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Andrea J. Weinstein
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Federal Energy Regulatory Affairs

June 17, 2004

VIA FEDERAL EXPRESS

Mr. John W. Boston
Chairman
New York Independent System Operator
3890 Carman Road
Schenectady, NY 12303

c/o Mr. William J. Museler
President and Chief Executive Officer
New York Independent System Operator
3890 Carman Road
Schenectady, NY 12303

Re: Notice of Appeal by Entergy Nuclear Indian Point 2, LLC, Entergy Nuclear Indian Point 3, LLC and Entergy Nuclear Fitzpatrick, LLC of the Management Committee's Decision to Approve Rate Schedule 1 Allocation Proposal

Dear Chairman Boston:

Pursuant to the Procedural Rules for Appeals to the NYISO Board of Directors, Entergy Nuclear Indian Point 2, LLC, Entergy Nuclear Indian Point 3, LLC and Entergy Nuclear Fitzpatrick, LLC respectfully submit three copies of a Notice of Appeal of the Management Committee's June 4, 2004 decision to approve the Rate Schedule 1 Allocation proposal. A copy of this Notice of Appeal has been electronically transmitted to the NYISO Staff for purposes of service.

Sincerely,

Andrea Weinstein

Andrea J. Weinstein

Attorney for Entergy Nuclear Indian Point 2, LLC, Entergy Nuclear Indian Point 3, LLC and Entergy Nuclear Fitzpatrick, LLC

NOTICE OF APPEAL BY ENTERGY NUCLEAR INDIAN POINT 2, LLC, ENTERGY NUCLEAR INDIAN POINT 3, LLC AND ENTERGY NUCLEAR FITZPATRICK, LLC OF THE MANAGEMENT COMMITTEE'S DECISION WITH RESPECT TO THE RATE SCHEDULE 1 ALLOCATION PROPOSAL

Decision Appealed: June 4, 2004 Management Committee action on Motions #4 and 4a regarding the Rate Schedule 1 allocation methodology.

Summary and Background: During its meeting of June 4, 2004, the Management Committee acted on two motions (Motions #4 and #4a[1]) relating to the methodology for allocating NYISO's Rate Schedule 1 charges. Entergy Nuclear Indian Point 2, LLC, Entergy Nuclear Indian Point 3, LLC and Entergy Nuclear Fitzpatrick, LLC (collectively "Entergy Nuclear") hereby appeal the Management Committee's approval of the allocation methodology proposed in Motion #4. In Motion #4, the Management Committee discontinued efforts to develop an unbundled Rate Schedule 1 charge and instead approved the Budget, Standards & Performance Committee ("BSP Committee") determination to set a modified straight percentage allocation, effective January 1, 2005, of 80% to loads and 20% to suppliers in the New York market for the Rate Schedule 1 charges. The current allocation methodology in effect until January 1, 2005 is 85% to loads and 15% to suppliers.

Entergy Nuclear urges the NYISO Board to retain the existing allocation methodology until such time as an unbundled structure for Rate Schedule 1 charges is implemented. The revised allocation methodology contains a bias against transactions in the bilateral market. In

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1 Motion 4a as proposed by Entergy Nuclear states: "Entergy Nuclear moves to table this motion until such time that the NYISO addresses the issue of disproportionate cost allocation to the bilateral side of the energy and ancillary services market. The current 85%-15% load/supply split for Rate Schedule 1 Recovery should not change until a fair and equitable solution has been developed and implemented by the NYISO. The bilateral issue was recently addressed in the NYISO's Credit Risk Policy and should also be addressed in any revision to Rate Schedule 1."

particular, the allocation method adopted in Motion #4 erroneously and disproportionately allocates the costs of credit risk and billing services for the LBMP market to parties that are not participating in this market and have already covered their credit exposure in their bilateral contracts.

