

March 13, 2006

Via Overnight Delivery

Mr. John W. Boston
Chairman, NYISO Board of Directors
C/o Mr. Mark S. Lynch
President and CEO
New York Independent System Operator, Inc.
10 Krey Blvd.
Rensselaer, N.Y. 12144

Re: Motion in Opposition to the Appeal of National Grid

Dear Chairman Boston:

Attached is the Motion of Con Edison, Orange & Rockland Utilities, LIPA, NYPA, The City of New York, Consumer Power Advocates and the New York Energy Consumers Council in opposition to National Grid's Appeal concerning certain actions taken at the February 28, 2006 Management Committee.

A copy of this motion has been electronically mailed to NYISO staff for posting on the NYISO website. To the extent the Board decides to schedule an oral argument on this matter, we would like the opportunity to participate. Thank you.

Very truly yours,
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**MOTION OF CON EDISON, O&R, LIPA, NYPA, THE CITY OF NEW YORK,
CONSUMER POWER ADVOCATES AND NEW YORK ENERGY CONSUMERS
COUNCIL, INC. IN OPPOSITION TO AN APPEAL**

Consolidated Edison Company of New York, Inc., Orange and Rockland Utilities, Inc., LIPA, the New York Power Authority, The City of New York, Consumer Power Advocates and the New York Energy Consumers Council, Inc. (collectively, the “Indicated Parties”) hereby file this motion in opposition to the appeal filed by Niagara Mohawk, d/b/a National Grid (“Grid”) with respect to the Management Committee’s (“MC”) February 28, 2006 decision to deny Grid’s appeal to the MC of the Operating Committee’s (“OC”) rejection of Grid’s amendment to the Locational Capacity Requirements (“LCRs”) for load Zones J and K.

SUMMARY

Grid’s appeal should be rejected by the Board as a transparent attempt to avoid stakeholder proceedings and unilaterally replace the existing methodology for establishing the state-wide Installed Reserve Margin (“IRM”) with Grid’s so-called Free-Flowing Methodology (“FFM”). Notwithstanding the fact that the New York State Reliability Council (“NYSRC”) has not adopted the FFM for purposes of setting the IRM, Grid would now have the NYISO adopt LCRs and the Installed Capacity Requirement (“ICR”) that are “associated with” and “correspond” with Grid’s preferred “Free Flowing Equivalent IRM.” Such a result is not only outside the Board’s authority (since the NYSRC, not the NYISO, has authority to set the IRM and ICR) but also would undermine ongoing stakeholder discussions.

In a February 2, 2006 order dismissing a prior Grid complaint against the NYISO and the NYSRC, in which Grid sought the immediate application of the FFM to the

calculation of both the IRM and ICR, FERC noted that Grid failed to “exhaust its methods of resolving this dispute within Reliability Council and NYISO before filing a complaint with the Commission.”¹ Despite FERC’s admonition, Grid seeks to again avoid the NYISO and NYSRC stakeholder processes in a transparent attempt to get its complaint back to FERC as quick as possible.

When FERC said to use the stakeholder process it meant that Grid should work within, not around, the process in a meaningful way. Such a process is now underway, with the formation of a new joint working group between the NYISO and NYSRC, called the Resource Adequacy Issues Task Force (“RAITF”). No action should be taken until this stakeholder process has time to work through these vital issues using the appropriate steps. Further, there is no foundation upon which to make any change to the approved locational and statewide capacity margins at this time, and those requirements must remain as established based on current approved study methodologies for the capability year May 2006 through April 2007, no matter how much Grid would like for this to change. Therefore, the Indicated Parties respectfully request that the Board see through this charade and reject Grid’s appeal.

ARGUMENT

I. The Relief Sought By Grid Is Outside The Scope Of The NYISO’s Authority

In its appeal Grid requests that the Board: (1) establish LCRs for Zones J and K based on Grid’s FFM; and (2) establish a state-wide ICR that corresponds to Grid’s FFM.² Grid’s appeal is procedurally deficient in that it requests the NYISO Board to take

¹ *Niagara Mohawk Power Corporation, a National Grid Company v. New York State Reliability Council and New York Independent System Operator, Inc.*, Order Dismissing Complaint, 114 FERC ¶ 61, 098 at P 1 (2006) (the “*Order Dismissing Complaint*”).

