

**UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION**

Central Hudson Gas & Electric Corporation)	
Consolidated Edison Company of New York, Inc.)	Docket Nos. ER97-1523-000
Long Island Lighting Company)	OA97-470-000, and
New York State Electric & Gas Corporation)	ER97-4234-000
Niagara Mohawk Power Corporation)	(not consolidated)
Orange and Rockland Utilities, Inc.))	
Rochester Gas and Electric Corporation)	
Power Authority of the State of New York)	
New York Power Pool)	

**JOINT SUPPLEMENTAL RESPONSE OF THE
MEMBER SYSTEMS OF THE NEW YORK POWER POOL AND THE
NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.**

Pursuant to the Commission's Rules of Practice and Procedure, the New York Independent System Operator, Inc. ("NYISO") and the Member Systems of the New York Power Pool¹ respectfully respond to the Motion to Submit Supplemental Comments filed in the above-captioned proceedings on September 10, 1999 by the NRG Entities² concerning the August 10, 1999 filing providing details of the Installed Capacity Auction ("August 10 Filing").

¹ Central Hudson Gas & Electric Corporation ("Central Hudson"), Consolidated Edison Company of New York, Inc. ("Con Edison"), LIPA, New York State Electric & Gas Corporation ("NYSEG"), Niagara Mohawk Power Corporation ("Niagara Mohawk"), Orange and Rockland Utilities, Inc. ("O&R"), Rochester Gas and Electric Corporation ("RG&E"), and Power Authority of the State of New York ("NYPA").

² Arthur Kill Power LLC, Astoria Gas Turbine Power LLC, Huntley Power LLC and Dunkirk Power LLC.

The NYISO and the Member Systems submit that this response will assist the Commission in its analysis of these issues and will facilitate the Commission's resolution of these proceedings.³ In support hereof, the NYISO and the Member Systems state as follows:

On September 10, 1999 the NRG Entities filed a Motion to Submit Supplemental Comments and Supplemental Comments ("Supplemental Filing") opposing the NYISO's August 10 Filing which are more fully discussed below. The NRG Entities claim that, subsequent to the August 10 Filing, the NYISO posted revised rules ("Rules") for the installed capacity auction on September 3, 1999. According to the NRG Entities, the revised Rules demonstrate that the August 10 Filing lacks a reason for expedited review, lacks detail to allow market participants the opportunity to comment meaningfully and does not satisfy the July 29 Order. The NRG Entities further argue that the revision to the Rules interjected more uncertainty into the preparation of

³ Rule 213 permits the filing of an answer to motions. Additionally, the Supplemental Comments request substantive relief and constitute motions to which the Member Systems are entitled to answer. In any event, the Member Systems submit that good cause exists for the Commission to grant waiver of the proscription set forth in Rules 213(a)(2) regarding the filing of answers to protests. The Commission consistently has waived the requirements of these Rules where a responsive pleading will assist in the Commission's analysis, provide useful and relevant information, or otherwise facilitate a full and complete record upon which the Commission can base its decision. See, e.g., East Tennessee Natural Gas Co., 81 FERC ¶ 61,219 at n.4 (1997); Natural Gas Pipeline Co. of America, 81 FERC ¶ 61,216 at n.3 (1997); Pacific Interstate Transmission Co., 80 FERC ¶ 61,369 at n.2 (1997); Florida Gas Transmission Co., 79 FERC ¶ 61,147 at n.7 (1997).

the NRG Entities and raised additional concerns regarding the legitimacy of the proposed auction. Supplemental Filing at 3.

Contrary to the assertions of the NRG Entities, the auction rules posted on September 3, 1999 are detailed auction procedures developed during the collaborative process, and were revised to reflect comments received to date. The Commission does not require the ISO to file its procedures.⁴ The ISO has also issued Supplemental Rules. Such rules have also been posted for comment and they will be filed with the Commission on September 17, 1999, prior to the rescheduled ICAP auction which is to occur on September 22, 1999. Unfortunately, the NRG Entities do not distinguish the detailed Rules from the Supplemental Rules in their Supplemental Comments. Given the opportunities to participate in the development of these procedures and rules, it is disingenuous, at this juncture, for NRG Entities to file these protests in opposition to the Rules or the Supplemental Rules.

