HISTORIC DOCUMENTS RELATED TO "INJECTION BILLING UNIT" DEFINITION IN RATE SCHEDULE 1

1. Draft Motion, December 5, 2001 Management Committee Meeting;
2. Approved Motion, December 5, 2001 Management Committee Meeting;
3. Management Committee Minutes, December 5, 2001 Management Committee Meeting;
4. Approved Motion, May 2, 2002 Management Committee Meeting;
5. NYISO May 31, 2002 Filing Letter (85%/15%);
6. Tariff Sheets for May 31, 2002 Filing;
7. NYISO August 5, 2002 Response to Deficiency Letter (85%/15%);
8. FERC September 25, 2002 Order;
9. NYISO April 16, 2003 Filing Letter (Corrections to the May 31, 2002 Filing);
10. Tariff Sheets for April 16, 2003 Filing;
11. FERC June 11, 2003 Order;
12. Summary of Rate Schedule 1 Cost Allocation for End of 2002, June 26, 2003 BAWG Meeting;
13. Summary of Rate Schedule 1 Cost Allocation for Beginning of 2003, June 26, 2003 BAWG Meeting;
14. NYISO September 15, 2004 Filing Letter (80%/20%);
15. NYISO October 21, 2004 Answer to Comments and Protests; and
16. FERC November 15, 2004 Order.

Document 1

DRAFT MOTION, DECEMBER 5, 2001
MANAGEMENT COMMITTEE MEETING

Management Committee

December 5, 2001 Meeting

<u>Proposal to amend RS1 recovery mechanism for ISO Budget and FERC fees</u>

Motion to amend Rate Schedule 1 such that the NYISO charges as defined in the OATT Rate Schedule 1, Section 3A, for the fixed ISO Budget and FERC regulatory fees excluding those costs designated in Rate Schedule 1 Section 4, are charged to all market participants based on Energy Transactions (i.e injections and withdrawals) such that injections and sales to the NYISO market assume 15% of the charges and loads and withdrawals from the market assume 85% of the charges. Further a working group shall be appointed to recommend the appropriate allocation for consideration at the October 2002 MC meeting.

Document 2

APPROVED MOTION, DECEMBER 5, 2001
MANAGEMENT COMMITTEE MEETING

NYISO Management Committee Meeting

December 5, 2001

Consolidated Edison, New York, NY

MOTIONS FROM THE MEETING

Motion #1:
Motion to approve the Minutes of October 17, 2001

(Motion passed unanimously by show of hands)

Motion #2:
Motion to authorize the NYISO Staff to file with FERC under Section 205 to amend Rate Schedule 1 such that the NYISO charges as defined in the OATT Rate Schedule 1, Section 3A, for the fixed ISO Budget and FERC regulatory fees excluding those costs designated in Rate Schedule 1 Section 4, are charged to all market participants based on Energy Transactions (i.e. injections and withdrawals) such that injections, excluding those from wheelthroughs, and sales to the NYISO market assume 15% of the charges and loads, wheelthroughs and withdrawals from the market assume 85% of the charges. Further a working group shall be appointed to determine whether an alternative allocation should be considered no later than the October 2002 MC meeting. Final tariff language to be approved by the Tariff Review Committee in accordance with Management Committee Bylaws.

(Motion passed with 61.38 % affirmative votes)

Document 3

MANAGEMENT COMMITTEE MINUTES,
DECEMBER 5, 2001
MANAGEMENT COMMITTEE MEETING

NYISO Management Committee Meeting

5 December 2001
Consolidated Edison, Inc.
New York, NY

Meeting Minutes

1. Introductions and Meeting Objectives & Chairman's Report

The meeting was called to order at 10:06. Mr. Hiney and Mr. Museler presented service awards to Tom Puglia and Joyce Robichaud of ConEd for gracious and efficient hosting of the MC meetings at ConEd.

Mr. Hiney recapped the meeting objectives:

Consideration of, and voting on the RS1 mechanism.
Consideration of, and voting on the congestion reduction proposal.

He asked the sectors to identify members who would be willing to be on the tariff review committee.

He has issued a standing invitation to the chair of the budget committee to meet with the Project Priority Team.

2. Approval of the Minutes

Motion #1:
Motion to approve the Minutes of October 17, 2001

(Motion passed unanimously by a show of hands)

3. President's Report

Mr. Museler reported that CPS2 remains high. He noted that the NYISO would be meeting with the person in charge of homeland security for New York State to discuss security at electric facilities.

He noted that fuel prices have been contributing to the drop-off in the cost of electricity. In reporting on the inclusion of the BME price in the LBMP graph he commented that it showed some of the consequences of the problems with the lack of BME/SCD concordance. He reported that ancillary service prices remain calm as well. He noted that the NYISO would be tracking prices to determine if DAM and RT prices are indeed converging, as some people think. He commented on the overall performance of price corrections, noting that they are on a solid downward trend.