1. The Distribution Methodology Adopted by the Management Committee for Rate Schedule 1 Results in an Unfair Allocation Burden to the Bilateral Side of the NYISO Markets

Entergy Nuclear is supportive of paying its fair share of the NYISO budget and Rate Schedule 1 charges. However, the simple percentage change and the composite rate calculation as adopted in Motion #4 does not result in a fair and reasonable allocation methodology. The NYISO markets have been designed to avoid inequity toward either the bidding of load and resources directly into the NYISO's LBMP market or participation by means of a bilateral transaction. However, the methodology approved under Motion #4 ignores this neutral design principle and the 80/20 split results in an unfair and disproportionate cost allocation to the bilateral side of the market. Specifically, market participants have recognized that bilateral transactions do not require NYISO credit support or risk/collateral management. Instead, parties to bilateral transactions already bear the costs of credit risk within their bilateral transactions. Moreover, the NYISO billing systems used to settle bilateral transactions are simplified and less complex than the LBMP settlements. Yet, as part of the Rate Schedule 1 charge, load and supply on the bilateral side of the market are paying for this unneeded credit support and billing services. In short, the 80/20 allocation method inappropriately allocates the costs of credit risk for LBMP market to parties that are not participating in this market and have already covered their exposure in their bilateral contracts. Put another way, participants in the bilateral market will pay a risk premium through the Rate Schedule 1 charge for parties transacting in the LBMP market. For these reasons, Entergy Nuclear requests that the NYISO Board of Directors reject the NYISO Management Committee's adoption of Motion #4.

Furthermore, Entergy Nuclear understands that a similar bilateral bias issue was addressed in the NYISO's Credit Risk Policy. In adopting a Credit Risk Policy, the Management Committee (as ultimately approved by the Board of Directors and FERC) (1) allocated working capital requirements prospectively on a pro rata share based on a customer's dollar volume participation in the NYISO markets; and (2) allocated remaining losses (losses existing after an individual customer's credit requirement has been fully utilized to cover the loss) to customers based on their pro rata share of transactions in the NYISO markets on a dollar volume basis. In this way, the dollar volume allocation approach aligns the volume of a party's transactions in the various NYISO markets with its credit risk. Moreover, this methodology recognizes that the overall dollar volume of a bilateral energy transaction is excluded from the credit risk allocation because parties to bilateral transactions bear their credit-related costs and the risk of customer default. In sum, the NYISO has previously recognized that bilateral market participants cover their own credit risks and this recognition should be carried over to the Rate Schedule 1 allocation.

II. The Current Allocation Methodology for Rate Schedule 1 Charges Should be Retained Until an Unbundled Rate Design is Developed

Entergy Nuclear understands that FERC previously recommended the development of unbundled Rate Schedule 1 charges[2] and Rudden supported an unbundled approach until the NYISO indicated that it did not have the resources to accomplish such unbundling.[3] Entergy

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2 *See New York Independent System Operator Inc.*, 100 FERC ¶ 61,315 (2002).

3 Specifically, Motion #4 stated that: "Rudden initially formed assumptions and completed the Rudden Study by developing an unbundled structure for the Rate Schedule 1 Charges." *See* Motions from June 4, 2004 Meeting at 1.

Nuclear believes that unbundling of the Rate Schedule 1 charges should remain the ultimate goal. To this end, any percentage allocation methodology for Rate Schedule 1 charges should merely be a placeholder until an unbundled rate design with multiple service categories is implemented by the NYISO.

Unbundling of the Rate Schedule 1 charges with assignment of cost responsibility for the specific components (like credit support) based on cost causation ensures that parties who benefit from specific services pay for those services. Regrettably, the minimum five-year term of Motion #4 will not further the goal of unbundling. With a five-year percentage allocation in place, there is no incentive for the NYISO and market participants to work toward unbundling in the near future. Moreover, the five-year term will exacerbate the bias against bilateral transactions described above because bilateral market participants will be forced to subsidize the LBMP market for five years. Instead of modifying the percentage allocation at this time, the NYISO should keep the current allocation (85/15) in place until the programming costs and timing of an unbundled rate structure for Rate Schedule 1 can be worked out.

III. Recommendation

Entergy Nuclear respectfully requests that the NYISO Board of Directors reject the NYISO Management Committee's adoption of Motion #4. In the alternative, Entergy Nuclear respectfully requests that the NYISO Board of Directors direct the adoption of Motion #4a as the basis for allocation of Rate Schedule 1 charges.

Respectfully Submitted,

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