The issues raised in the Supplemental Filing have already been clarified by the NYISO.

The ISO and the Member Systems have conducted an open, collaborative process to determine the appropriate structure and rules for the Installed Capacity Auction for the Winter 1999-2000 Capability Period. The Member Systems presented an initial

⁴ In its July 29 Order, the Commission clearly stated that neither the NYISO nor the Member Systems had an obligation to file the NYISO's operating manuals ("We are satisfied with the Member Systems' statements that the New York NYISO will make the manuals available for public inspection and post the manuals on the internet." July 29 Order at 61,403).

proposal for an Installed Capacity auction for discussion at an open meeting of the Generation Issues Resolution Team ("GIRT"), which deals with such matters. That description was further refined in subsequent GIRT meetings. All parties were free to submit comments to reflect their views. The description that was developed in these meetings formed the basis of the ISO's August 10 Filing.⁵

Despite numerous opportunities to discuss their concerns during the open meetings, NRG Entities did not raise any issues in the collaborative process. On September 8, the ISO conducted a meeting to discuss the process that would be used to select winning bids and offers in the Installed Capacity Auction, and the means through which these bids and offers would be chosen. The questions that NRG Entities cite in their Supplemental Comments were sent via e-mail the night following that meeting. Two days later, on September 10, NRG Entities filed their Supplemental Comments with the Commission.

NRG Entities make many misstatements in their Supplemental Comments that must be addressed before moving on to responding to NRG Entities' specific questions. First, the Rules posted by the ISO on September 3 were not final, and were never filed with the Commission, contrary to NRG's Supplemental Comments. It was a

⁵ The August 10 Filing provides a set of interim procedures to govern auctions during the Winter 1999-2000 Capability Period. Permanent procedures will be developed by the ISO prior to the Summer 2000 Capability Period.

draft document that was circulated for market participant comment.

Second, with two exceptions noted below, the Rules were not intended to modify any of the details that were filed on August 10. Rather, that document merely supplemented the August 10 Filing, including additional description of a number of procedures such as procedures to be used to submit bids and offers, the timing of the auction, and procedures that will be used to implement the market power mitigation procedures that apply to generators in New York City either currently or formerly owned by Con Edison. Therefore, NRG Entities' statement that the publication of these rules demonstrates that the August 10 Filing is "incomplete" is baseless. Two changes to the August 10 Filing will be made in a filing to be submitted on September 17 to reflect the following: The August 10 Filing did not refer to the approved market mitigation procedures⁶ which place a cap on the amount that may be paid for installed capacity sold by the owners of most generators located in New York City. In addition, only LSEs will be permitted to purchase installed capacity in the auction and the amount of ICAP an LSE may purchase has been limited.

In Section IV of their Supplemental Comments, NRG Entities state that the ISO has not answered the listed questions, and

⁶ These procedures were approved by the Commission. See Consolidated Edison Company of New York, Inc., 84 FERC ¶ 61,287 (1998).

imply that these questions were raised at the September 8 meeting. In fact, many of the questions were raised for the first time in e-mails sent out the evening of September 8. As discussed above, NRG Entities filed their Supplemental Comments before giving the ISO the chance to respond to these questions. Of the questions that were raised at the meeting, most were answered. Therefore, NRG Entities' statement that the ISO "could not answer" these questions at the meeting is misleading at best—because most of the "unanswered questions" were not raised at the meeting.