He highlighted the complexity of software adjustments necessary to effect changes in the billing system. The NYISO is on schedule for the 7 December final November 1999 bills. He requested that members not have individual meetings with the NYISO on overall billing issues, but rather work through the committee process to bring about systemic changes.

Mr. Amati expressed concern about the NYISO's desire to close the billing cycle (other than for TO metering information) within a four-month window. Mr. Museler responded that it was only a goal and that the NYISO staff would work with the BAWG to achieve a tighter time frame for final bills.

He recapped the Board's final budget approval. The Board agreed with the recommendations made by the MC except for the removal of the contingency. The total NYISO 2002 budget is $115.3 million plus $5.0 million in FERC fees, for a grand total of $120.3 million. In response to a question, he agreed that staff would review requests to assess contingency funds with the BSP and that we would perform the first quarter budget review in light of any RTO Orders that may be issued, as also requested by the MPs at the November, 2001 meeting.

He provided the first of a continuing series of reports on virtual bidding. Scheduled virtual supply ("VS") and virtual load ("VL") remain below 20,000 MWh. He commented that the NYISO would be revisiting the credit requirements in due course. In response to a question from Mr. Younger, Mr. Savitt replied that the NYISO is assessing the behavior of LSEs to determine if they are in effect using virtual bidding without putting up the required collateral. Mr. Museler replied that the NYISO is taking an **action item** to report back on what will eventually be reported on the website.

He reported that the AMP has been turned back on as a result of the FERC order. He noted that the NYISO would be producing a comprehensive mitigation plan to encompass all aspects of the NYISO's mitigation initiatives. Mr. King will be announcing on 7 December the convening of a task force to help flesh out the various dimensions of mitigation. He commented further that the NYISO will need to speak with the neighboring ISOs to ensure that the approaches are at least coordinated, if not identical.

FERC has reacted positively to the approach initiated by the NYISO, and agreed with ISO-NE and PJM, that they meet with FERC staff to discuss the ISOs' thoughts on the cost/benefit study FERC announced it would pursue with regard to the development of a region-wide ISO. The intent is to inform FERC's approach to such a study.

The NYISO believes that it has reached an agreement with PJM on how ICAP could be delivered to, and from, PJM. The NYISO took an **action item** to report back on the final results of the agreement.

The sector meeting survey produced generally a good assessment, along with some suggestions for improvement.

The SAS-70 process is on schedule, with fieldwork done and no significant problems identified. There will be a report to the MC, probably in February, after the Board has received it.

Mr. Museler reported generally on the procedures and steps that the NYISO has in place to minimize exposure in the ENRON bankruptcy situation. Mr. Reed asked for a description of the process that the NYISO used. Mr. Museler replied that for both pre- and post-bankruptcy there needed to be collateral requirements, and that the Hunton and Williams lawyers were following the proceedings.

Mr. Fernandez reported that FERC denied the NYISO's reserve pleading and that the NYISO has requested a hearing in the DC circuit. The NYISO has also requested from FERC a stay of the order pending the rehearing. Should FERC deny that stay, the 7 December bills will incorporate the required reserve rebilling.

Mr. Caplan inquired further about the methodology of the cost/benefit study. Mr. Museler responded that the ISOs have articulated a number of specific issues that need to be considered in such a study, for example the specification and management of TCCs.

4. Report on Customer Service Survey Results

Mr. Mayo reported on the Customer Satisfaction Survey. He recapped the objectives and methodology of the survey. The main thrust is to determine overall satisfaction and compare it to 2000, and then to incorporate resulting initiatives into the NYISO's business plan.

He noted that all the results showed improved in all survey areas. Areas that will be targeted for further improvement include billing issues, seams issues, website management, and communications.

5. Report on Seams Issues

Mr. King reported on progress towards resolving the seams issues that were identified as high priority by the Market Participants. He recapped the process as the identification of eight major seams issues, best practices, and a directive from the Board to resolve the issues by the summer of 2002.

The completed seams projects include enhanced operations tools, the transactions desk, the implementation of the ECA A and B end states, agreement on general principles of ICAP, an agreement (tentative) of an ICAP deliverability process with PJM, and reserve-sharing with ISO-NE.

Seams projects scheduled for May 2002 include long-term transmission pre-scheduling, ramp management, the open scheduling, multi-hour block trading, TSC discount, inter-ISO congestion management pilot, ACE diversity with ISO-NE, and a single location for ATC posting.

Under consideration are a second phase for OSS, an ISO-NE export rule change, TCC options for external transactions – a new product under consideration by the NYISO, multiple schedule changes within an hour, elimination of export/import taxes, controlled-line pricing, and in-Day pre-scheduling.

To resolve the seams issues with PJM there is a joint team working on pre-scheduling, ramp management, the inter-ISO congestion management pilot, ICAP deliverability, and the development of a common rule set.

To resolve issues with ISO-NE there is a joint team working on pre-scheduling, ramp management, the rules concerning ICAP deliverability, a common rule set for ICAP, and export market enhancements.

