their very nature, stand at or near the boundary between the competitive power supply market and the regulated power delivery market. Typically, the procurement and installation of interconnection facilities requires the expenditure of substantial

⁶ The NYISO respectfully requests waiver of 18 C.F.R. § 385.203(b)(3) to permit service on these counsel for the NYISO in both Washington, D.C. and Richmond, Virginia.

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amounts of money. For the competitive and regulated power markets to work properly and to work together properly, for them to provide the hoped-for economic benefits of restructuring to consumers and to encourage new generation,⁷ the Developers of competitive power projects and the Transmission Owners must have a reasonable amount of certainty regarding their respective responsibilities for these substantial expenditures.

B. Staff and Stakeholder Support for the Rules

The NYISO staff has worked for more than one year with Market Participants to develop a set of interconnection facility cost allocation rules. Numerous specific proposals were presented and discussed. The transmission pricing and interconnection policies of the Commission were frequently discussed. The interconnection cost allocation rules already in place in PJM, New England and elsewhere were thoroughly reviewed. Throughout the process, participants sought to formulate a set of rules that are in accordance with Commission policies, compatible with established NYISO interconnection procedures, consistent with the best practices in PJM and the rest of the Northeast, and fully sensitive to the distinctive characteristics of the New York State power market.

The OATT amendments proposed here represent the outcome of a comprehensive process to develop a broad consensus and carefully crafted package that deals in an integrated manner with the many related issues of interconnection facilities cost allocation. The strong support given to the set of rules ultimately developed reflects the great extent to which participants believe the goals of the process were effectively accomplished. The Management Committee approved the rules on June 6, 2001, by a show of hands. The NYISO Board of Directors unanimously approved the proposed cost allocation rules on August 21, 2001.⁸

⁷ According to a report prepared by the NYISO and published in March 2001, New York State needs to add 8,600 megawatts of new power plant capacity by 2005, or risk service disruptions and sharply increased power prices. The NYISO, *Power Alert: New York's Energy Crossroads*, March 2001, at 1-4.

⁸ On June 15, 2001, the Consolidated Edison Company of New York, Inc. ("Con Edison") filed with the NYISO Board of Directors, appealing the June 6, 2001 decision of the Management Committee. On June 22, 2001, the Independent Power Producers of New York, Inc. filed a Motion in Opposition to the Con Edison appeal. The NYISO Board of Directors denied the Con Edison appeal on August 21, 2001.

C. Summary Description of the Rules

1. Purpose

The basic purpose of the proposed rules is to allocate to each Developer responsibility for the cost of the net impact of the interconnection of its project on the reliability of the transmission system. Thus, a Developer is held responsible for the cost of the interconnection facilities that are required by, or caused by, its project; the facilities that would not be needed “but for” its project. A Developer is not responsible for the cost of facilities that are required anyway, without the construction of its project, to maintain transmission system reliability. The cost of these “anyway” facilities is borne by the Transmission Owner. If a Developer’s project reduces the need for facilities that would be required anyway, that beneficial cost reduction impact is recognized by the proposed rules. The net cost and cost reduction impact of a Developer’s project is determined by comparing the results of annual transmission system assessments and interconnection studies that are conducted, or reviewed and approved, by the NYISO staff.

2. The Interconnection Standard

The cost allocated by the proposed rules is the cost of the facilities needed for a project to interconnect reliably to the transmission system in compliance with the NYISO Minimum Interconnection Standard described in the System Reliability Impact Study Criteria and Procedures developed by NYISO staff and approved by the Operating Committee in July, 2000.⁹

The NYISO Minimum Interconnection Standard is designed to ensure reliable access by the proposed project to the New York State Transmission System. The NYISO Minimum Interconnection Standard does not impose any deliverability test or deliverability requirement on the proposed project. Consequently, the proposed rules do not address the allocation of responsibility for the cost of new facilities associated with the delivery of power across the Transmission System, the reduction of Transmission System Congestion, economic Transmission System upgrades, or the mitigation of Transmission System overloads associated with the delivery of power. NYISO staff and Market Participants are committed to working together in the near future to develop additional detailed cost allocation rules to deal with these matters.

⁹ See System Reliability Impact Study Criteria and Procedures, <http://www.nyiso.com/services/planning.html>.

3. Interconnection Facilities

The interconnection facilities covered by the proposed rules are comprised of two types, Attachment Facilities and System Upgrade Facilities. Attachment Facilities are facilities that are constructed for the sole benefit of the Developer's individual project, to physically attach that project to the existing Transmission System. Each Developer is responsible for 100% of the cost of the Attachment Facilities for its project.

