

**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 (not consolidated)
Niagara Mohawk Power Corporation)	
Orange and Rockland Utilities, Inc.)	
Rochester Gas and Electric Corporation)	
Power Authority of the State of New York)	
New York Power Pool)	

**JOINT 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 comments filed in the above-captioned proceedings concerning the August 10, 1999 filing providing details of the Installed Capacity Auction ("August 10 Filing").

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

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proceedings.² In support hereof, the NYISO and the Member Systems state as follows:

In Central Hudson Gas & Electric Co. et al., 88 FERC ¶ 61,138 (1999) ("July 29 Order") the Commission ordered the NYISO to "file with the Commission a detailed proposal for an installed capacity auction market. Such a detailed proposal should include, but not be limited to, bidding rules and procedures, procedures for determining market clearing prices, and market power mitigation procedures." July 29 Order at 61,393. On August 10, 1999 the NYISO filed the detailed proposal, including the bidding rules and procedures, and procedures for determining market clearing prices. Interventions and protests were due on August 30, 1999. Market power mitigation procedures were filed on August 23, 1999.

Several parties intervened in the proceeding but only three offered substantial comments. The New York Public Service Commission ("NYPSC") filed comments in support of the NYISO's proposal. KeySpan-Ravenswood, Inc. ("KeySpan") and Arthur Kill Power LLC, Astoria Gas Turbine Power LLC, Huntley Power LLC and Dunkirk Power LLC (the "NRG Entities") filed comments opposing the NYISO's proposal which are more fully discussed below.³

KeySpan and NRG Entities (collectively, "Opposing Parties") argue that the August 10 Filing should not be approved in an expedited manner. In particular, they argue that the request for waiver of notice should not be granted because there has been insufficient time for market participants to evaluate the

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proposal. They further argue that the interim procedures may become permanent and that, therefore, the proposal should be carefully reviewed.

The NYISO's installed capacity rules, including the supplemental rules addressing the initial auction, were developed in a collaborative process that was open to participation by all market participants. This process included holding open meetings, posting of documents on the NYISO web site (<http://www.nyiso.com>) and providing a chance for all market participants to comment, in advance, on the proposed rules. All market participants, including the Opposing Parties, had an adequate opportunity to participate in these discussions and provide comments.

Therefore, an expedited review of the the August 10 Filing is appropriate. Moreover, during the development of the installed capacity market most market participants and the New York Public Service Commission ("NYPSC") expressed their support of an early start of the installed capacity market. See NYPSC Comments at 2-3.

The Opposing Parties also argue that the August 10 Filing was incomplete because it did not contain market power mitigation procedures as required by the Commission. They further argue that the market power mitigation procedures were filed on August 23, 1999 ("August 23 Filing"). They request, therefore, that the August 10 Filing not be considered without additional time for review and comment on the August 23 Filing.

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Additionally, Opposing Parties argue that there is no need to implement an interim auction before the commencement of the NYISO operations and that the existing reliable capacity market should remain in place until permanent procedures are filed, reviewed and approved. NRG Entities further argues that one of its members' bilateral agreements for Summer Capability and Winter Capability seasons demonstrate that there is no compelling need for an "interim" measure.

Such arguments merely serve to delay the start of the installed capacity auction and, consequently, the advent of competition in New York State. Installed capacity is needed in order to ensure a reliable supply of energy for the upcoming Winter Capability Period. Although the start of the NYISO was delayed until October 12, it is realistic to assume that the NYISO energy market will be in place during the Winter Capability Period. Given that, it is essential that the capacity market be in place in order to support the energy market. The proposal contained in the August 10 Filing can be evaluated separately from the proposal contained in the August 23 Filing and accordingly, there is no need to further delay its approval.

The Opposing Parties also state that the August 10 Filing lacks sufficient detail and would likely confuse market participants. NRG Entities argue that an auction without an operating market could create so much uncertainty that the auction would result in a less competitive and less reliable energy market. They claim that certain sections of the manual

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will have an effect on the supply of and demand for installed capacity in the market and, therefore, the information needs to be provided with sufficient lead time for proper price signals to be given to the market prior to the auction.

Contrary to these assertions, the NYISO filed a detailed description of the installed capacity auction and of how it will work. The actual auction procedures, bidding details, and procedures relating to the calculation of the clearing prices are contained in the installed capacity manual which is posted on the NYISO web site.⁴

The Opposing Parties further request clarification related to the bases for LSE installed capacity requirements; the timing within which the LSE must hold installed capacity to meet the forecasted peak; bidding procedures and method to determine the clearing price; and the ability of Con Edison divested generators subject to local market mitigation measures to sell energy outside of the NYCA if not selected in the day-ahead market.

As an initial matter, the clarifications requested by the Opposing Parties have been addressed at the public meetings and the information requested is available in the manuals.

Further, the NYISO and the Member Systems clarify that the monthly sub-auctions allow LSEs to adjust their capacity holdings to reflect changes in actual customer load responsibility. This is responsive to the Commission's concern

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that installed capacity be available for LSEs that acquire customers throughout the capability period.

The Opposing Parties also request clarification concerning how the \$105/kW-year cap for installed capacity, approved by the Commission, will be implemented. The NYISO needs to establish a cap to guide the auction for the Winter Capability Period because the FERC-approved mitigation measures were developed and approved prior to finalization of the NYISO installed capacity rules. The New York City zone winter installed capacity requirement was established by the summer 1999 peak load. Therefore, the Opposing Parties' claim that a \$52.5/kW cap for the winter capability period is unreasonably biased against generation owners can also be viewed by a large buyer as increasing the buyer's winter capacity payments above what they should be. KeySpan, for example is well aware that this past summer following the closing, Con Edison has been paying the equivalent of \$52.5/kW for summer installed capacity, so that, if KeySpan receives \$52.5/kW for the winter then they will receive the equivalent to \$105/kW on an annual basis.

Finally, the Opposing Parties request that the Commission wait for the establishment of permanent procedures prior to approving the proposed installed capacity auction. The interim procedures are necessary to enable the NYISO to conduct the installed capacity auction prior to the start of the energy market. This will facilitate the development of a robust

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capacity market. Therefore, the procedures should be approved and in place prior to the starting of the NYISO operations.

CONCLUSION

In view of the foregoing, the NYISO and the Member Systems respectfully request that the August 10 Filing be approved as filed.

Respectfully submitted,

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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 Rule 213 permits the filing of an answer to motions. Two of the so-called "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).

³ On Friday, September 10, 1999, NRG Entities made a Supplemental Filing to which the Member Systems will respond by September 14, 1999.

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).