The NYISO is in the early stages of discussion with ISO-NE on the topics of TCC options, controlled-line pricing, multiple schedule changes, and TSC removal.

Mr. Caplan expressed concern that TSC removal had not been fully vetted. Mr. Museler responded that there have been preliminary discussions with the TOs. He noted that there may be a 2:1 benefit margin in the removal, and that it was worthwhile to review the issue on an expedited schedule.

6. Proposal to amend the RS1 Recovery Mechanism for the NYISO Budget and FERC Fees

Mr. Duthie presented the background and the motion for the amendment of the RS1 recovery mechanism. Ms. Saia said that the proposed language in both tariffs fails to specify the actual allocation as is necessary. Mr. Hiney noted that the Board will need to vote on the actual tariff filing, and that it was important to get the concepts and intent correct in the motion.

Mr. Parmelee explained that 85% of the charges are assigned to LSEs and withdrawers of power. The remaining 15% is to be recovered from injectors of power, as specified in the Market Services tariff.

In support of the proposal, Mr. Duthie noted that zero is not the right number for suppliers. The previously proposed 50 percent was not acceptable either. He noted that NYISO staff and counsel had done an earlier analysis and a comparison with PJM, and had come to approximately 15 percent for the injectors of power. The intent is to have everyone share in the costs of the operation of the NYISO. Some have argued that loads pay everything anyway. It was noted however, that in a market-based environment, not all of the costs may get borne by the loads.

Mr. Rudebusch noted that municipal utility support for the motion was limited in that: 15 percent has not been shown to be the right number; the analysis should include the variable components of Schedule 1, as well as the fixed portion; and, virtual bidders should also be assessed an allocation, since they utilize the ISO market services and benefit from them. He inquired as to the import of the sentence in the motion that read "Further a working group shall be appointed to recommend the appropriate allocation for consideration at the October 2002 MC meeting.

Mr. Duthie stated that that sentence was added to accommodate the concerns raised by Mr. Rudebusch.

Mr. Dowling stated that the parties he represented shared the concerns mentioned by Mr. Rudebusch.

From the floor there was a question about how reference prices would adjust to incorporate the charge. The NYISO responded that it had not had an opportunity to fully consider the process, and that there should be further discussion.

MPs discussed several possible amendments to the motion, most of which were deemed friendly. These possible amendments dealt with including such costs in reference prices, and filing the tariff.

Ms. Saia raised a procedural point about whether there might be a second motion (regarding the inclusion of reference prices) following the first motion. The NYISO responded that while it understood and agreed with what the motion was designed to accomplish – the inclusion of the costs under discussion in the development of reference levels – it disagreed with the use of directive language in a motion to accomplish the goal.

To address the concerns of the parties, Mr. Savitt read the following statement into the minutes:

"The NYISO acknowledges that the Rate Schedule 1 and FERC fees to be imposed upon generators as part of the pending motion are legitimate costs that are includable in developing reference levels. The MMU will make an appropriate adjustment to reference levels in consultation with the generators, including the in-City generators, upon the effective date of the tariff provisions implementing this motion."

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(Motion passed with 61.38 % affirmative votes)

7. Congestion Reduction Proposal

Mr. Ancona withdrew the proposal.

8. Report on work underway in Working Groups and Task Force meetings

Ms. Robinson provided a summary of the major issues that the working groups and task forces are considering. She recapped the reporting structure proceeding from the Business Issues and the Operating Committees and requested that if there were additional issues that MPs felt should have been included to notify her and that she would then circulate a revised report.

9. New Business

There was no new business.

10. Adjourn

The meeting was adjourned at 1:40.

NYISO Management Committee Meeting

December 5, 2001

Consolidated Edison, New York, NY

MOTIONS FROM THE MEETING

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(Motion passed with 61.38 % affirmative votes)

New York Independent System Operator - Committee Membership

Management Committee - Attendance December 5, 2001 - Con Ed, NY - Parties Checked in Attendance