System Upgrade Facilities are the modifications to the existing Transmission System that are required to maintain system reliability in response to changes in the system, including such changes as load growth, changes in load patterns, and proposed new interconnection projects. In the case of proposed new interconnection projects, System Upgrade Facilities are the modifications or additions to the existing Transmission System that are required for the project to reliably interconnect to the system in a manner that meets the NYISO Minimum Interconnection Standard. Under the proposed rules, the cost of System Upgrade Facilities is first allocated between Developers and Transmission Owners, and then the Developers' share of the cost is allocated among Developers.

4. Cost Allocation Between Developers and Transmission Owners

The cost of System Upgrade Facilities is allocated between Developers and Transmission Owners based upon the results of an Annual Transmission Baseline Assessment ("ATBA") of the need for System Upgrade Facilities. The ATBA will be initiated by Transmission Owners, and conducted by the Transmission Owners and the NYISO staff, before being reviewed and approved by the Operating Committee. The proposed rules set out detailed procedures for the ATBA. The purpose of the ATBA is to identify the System Upgrade Facilities that each New York Transmission Owner needs to install to reliably meet load growth and changes in load patterns.

Developers are not responsible for the cost of any System Upgrade Facilities that are identified in the ATBA, or any System Upgrade Facilities that resolve in whole or in part a deficiency in the system identified in the ATBA. However, Developers are responsible for the cost of System Upgrade Facilities, not already identified in the ATBA, that are needed because of their projects. The System Upgrade Facilities needed because of interconnection projects are first identified by the individual System Reliability Impact Studies done for each of the projects, and then confirmed by an Annual Transmission Reliability Assessment ("ATRA"). Working with Developers and interconnecting Transmission Owners, the NYISO staff conducts each of these types of studies before submitting them to the Operating Committee for review and approval.

Under the proposed rules, the responsibility of a Developer for the cost of system Upgrade Facilities is determined on a net basis; that is, the Developer's System Upgrade Facilities cost will be determined net of the System upgrade cost reductions that result from the construction and operation of its project and related upgrades. The net cost responsibility of a Developer will not be less than zero, and the cost responsibility of a Transmission Owner for System Upgrade Facilities will be no greater than it would have been without the Developer's project. The net System Upgrade Facilities cost and cost reduction benefits of a Developer's project are determined by comparing the results of each ATBA with the results of each corresponding ATRA.

The obligation of a Transmission Owner to implement and construct System Upgrade Facilities is subject to the Transmission Owner receiving approvals and recovering its costs, as set out in Appendix One of Attachment S. These conditions were proposed by the Transmission Owners as a reasonable means by which to protect their interests, and were accepted by participants as a part of the development of a carefully crafted consensus package of cost allocation rules. Participants noted that similar conditions are included in the interconnection procedures of PJM.¹⁰

5. Cost Allocation Among Developers

Once the Developers' share of the cost of System Upgrade Facilities is allocated between Developers and Transmission Owners by netting the results of the ATBA and ATRA, then the Developers' share is allocated among individual Developers, also based upon the results of the ATRA.

Each ATRA updates, for a specified group of interconnection projects, the results of System Reliability Impact Studies that have previously been performed for those projects. A System Reliability Impact Study will be updated, and a project included in the ATRA for a given year if the System Reliability Impact Study has been completed and approved by the Operating Committee, and if the project has reached a specified milestone in the New York State permitting process.

The ATRA will specify the impact of each included project on the reliability of the Transmission System; that is, the pro rata contribution of each project to the need for each of the individual System Upgrade Facilities identified in the ATRA. The pro rata contribution is measured in various ways, specified in the proposed rules, depending on the nature of the

¹⁰ See Section 40 of PJM Open Access Transmission Tariff, <http://www.pjm.org/documents/agreements/oatt.html>.

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transmission problem causing the need for the individual System Upgrade Facility.

No Developer is responsible for any of the cost of any individual System Upgrade Facility if his project does not have a Material Impact on the reliability of the Transmission System; that is, if the project does not make a material contribution to the need for that System Upgrade Facility. Material Impact thresholds are defined in technical terms, as specified in the proposed rules. The Material Impact concept, and the specified thresholds, were adopted after extended discussions, and with the full knowledge and expectation of participants that the contribution of some projects will trigger the defined thresholds, while the contribution of other projects will not. Most participants wanted to avoid the situation where, in the absence of any defined thresholds, a Developer could be charged for the measurable but immaterial contribution of its project to the need for a new System Upgrade Facility. Participants also noted that the concept of material impact plays a part in the interconnection facility cost allocation mechanism currently employed by PJM.¹¹

Based on the ATRA, the Developer of each included project will be given a dollar figure and supporting information for its share of the cost of the Minimum Amount of System Upgrade Facilities required for reliable interconnection of the project to the Transmission System. If the Developer does not accept the cost figure, its project is removed from the ATRA, to be further processed for cost allocation at a later time in accordance with the procedures specified in the proposed rules. Once a Developer accepts a cost figure and posts security for that amount, then the accepted figure caps the Developer's maximum potential responsibility for the cost of System Upgrade Facilities required for its project, except for certain circumstances that are spelled out in the proposed rules.

