

**NOTICE OF APPEAL OF
CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.
OF THE OPERATING'S DECISION WITH RESPECT TO
THE CLASS YEAR 2001 COST ALLOCATION STUDIES**

I. SUMMARY STATEMENT

In accordance with Section 7.13 of the ISO Agreement and Sections 15.01 and 15.02 of the Bylaws of the New York Independent System Operator ("NYISO") Management Committee, Consolidated Edison Company of New York, Inc. ("Con Edison" or the "Company") hereby files this notice of appeal of the Operating Committee's ("OC") decision at its May 23, 2002 meeting to approve the Cost Allocation of New Interconnection Facilities to the New York State Transmission System for the class year 2001 (the "Cost Allocation Study").

The Cost Allocation Study, which the OC approved, recommended that a new 138KV series reactor in feeder 15055 and a reconnection of two Hellgate transformers (the "Reactor") were needed to satisfy the requirements of the NYISO's statewide Annual Transmission Baseline Assessment ("ATBA"). Despite the fact that the recommendation for the Reactor was triggered by the addition of generic generation and transmission projects in both Con Edison's and LIPA's area, the OC allocated 100% of the proposed Reactor's \$5.1 million cost to Con Edison.

Attachment S of the NYISO Open Access Transmission Tariff ("OATT") is silent with respect to the allocation of System Upgrade Facility costs when that upgrade is needed as a result of generic generation and transmission projects in the service areas of two or more transmission owners ("TOs"). Any assignment of costs to only one of the TOs causing the need for an upgrade is purely arbitrary. Since the recommendation of

the proposed Reactor is triggered by generic projects in both the Con Edison and LIPA service areas, the cost should be borne by both parties, not just one. Thus, Con Edison respectfully requests that the Management Committee require that the OC develop a method consistent with the comments herein to allocate the proposed \$5.1 million cost to both Con Edison and LIPA.

II. THE OPERATING COMMITTEE ERRONEOUSLY ALLOCATED 100% OF THE COSTS OF THE UPGRADE TO CON EDISON

The recommendation in the Cost Allocation Study adopted by the OC was based on the addition of generic generation and transmission projects in both Con Edison's and LIPA's service area. Despite this, the OC erroneously approved an allocation of 100% of the proposed Reactor's \$5.1 million cost to Con Edison.¹ The OC's recommendation is not only devoid of any basis in fact, it is purely arbitrary and, as such, should be rejected.

Attachment S of the NYISO OATT is silent with respect to the allocation of System Upgrade Facility costs when that upgrade is needed as a result of generic generation and transmission projects in the service areas of two or more TOs that were identified in the NYISO's statewide ATBA. However, with respect to the need for upgrades that arise as a result of the Annual Transmission Reliability Assessment ("ATRA"), Attachment S provides that "[i]f a Transmission Owner or Developer elects,

¹ Notwithstanding the OC's recommendation that Con Edison have cost responsibility for the Reactor under the ATBA, a Transmission Owner's obligation to construct and pay for a System Upgrade Facility is contingent upon its ability to recover its costs plus a reasonable rate of return. Specifically, Attachment S, Section IV D states that "[a]ny Transmission Owner implementation and construction of System Upgrade Facilities as identified in the Annual Transmission Baseline Assessment or Annual Transmission Reliability Assessment shall be in accordance with the NYISO Open Access Transmission Tariff, Commission-approved ISO Related Agreements, the Federal Power Act and Commission precedent, and therefore shall be subject to the Transmission Owner's right to recover, pursuant to appropriate financial arrangements contained in Commission accepted tariffs or agreements, all reasonable incurred costs, plus a reasonable return on investment." Thus, Con Edison is under no obligation to undertake the construction and funding of the Reactor or any other System Upgrade Facility.

for whatever reason, to construct System Upgrade Facilities that are larger or more extensive than the minimum facilities required to reliably interconnect the proposed project, then the Transmission Owner or Developer is responsible for the costs of those System Upgrade Facilities in excess of the minimum System Upgrade Facilities required by the Developer projects.”² Attachment S also provides a mechanism for sharing costs between developers and TOs, where the costs are “allocated between Developers and Transmission Owners based upon the results of the Annual Transmission Baseline Assessment of the five-year need for System Upgrade Facilities.”³ Attachment S also provides for the allocation of costs amongst developers based on cause.

Thus, Attachment S does provide a method for allocating costs between TOs and developers, amongst developers and for those cases when a TO or a developer wants to install a larger System Upgrade Facility. In each instance, Attachment S allocates the costs of the System Upgrade Facility to the party or parties that caused the need for it.

The same logic should apply in the instant case. The proposed need for the Reactor on Con Edison’s transmission system is triggered by generic generation and transmission projects located in both Con Edison’s and LIPA’s service areas. As such, the assignment of the entire \$5.1 million cost to just Con Edison is purely arbitrary and unsupported by Attachment S of the OATT. It is also contrary to the logic that runs through Attachment S of assigning the costs of proposed projects to those TOs and developers whose projects cause the needs for the System Upgrade Facility. Instead, the OC should have allocated the proposed \$5.1 million cost to both Con Edison and LIPA.

² See Section IV(f)(3)(a) of the NYISO OATT.

³ See Section IV(f)(1) of the NYISO OATT.

III. CONCLUSION

Con Edison respectfully requests that the Management Committee:

1. Reject the decision of the OC to assign 100% of the costs of the proposed Reactor to Con Edison; and
2. Require that the OC develop a method consistent with the comments herein to allocate the proposed \$5.1 million cost to both Con Edison and LIPA.

Dated: June 7, 2002
New York, N.Y.

Respectfully submitted,
Consolidated Edison Company
of New York, Inc.

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