Organization	Sector	Representative	Alternate1	Alternate2	Alternate3	Alternate4	Alternate5	Proxy	Guest
NYS Energy Research & Develop. Auth.	End Use - Gov. Agency/Aggr.	Paul DeCotis	Charles Kowalski	✓ Jeffrey Gerber					
The City of New York	End Use - Gov. Agency/Aggr.	Jay Kooper	✓ Richard Miller					✓ Jesse Samberg	
Alcoa/Reynolds Metals Company	End Use - Large Consumers	Leonard Singer	Robert Loughney	✓ Michael Mager					
Amerada Hess Corporation	End Use - Large Consumers	John Schultz	Mark Wilson	Michael DiBella	Greg Sticka				
ATCO Management Co.	End Use - Large Consumers	Peter DiCapua	Scott Petersen	George Diamantopoulos	Steven Latargia				
IBM Corporation	End Use - Large Consumers	Leonard Singer	Robert Loughney	✓ Michael Mager					
Occidental Chemical Corp.	End Use - Large Consumers	Leonard Singer	Robert Loughney	✓ Michael Mager					
Praxair Inc.	End Use - Large Consumers	Christian Lenci	Leonard Singer	Robert Loughney	✓ Michael Mager				
Xerox Corporation	End Use - Large Consumers	Leonard Singer	Robert Loughney	✓ Michael Mager					
Metropolitan Transportation Authority	End Use - Large Cons. Gov.	✓ Jesse Samberg	Gary Caplan	✓ Walter McCarroll					
Aaron Breidenbaugh	End Use - Small Consumers	✓ Aaron Breidenbaugh							
Association for Energy Affordability, Inc.	End Use - Small Consumers	✓ David Hepinstall	Larry DeWitt					✓ Aaron Breidenbaugh	
Beth Israel Health Care System	End Use - Small Consumers	Catherine Luthin	✓ John Dowling	Jennifer Kearney	✓ Tariq Niazi	Doug Elfner			
Building and Realty Institute	End Use - Small Consumers	✓ Herb Rose	Jeff Hanley	Catherine Luthin	✓ John Dowling	Jennifer Kearney			
Caithness Energy, L.L.C	End Use - Small Consumers	Daniel McBrearty	Jack Feinstein						
Citizens Advisory Panel	End Use - Small Consumers	Gordian Raacke	Larry DeWitt					✓ Aaron Breidenbaugh	
CNYC Inc. (Council of NY Coop & Condo)	End Use - Small Consumers	✓ Herb Rose	MaryAnn Rothman	Catherine Luthin	✓ John Dowling	Jennifer Kearney			
Columbia University	End Use - Small Consumers	Catherine Luthin	✓ John Dowling	Jennifer Kearney	✓ Tariq Niazi	Doug Elfner			
Hudson River Energy Group	End Use - Small Consumers	Frank Radigan							
Mount Sinai Medical Center	End Use - Small Consumers	Catherine Luthin	✓ John Dowling	Jennifer Kearney	✓ Tariq Niazi	Doug Elfner			
New York Energy Buyers Forum	End Use - Small Consumers	Catherine Luthin	✓ John Dowling	Jennifer Kearney	✓ Tariq Niazi	Doug Elfner			
New York Presbyterian Hospital	End Use - Small Consumers	Catherine Luthin	✓ John Dowling	Jennifer Kearney	✓ Tariq Niazi	Doug Elfner			
New York University	End Use - Small Consumers	Catherine Luthin	✓ John Dowling	Jennifer Kearney	✓ Tariq Niazi	Doug Elfner			
Refined Sugars, Inc.	End Use - Small Consumers	John Gebhard	Paul Faia	Catherine Luthin	✓ John Dowling	Jennifer Kearney			
William P. Short	End Use - Small Consumers	William Short	Marc Schaefer	Joe DeVito	✓ John Brodbeck	Ron Matlock	✓ Paul Savage	Roberto Denis	
NY State Consumer Protection Board	End Use - State Agency	✓ Tariq Niazi	Doug Elfner						
AES NY	Generation Owners	✓ Christopher Wentlent	Rick Santoroski						
American National Power, Inc.	Generation Owners	Dorothy Capra	Bill Henson						
Astoria Energy LLC	Generation Owners	William May	Leonard Singer						
Calpine	Generation Owners	John Eff	Thomas Kaslow	✓ Richard Felak					
CH Resources	Generation Owners	Gary Thom	Gary Miller	Diane Seitz					
East Coast Power	Generation Owners	Gary Keevill	Asavari Alvarez						
Edison Mission Marketing & Trading	Generation Owners	✓ William Roberts	Robert Agnello	Jeffrey Ellis				✓ Peter Brown	
Entergy Nuclear Northeast	Generation Owners	Marc Potkin	William Stone	✓ Ron Mackowiak					
Indeck Energy Services	Generation Owners	Mike Ferguson	John Schrage	✓ Mark Younger					
KeySpan Ravenswood, Inc	Generation Owners	✓ James Brennan	Kevin Knapp	✓ Dick Ackerson	Ron Lukas	✓ Terrence Kain	James D'Andrea		
Mirant New York, Inc.	Generation Owners	✓ Joe Holtman	Mark Petro	✓ Doreen Saia					
NRG Energy	Generation Owners	Joe Devito	Frank Rapley	✓ Paul Savage	Marc Dworkin	Ruben Brown	Peter Chamberlain	Chris Young	
Orion Power New York	Generation Owners	Mark Sudbey	✓ Janet Audunson	✓ John Reese					
PG&E Generating	Generation Owners	✓ Steve McDonald	Jeff Simmons						
PSEG Energy Resources & Trade	Generation Owners	James Hebson	✓ Michael LaFalce						
Sithe Energies, Inc.	Generation Owners	✓ Tim Bush	✓ Garry Brown	✓ David Applebaum					✓ Glenn Haake
TransCanada Power Marketing	Generation Owners	William Taylor	Elaine Beaudry						
NYS Department of Public Service	Non-voting	Saul Rigberg	Joel Brainard						✓ T. Dvorsky, M. Reeder
1st Rochdale Cooperative NYC	Other Suppliers	Phyllis Kessler	Gregory Wortham	Andrea Mendez					
Advantage Energy, Inc.	Other Suppliers	Kyle Storie							
Aquila Energy Marketing Corp.	Other Suppliers	Jason Stever	✓ Peter Brown	David Wiesner	Pamela VanHorn	Richard Mooney			
Automated Power Exchange (APX)	Other Suppliers	Gary Zielanski	Mike FitzPatrick						
Cinergy Capital and Trading	Other Suppliers	Walt Yeager	Jan Bagnall						
Cinergy Services	Other Suppliers	Walt Yeager	Jan Bagnall						
Con Edison Energy	Other Suppliers	Ken Bekman	Ivan Kimball						
Con Edison Solutions	Other Suppliers	Ken Bekman	✓ Stephen Wemple						
Conectiv	Other Suppliers	Steve Huntoon	Bill Fehr						
Constellation Power Source	Other Suppliers	✓ Harvey Reed	Glen McCartney	David Taylor					
Duke Energy North America, LLC	Other Suppliers	Ronald Matlock	Del Disher	Tom Bankert					
Dynegy	Other Suppliers	✓ Chad Wagner	✓ Matthew Picardi					✓ Steve Vavrik	
El Paso Merchant Energy	Other Suppliers	Alan Foster	Eric Stoerr					✓ Russel Like	
Energetix, Inc.	Other Suppliers	Barney Farnsworth							
Enron Power Marketing Inc.	Other Suppliers	✓ Not Assigned							
Exelon Generation - Power Team	Other Suppliers	✓ Regina Carrado	✓ Garry Brown	✓ David Applebaum	✓ Tim Bush	Jack Crowley			
FPL Energy	Other Suppliers	Roberto Denis	Bill Fenerty						
HQ Energy Services	Other Suppliers	Benoit Goyette	✓ Michel Prevost	Paul Norris	Joel Zipp	Gunnar Birgisson			
KeySpan Energy Services	Other Suppliers	Ron Lukas	Ruben Brown	Peter Chamberlain	John Smith				
Transalta (formerly MEGA)	Other Suppliers	Daniel Lobue	John Carmody						