If a Developer pays for any System Upgrade Facilities that create electrical capacity in excess of the actual electrical capacity used by its project then, as specified in the proposed rules, that Developer will be repaid the cost of the excess capacity by the Developer of any subsequent interconnection project that uses the excess capacity.

IV. Proposed Effective Date and Request for Waiver

The NYISO respectfully requests that the Commission waive its usual sixty-day notice period and make this filing effective no later than September 26, 2001, pursuant to Section 35.11 of the Commission's regulations.¹² Good cause exists for a waiver. There is an urgent need for

¹¹ See Cost Allocation Procedure, http://www.pjm.org.transmission/trans_exp_plan/index.html.

¹² 18 C.F.R. § 35.11 (2000).

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new sources of power supply in New York State and the Northeast.¹³ The absence of rules clearly allocating responsibilities for the cost of interconnection facilities has for too long created uncertainties in the competitive power market and among Transmission Owners. Such uncertainties inevitably impede business planning, financing and project development. Acceptance of these rules will remove uncertainties about interconnection facilities cost and thereby help expedite the development of the competitive power projects so urgently needed. The overwhelming Market Participant support for the proposed rules further supports a conclusion that expedited action in this proceeding is entirely appropriate.

The NYISO is aware of the fact that the Commission has announced its intention, in the near future, to evaluate the importance of standardized interconnection procedures. These rules were developed to be entirely consistent with Commission policies, and with the best practices in the Northeast. Thus, whatever the outcome of the Commission's overall evaluation, the expedited acceptance and implementation of these rules, at least on an interim basis, is entirely consistent with and supportive of a more general process to develop standardized interconnection procedures.

V. Service List

The NYISO has mailed a copy of the filing to all persons that have filed interconnection applications or executed Service Agreements under the NYISO Open Access Transmission Tariff, to the New York State Public Service Commission, and to the electric utility regulatory agencies in New Jersey and Pennsylvania. In addition, in order to facilitate expedited Commission action, the NYISO has emailed an electronic copy of this filing to all subscribers to the NYISO Technical Information Exchange list, which encompasses virtually all New York Market Participants.

VI. No Costs Relating to Discriminatory Employment Practices

The NYISO has no expenses or costs that have been alleged or judged to be illegal, duplicate, or unnecessary costs that are demonstrably the product of discriminatory employment practices.

VII. Federal Register Notice

A form of *Federal Register* Notice is provided as Filing Attachment III hereto. A diskette of the Notice is also provided in WordPerfect format.

¹³ See the NYISO, *Power Alert: New York's Energy Crossroads*, March 2001.

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VIII. Conclusion

WHEREFORE, for the following reasons, the New York Independent System Operator, Inc., respectfully requests that the Commission accept for filing the interconnection cost allocation rules submitted herewith as new Attachment S to the Open Access Transmission Tariff.

Respectfully submitted,

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ATTACHMENT I

ATTACHMENT II

ATTACHMENT III

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

New York Independent System Operator, Inc.) Docket No. _____

NOTICE OF FILING

Take notice that on August 29, 2001, the New York System Operator, Inc. ("NYISO") tendered for filing proposed revisions and additions to its Independent Access Transmission Tariff ("OATT") designed to provide rules for the allocation of responsibility for the cost of new interconnection facilities. The NYISO has requested that the Commission act on this filing in an expedited manner, waive its usual 60-day notice period requirement and make the filing effective no later than September 26, 2001.

The NYISO has served a copy of this filing on all persons that have filed interconnection applications or executed Service Agreements under the NYISO OATT, on the New York Public Service Commission, and on the electric utility regulatory agencies in New Jersey and Pennsylvania. The NYISO has also emailed a copy of this filing to all of the subscribers to the NYISO Technical Information Exchange list.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. §§ 385.211 and 385.214). All such motions or protests should be filed on or before _____, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Commission's Public Reference Room.

David P. Boergers
Secretary

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document on all persons that have filed interconnection applications or executed Service Agreements under the NYISO OATT, on the New York Public Service Commission, and on the electric utility regulatory agencies in New Jersey and Pennsylvania in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 2010 (2000).

Dated at Washington, D.C. this 29th day of August, 2001.

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