² Grid Appeal, p. 6; *See also* Grid’s Motion to the OC (#86.02a) and Grid’s Appeal to the MC (Item #7).

an action outside the scope of its legal authority. As Grid admits in its appeal, “NYSRC has the responsibility to set the IRM and ICR. These NYSRC obligations arise from the Commission-approved NYISO-NYSRC Agreement.”³ Specifically, Section 3.03 of the New York State Reliability Council Agreement states that “[t]he NYSRC shall establish the state-wide annual Installed Capacity Requirements for New York State consistent with NERC and NPCC standards.”⁴ Grid’s own admission that “the NYSRC has the responsibility to set the IRM and ICR” fundamentally undermines their proposal, which would unilaterally establish Grid’s FFM as the basis for the IRM and ICR even though such a determination is clearly a matter for the NYSRC and *ultra vires* with respect to the NYISO.⁵

Grid’s attempt to usurp the basic responsibilities of the NYSRC collaterally attacks the FERC orders approving the delineation of responsibilities between the NYISO and the NYSRC. Accordingly, Grid’s request to modify the ICR should be stricken from its appeal to the Board and summarily rejected.

II. FERC Ordered Grid To Work Within The New York Stakeholder Processes Not Circumvent Them

The NYISO stakeholder process consists of several working groups and task forces that exist in order to study, analyze and debate various technical, economic and policy matters before recommending one or more courses of action to either the OC or Business Issues Committee (“BIC”). Once at the OC or BIC most matters are further analyzed and debated, with various parties making detailed presentations to the committees in support of their view. NYISO staff routinely participates in these matters,

³ See Grid Appeal at 3.

⁴ See also, Section 4.5 of the NYISO-NYSRC Agreement.

⁵ In fact, when this issue was raised during the discussions at the OC, MC and task force meetings, Grid recognized but failed to address the concern.

in many instances taking the lead in the study process. After the OC or BIC, most matters (and all involving tariff filings) proceed to the MC and then on to the NYISO Board, both of which further analyze and debate the issues before voting.

A similar stakeholder process exists at the NYSRC, where matters are first discussed in a subcommittee before being considered and voted on at the Executive Committee. In response to FERC's *Order Dismissing Complaint*, both the NYISO and the NYSRC decided to pursue establishing a joint task force to provide FERC with a coordinated 90-day progress response, as ordered by the Commission. Thus, in addition to the normal panoply of working groups and committees available to Grid to pursue its issues, the NYISO and the NYSRC have also made available a task force dedicated to just these issues.

These stakeholder groups and committees are what FERC meant when it told Grid to use the stakeholder process. Specifically, FERC stated that Grid should “fully pursue [the] avenues within the Reliability Council and NYISO stakeholder processes before filing a complaint with the Commission.”⁶ But Grid has decided to take a shortcut and circumvent, rather than use, the stakeholder process. Acting just days after FERC's *Order Dismissing Complaint*, Grid sought to amend another party's motion at the last minute to address this issue. This cannot be viewed as working within the NYISO stakeholder process.

Grid's request that the Board approve the FFM without any evidentiary support or working group discussion and analysis fundamentally undermines the stakeholder process and eliminates a necessary testing ground for full consideration of such matters. In the stakeholder processes that have been established, Grid's proposed FFM will be the

⁶ *Order Dismissing Complaint*, P 24.

subject of a full and fair stakeholder discussion of its strengths and weaknesses and the complexities that would arise should such a methodology be instituted. In particular, the Indicated Parties have a number of questions and concerns regarding the FFM that it is incumbent upon Grid to fully address. Imposing the FFM by amendment or appeal would allow Grid to avoid this necessary testing ground for its proposal.

It is clear that Grid's appeal to the Board is more about going through the motions rather than truly engaging in the stakeholder process in a substantive way. Grid's appeal should be rejected as being procedurally defective.