New York Independent System Operator - Committee Membership

Management Committee - Attendance December 5, 2001 - Con Ed, NY - Parties Checked in Attendance

Organization	Sector	Representative	Alternate1	Alternate2	Alternate3	Alternate4	Alternate5	Proxy	Guest
Morgan Stanley Capital Group	Other Suppliers	Patrick Murray	Karen Kochonies	✓ Levon Kazarian	✓ Doron Ezickson				
New Energy Inc.	Other Suppliers	Peter Duprey	Stephen Fernands						
Niagara Mohawk Energy Marketing	Other Suppliers	Marc Overdyk	Jim Cifaratta						
NU / Select Energy	Other Suppliers	Gunnar Jorgensen	✓ James Scheiderich						
Ontario Power Generation Inc.	Other Suppliers	Barry Green	Tasos Karatsoreos	Ken Lacivita					✓ Joel Singer
PP&L Energy Plus	Other Suppliers	✓ John Brodbeck		Roger Dolan	Garreth Kirkner				
PSEG Energy Technologies Inc.	Other Suppliers	Patricia Esposito							
Sempra Energy Trading	Other Suppliers	Tom Halleran	Dana Volpe	✓ Russel Like	Mally Becker	Bob Chilton			
Strategic Energy LLC	Other Suppliers	✓ Michael Swider	Jeffrey Knox	James McCormick	Helen Caldwell				
Strategic Power Management, Inc.	Other Suppliers	✓ Dan Duthie	✓ Mario DiValentino						
TransÉnergie U.S. Ltd.	Other Suppliers	José Rotger	Michael Jacobs						
Williams Energy Marketing & Trading Co.	Other Suppliers	Dennis Keener	Robert O'Connell						
Long Island Power Authority	Public Power - Authorities	✓ Jim Parmelee	Seth Hulkower	Alan Elberfield					
New York Power Authority	Public Power - Authorities	✓ Robert Hiney	✓ William Palazzo	✓ Kim Byham					
American Wind Energy Association	Public Power - Environmental	David Wooley	Larry DeWitt					✓ Aaron Breidenbaugh	
Environmental Advocates	Public Power - Environmental	Anne Reynolds	Larry DeWitt					✓ Aaron Breidenbaugh	
Nat'l Resources Defense Council	Public Power - Environmental	Dale Bryk	Larry DeWitt					✓ Aaron Breidenbaugh	
Pace University	Public Power - Environmental	Edward Smeloff	Larry DeWitt					✓ Aaron Breidenbaugh	
Scenic Hudson	Public Power - Environmental	Larry DeWitt						✓ Aaron Breidenbaugh	
Bath Electric, Gas & Water Systems	Public Power - Munis & Co-ops	Neil Wrinkle	✓ Paul Pallas	Jim Hamilton	Jack Brown	Ken Moore		✓ Tom Rudebusch	
City of Jamestown Board of Pub. Util.	Public Power - Munis & Co-ops	✓ Michael Darroch	David Gustafson	Wally Haase	✓ Tom Rudebusch				
Plattsburgh Municipal Lighting Dept.	Public Power - Munis & Co-ops	Jack Brown	✓ Paul Pallas	✓ Tom Rudebusch					
Village of Fairport	Public Power - Munis & Co-ops	Ken Moore	✓ Tom Rudebusch	✓ Paul Pallas					
Village of Freeport	Public Power - Munis & Co-ops	Hubert Bianco	Robert Kortright						
Village of Rockville Centre	Public Power - Munis & Co-ops	✓ Paul Pallas	Jim Hamilton	Jack Brown	Ken Moore	Neil Wrinkle		✓ Tom Rudebusch	
Village of Westfield	Public Power - Munis & Co-ops	Jim Hamilton	✓ Paul Pallas	Neil Wrinkle	Jack Brown	Ken Moore		✓ Tom Rudebusch	
Central Hudson Gas & Electric	Transmission Owners	✓ Charles Freni	John Watzka	Ronald Brand					
Consolidated Edison	Transmission Owners	Joe Oates	✓ Terry Agriss	✓ Neil Butterklee					✓ Mayer Sasson
Niagara Mohawk Power Company	Transmission Owners	✓ Martin Amati	✓ Jerry Ancona	Herb Schrayshuen					✓ Paul Gioia
NY State Electric Gas (NYSEG)	Transmission Owners	Denis Wickham	✓ Raymond Kinney	Hank Masti				David Kimiecik(BIC)	✓ Stu Kaplan
Orange & Rockland, Inc.	Transmission Owners	Phil Nannery							
Rochester Gas & Electric	Transmission Owners	✓ Clifton Olson	Laurie King-Pirchner						
American Electric Power (AEP)	Non-voting	Glenn Riepl	James Shrewsbury						
New Member	Non-voting								
New Member	Non-voting								