Specific responses to the questions NRG Entities raise in Section IV of their Supplemental Comments are as follows:

1. NRG Entities claim that only permitting LSEs to buy capacity in the auction will depress market-clearing prices. Limiting purchases to LSEs is necessary in the New York City market to avoid an end-run around the Commission-imposed price limits.
2. NRG Entities ask whether installed capacity providers located outside the NYCA must purchase firm transmission. Firm transmission is not required, so long as the energy is deliverable to the NYCA. This issue was discussed at the September 13 GIRT meeting.
3. NRG Entities note that KeySpan has asked whether LSEs are required to arrange for installed capacity before the beginning of the capability period. The requirement to do so is stated clearly in Section 5.10, *et seq.*, in the ISO Services Tariff, as was stated at the September 8 meeting. As was also stated at that meeting, the penalties for failure to do so are under development by ISO counsel.
4. NRG Entities note that KeySpan has asked whether winter installed capacity requirements will be based on the preceding summer's peak load. The ISO Services Tariff states that each LSE's load forecasting methodology must be approved by the ISO. To the extent that a "forecast" of peak load for the preceding summer was

not equal to the peak load actually experienced, such a methodology would be rejected by the ISO, as was stated at the September 8 meeting. At the September 13 GIRT meeting, it was clarified that winter installed capacity requirements for summer-peaking Transmission Districts will be based on peak load during the preceding summer.

5. NRG Entities note that, in cases in which neither the buyer nor the seller is on the margin, KeySpan asked that the price of the next highest offer to sell be used to set the market-clearing price. The procedure that will be used to determine market-clearing prices is described in detail in Section 9 of the August 10 Filing. It was discussed at GIRT meetings that preceded that filing. Additionally, the procedure was reviewed at the September 8 meeting, yet no objection was received until the e-mail sent by KeySpan the evening of September 8. In the situation that KeySpan describes, the market-clearing price will be set equal to the offer price specified in the lowest unaccepted offer to sell, or the bid price stated in the lowest accepted bid to buy, whichever is lower. In cases in which the bid price stated in the lowest accepted bid is less than the offer price specified in the lowest unaccepted offer, the procedure proposed by KeySpan would cause some buyers of installed capacity to be charged more than their bid price.
6. NRG Entities note that KeySpan has claimed that the maximum price allowed for its capacity is \$105/kW-year, pursuant to market power mitigation procedures filed with the Commission. This issue was addressed in a joint filing of the Member Systems and the NYISO on September 13, 1999.
7. NRG Entities note that KeySpan asked whether the generators subject to these market power mitigation procedures would be permitted to sell their installed capacity bilaterally, should they fail to sell it into the first auction conducted. These generators must offer their installed capacity in the auction. If their installed capacity is not sold in the auction, it may be sold bilaterally.
8. NRG Entities note that KeySpan asked whether generators would be permitted to offer capacity in increments of

one-tenth of a MW. The bidding rules that are part of the ISO Procedures have been amended to permit offers in increments of one-tenth of a MW.

9. NRG Entities note that KeySpan has asked how the Installed Capacity market would function, in the case that the ISO's energy and ancillary services markets have not started as of November 1. The Supplemental Rules now circulating would apply in this circumstance. These rules have been discussed at the last two GIRT meetings and will be submitted to the Commission no later than September 17, 1999.
10. NRG Entities repeat complaints made by Orion regarding the monthly structure of the auction. As indicated above, installed capacity obligations for the forthcoming capability period must be satisfied in advance. The monthly auction addresses situations where either load is shifting or capacity is not available for the entire Capability Period.
11. NRG Entities note several objections by Orion, one of which repeats KeySpan's complaint in item 6. As for the other complaints, neither of which were raised at the September 8 meeting, the ISO auction procedures have been modified to correct a typographical error noted by Orion.
12. NRG Entities also note that Orion made a number of other comments on the documents. These comments were sent out the evening of September 8, shortly before NRG Entities filed their Supplemental Comments regarding the ISO's alleged failure to act on these comments. The ISO will make revisions to these documents if appropriate.

CONCLUSION

In view of the foregoing, the NYISO and the Member Systems respectfully request that the Motion to Submit Supplemental Comments be denied and that the August 10 Filing be approved as filed.

Respectfully submitted,

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