III. Grid's FFM Proposal Is Unjust, Unreasonable and Unsubstantiated

As was the case with its complaint at FERC, Grid again has failed to support both its allegations regarding the present IRM, ICR and LCR methodologies and its proposed FFM. As such Grid's FFM is unjust, unreasonable and unsupported.

A. Grid's Proposal Violates the NYSRC's Reliability Rules

Grid seeks to have the IRM, ICR and LCRs developed using its FFM, which assumes that transmission constraints are non-existent. This premise is in direct violation of several Reliability Rules, which require that transmission system conditions, including constraints, be taken into account when developing the IRM, ICR and LCRs.

Specifically, Section 6 of the ISO Agreement provides that:

The ISO shall establish the Locational Installed Capacity Requirements for New York State, consistent with the Reliability Rules, Local Reliability Rules, and the provisions of the ISO/NYSRC Agreement. In establishing Locational Installed Capacity Requirements, the ISO shall consider the availability of the NYS Transmission System to the extent necessary to maintain reliability.

Grid also argues that the "NYISO has the responsibility to set LICAP

Requirements that correspond to a specified IRM and ICR.”⁷ This statement, however, is misleading. While the NYISO takes into consideration the IRM and ICR in setting the LCR requirements, ultimately, the standard that applies is consistency with applicable reliability rules, the ISO/NYSRC Agreement and consideration of transmission system availability and the accuracy of the computation process. For example, because of the timing in which the NYSRC and the NYISO studies are made in determining the IRM/ICR and the LCRs, the latter takes into account an updated load forecast. Thus, there is no direct correspondence between them. What does need to happen is that both need to be determined considering the NYS Transmission System. Because Grid’s proposal violates basic reliability standards it must be rejected.

B. Grid’s FFM Is Inequitable And Does Not Work

Grid seeks to establish LCRs for Zones J and K that would achieve the same IRM that would result from the application of its FFM, which ignores transmission constraints within New York State. This is both inequitable and impossible. By setting LCRs for Zones J and K assuming zero transmission constraints, Grid’s FFM imposes the costs associated with all transmission constraints in New York State on Zones J and K, including the ones associated with UPNY/SENY, which separates Zones F and G, and is binding significantly more often than the Dunwoodie South interface that separates Zones I and J. Grid’s FFM creates a misleading notion that adding additional generation in Zones J and K is the only way to achieve an IRM corresponding to an FFM of 15.7%. However, the 2006 IRM Study shows that the lowest IRM that can be achieved by raising the LCRs in Zones J and K is 17.2%. Thus, it is impossible to raise the LCRs in Zones J and K such that Grid’s preferred IRM is achieved.

⁷ Grid Appeal, at 2.

In contrast, the present IRM established by the NYSRC uses the “Tangent 45” anchoring method, which takes transmission constraints into account. This methodology also balances out the effect of the uncertainties that impact the IRM and LCRs and the impact of IRM and LCRs on one another, and by doing so, it establishes the most stable point on the IRM vs. LCR curve. In contrast, the FFM approach has the potential of resulting in great volatility in the LCRs from one year to the next.

C. Grid Fails To Support Its Claims

Although Grid complains about the LCRs, it has not demonstrated that the NYISO has violated its tariff or the Reliability Rules when it set the LCRs. Moreover, Grid’s appeal consists of nothing more than arguments and allegations with no studies or documentary evidence to support its proposal.⁸ Like its prior complaint before FERC, Grid’s appeal is deficient because it fails to identify a nexus between its alleged harms and the calculation of the IRM, ICR or LCRs. Moreover, there is simply no basis of evidence upon which the Board can justify Grid’s requested modification of the LCRs and ICR. These values are based on an approved and reasonable minimum requirement for the acquisition of installed capacity in New York State and for the establishment of locational capacity requirements in Zones J and K and should be upheld by the Board.

CONCLUSION

Accordingly, for the reasons set forth above, the Indicated Parties respectfully request that the Board reject Grid’s appeal and affirm the MC’s decision with respect to the LCRs.

Dated: March 13, 2006

⁸ Grid Appeal, at 3.

Respectfully submitted,

**Consolidated Edison Company
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Orange and Rockland Utilities, Inc.**

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