NYISO and Hunton & Williams Members in Attendance:

Ira Freilicher	Hunton & Williams
Kathy Robb	Hunton & Williams
✓ Gina Fedele	Hunton & Williams
✓ Jim Savitt	NYISO
✓ Kristen Kranz	NYISO
✓ Valerie Ross	NYISO
✓ Jonathan Mayo	NYISO
✓ Bill Museler	NYISO
✓ Leigh Bullock	NYISO
✓ Elaine Robinson	NYISO
✓ Jane Lathrop	NYISO
✓ Mollie Lampi	NYISO
✓ Cheryl-Ann DeLaRosa	NYISO

New York Independent System Operator

Management Committee - December 5, 2001

Motion: Motion #2

Result: Motion Passed

Sector with base percent	%	Active	Quorum	Adj. Percent	For	Against	Abstain	% For	% Against
Generation Owners	21.5	✓	✓	21.50	0.00	8.00	3	0.00	21.50
Other Suppliers	21.5	✓	✓	21.50	2.00	7.00	5	4.78	16.72
Transmission Owners	20.0	✓	✓	20.00	5.00	0.00	0	20.00	0.00
End Use Consumers			✓						
Large Consumers	9.0	✓		9.00	5.00	0.00	0	9.00	0.00
Large Cons. Gov. Agency	2.0	✓		2.00	1.00	0.00	0	2.00	0.00
Small Consumers	4.5	✓		4.50	12.00	0.00	1	4.50	0.00
Gov. State-wide Cons. Advocate	2.7	✓		2.70	1.00	0.00	0	2.70	0.00
Gov. Sm. Cons. & Retail Aggr.	1.8	✓		1.80	2.00	0.00	0	1.80	0.00
Public Power			✓						
State Power Authorities	8	✓		8.00	2.00	0.00	0	8.00	0.00
Munis and Coops	7	✓		7.00	6.00	0.00	0	7.00	0.00
Environmental	2	✓		2.00	4.00	1.00	0	1.60	0.40
			5	100.00	40.00	16.00	9	61.38	38.62
				100.00	Normalized to 100% :			61.38	38.62

New York Independent System Operator

Management Committee - December 5, 2001

Motion

Motion #2

Sector	Organization	Representative	Affiliate	Present	For	Against
End Use - Gov. Agency/Aggr.	NYS Energy Research & Develop. Auth.	Jeffrey Gerber		y	1.00	
End Use - Gov. Agency/Aggr.	The City of New York	Richard Miller		y	1.00	
End Use - Large Consumers	Alcoa/Reynolds Metals Company	Michael Mager		y	1.00	
End Use - Large Consumers	Amerada Hess Corporation					
End Use - Large Consumers	ATCO Management Co.					
End Use - Large Consumers	IBM Corporation	Michael Mager		y	1.00	
End Use - Large Consumers	Occidental Chemical Corp.	Michael Mager		y	1.00	
End Use - Large Consumers	Praxair Inc.	Michael Mager		y	1.00	
End Use - Large Consumers	Xerox Corporation	Michael Mager		y	1.00	
End Use - Large Cons. Gov.	Metropolitan Transportation Authority	Jesse Samberg		y	1.00	
End Use - Small Consumers	Aaron Breidenbaugh	Aaron Breidenbaugh		y	1.00	
End Use - Small Consumers	Association for Energy Affordability, Inc.	David Hepinstall		y	1.00	
End Use - Small Consumers	Beth Israel Health Care System	John Dowling		y	1.00	
End Use - Small Consumers	Building and Realty Institute	Herb Rose		y	1.00	
End Use - Small Consumers	Caithness Energy, L.L.C					
End Use - Small Consumers	Citizens Advisory Panel	Aaron Breidenbaugh		y	1.00	
End Use - Small Consumers	CNYC Inc. (Council of NY Coop & Condo)	Herb Rose		y	1.00	
End Use - Small Consumers	Columbia University	John Dowling		y	1.00	
End Use - Small Consumers	Hudson River Energy Group					
End Use - Small Consumers	Mount Sinai Medical Center	John Dowling		y	1.00	
End Use - Small Consumers	New York Energy Buyers Forum	John Dowling		y	1.00	
End Use - Small Consumers	New York Presbyterian Hospital	John Dowling		y	1.00	
End Use - Small Consumers	New York University	John Dowling		y	1.00	
End Use - Small Consumers	Refined Sugars, Inc.	John Dowling		y	1.00	
End Use - Small Consumers	William P. Short	John Brodbeck		y		
End Use - State Agency	NY State Consumer Protection Board	Tariq Niazi		y	1.00	
Generation Owners	AES NY	Christopher Wentlent		y		1.00
Generation Owners	American National Power, Inc.					
Generation Owners	Astoria Energy LLC					
Generation Owners	Calpine	Richard Felak		y		
Generation Owners	CH Resources		y			
Generation Owners	East Coast Power		y			
Generation Owners	Edison Mission Marketing & Trading	Peter Brown		y		1.00
Generation Owners	Entergy Nuclear Northeast	Ron Mackowiak		y		1.00
Generation Owners	Indeck Energy Services	Mark Younger		y		1.00
Generation Owners	KeySpan Ravenswood, Inc	James Brennan		y		1.00
Generation Owners	Mirant New York, Inc.	Joe Holtman		y		
Generation Owners	NRG Energy	Paul Savage		y		1.00
Generation Owners	Orion Power New York	Janet Audunson		y		
Generation Owners	PG&E Generating	Steve McDonald		y		1.00
Generation Owners	PSEG Energy Resources & Trade	Michael LaFalce		y		1.00
Generation Owners	Sithe Energies, Inc.	Tim Bush	y	y		
Generation Owners	TransCanada Power Marketing					
Non-voting	NYS Department of Public Service		y			
Other Suppliers	1st Rochdale Cooperative NYC					
Other Suppliers	Advantage Energy, Inc.					
Other Suppliers	Aquila Energy Marketing Corp.	Peter Brown		y		1.00
Other Suppliers	Automated Power Exchange (APX)					
Other Suppliers	Cinergy Capital and Trading		y			
Other Suppliers	Cinergy Services					
Other Suppliers	Con Edison Energy		y			
Other Suppliers	Con Edison Solutions	Stephen Wemple	y	y		
Other Suppliers	Conectiv					
Other Suppliers	Constellation Power Source	Harvey Reed		y		1.00
Other Suppliers	Duke Energy North America, LLC					
Other Suppliers	Dynegy	Chad Wagner		y		
Other Suppliers	El Paso Merchant Energy	Russel Like		y		1.00
Other Suppliers	Energetix, Inc.		y			
Other Suppliers	Enron Power Marketing Inc.	Howard Fromer		y		
Other Suppliers	Exelon Generation - Power Team	Regina Carrado		y		
Other Suppliers	FPL Energy					
Other Suppliers	HQ Energy Services	Michel Prevost		y		
Other Suppliers	KeySpan Energy Services		y			
Other Suppliers	Transalta (formerly MEGA)					
Other Suppliers	Morgan Stanley Capital Group	Levon Kazarian		y		1.00
Other Suppliers	New Energy Inc.		y			
Other Suppliers	Niagara Mohawk Energy Marketing		y			
Other Suppliers	NU / Select Energy	James Scheiderich		y	1.00	
Other Suppliers	Ontario Power Generation Inc.	Joel Singer		y		1.00
Other Suppliers	PP&L Energy Plus	John Brodbeck		y		1.00
Other Suppliers	PSEG Energy Technologies Inc.					
Other Suppliers	Sempra Energy Trading	Russel Like		y		1.00
Other Suppliers	Strategic Energy LLC	Michael Swider		y		
Other Suppliers	Strategic Power Management, Inc.	Dan Duthie		y	1.00	
Other Suppliers	TransÉnergie U.S. Ltd.		y			
Other Suppliers	Williams Energy Marketing & Trading Co.					
Public Power - Authorities	Long Island Power Authority	Jim Parmelee		y	1.00	
Public Power - Authorities	New York Power Authority	Robert Hiney		y	1.00	
Public Power - Environmental	American Wind Energy Association	Aaron Breidenbaugh		y		1.00
Public Power - Environmental	Environmental Advocates	Aaron Breidenbaugh		y	1.00	
Public Power - Environmental	Nat'l Resources Defense Council	Aaron Breidenbaugh		y	1.00	
Public Power - Environmental	Pace University	Aaron Breidenbaugh		y	1.00	
Public Power - Environmental	Scenic Hudson	Aaron Breidenbaugh		y	1.00	
Public Power - Munis & Co-ops	Bath Electric, Gas & Water Systems	Paul Pallas		y	1.00	
Public Power - Munis & Co-ops	City of Jamestown Board of Pub. Util.	Michael Darroch		y	1.00	
Public Power - Munis & Co-ops	Plattsburgh Municipal Lighting Dept.	Paul Pallas		y	1.00	
Public Power - Munis & Co-ops	Village of Fairport	Tom Rudebusch		y	1.00	
Public Power - Munis & Co-ops	Village of Freeport					
Public Power - Munis & Co-ops	Village of Rockville Centre	Paul Pallas		y	1.00	
Public Power - Munis & Co-ops	Village of Westfield	Paul Pallas		y	1.00	
Transmission Owners	Central Hudson Gas & Electric	Charles Freni		y	1.00	
Transmission Owners	Consolidated Edison	Terry Agriss		y	1.00	
Transmission Owners	Niagara Mohawk Power Company	Martin Amati		y	1.00	
Transmission Owners	NY State Electric Gas (NYSEG)	Raymond Kinney		y	1.00	
Transmission Owners	Orange & Rockland, Inc.		y			
Transmission Owners	Rochester Gas & Electric	Clifton Olson		y	1.00	
Non-voting	American Electric Power (AEP)		y			
Non-voting	New Member		y			
Non-voting	New Member		y			

Document 4

Approved Motion, May 2, 2002
Management Committee Meeting

NYISO Management Committee Meeting

May 2, 2002

Meeting Via Conference Call

MOTIONS FROM THE MEETING

Motion #1:

Motion to approve the Minutes of April 17, 2002

(Motion passed unanimously by polling members for abstentions and objections)

Motion #2:

WHEREAS the Management Committee has approved recovery in Rate Schedule 1 (in both the OATT and the Services Tariff) of the fixed ISO Budget and FERC regulatory fees, excluding those costs designated in Rate Schedule 1 Section 4, from all market participants based on Energy Transactions (i.e. injections and withdrawals) such that injections, excluding wheelthroughs, and sales to the NYISO market assume 15% of the charges and loads, wheelthroughs and withdrawals from the market assume 85% of the charges; and

WHEREAS no effective date for such change was specifically included in the Management Committee's action on that issue; therefore

BE IT HEREBY RESOLVED that the Management Committee requests that the NYISO staff include in its Section 205 filing an effective date of June 1, 2002 for this change and ask FERC to approve such effective date.

(Motion passed with 59.15% affirmative votes)

Motion #3:

The Management Committee hereby requests that the Board concur in a Section 205 filing to amend the NYISO tariffs to implement a revised Transmission Congestion Contract collateral requirement as reflected in the material distributed to the Management Committee on Thursday April 25, 2002.

(Motion passed unanimously with abstentions by polling members for abstentions and objections)

Document 5

NYISO MAY 31, 2002 FILING LETTER

(85%/15%)

ORIGINAL

HUNTON & WILLIAMS

FILED
OFFICE OF THE SECRETARY
02 MAY 31 PM 1:19
FEDERAL ENERGY
REGULATORY COMMISSION

1900 K STREET, N.W.
WASHINGTON, D.C. 20006-1109

TEL 202 • 955 • 1500
FAX 202 • 778 • 2201

TED J. MURPHY
DIRECT DIAL: 202 • 955 • 1588
EMAIL: tmurphy@hunton.com

May 31, 2002

FILE NO: 55430.44

BY HAND

The Honorable Magalie R. Salas, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

ER02-1961-000

New York Independent System Operator, Inc.'s
Filing of Tariff Revisions to Modify
Recovery of Charges Assessed Under Rate Schedule 1 of Its Open-Access
Transmission Tariff and Market Administration and Control Area Services Tariff

Dear Ms. Salas:

Pursuant to Section 205 of the Federal Power Act ("FPA"), the New York Independent System Operator, Inc. ("NYISO"), by counsel, hereby submits revisions to Rate Schedule 1 of its Open Access Transmission Tariff ("OATT") and of its Market Administration and Control Area Services Tariff. The NYISO's operating costs are currently recovered exclusively from Loads[1] within the New York Control Area ("NYCA"). The proposed tariff revisions re-allocate the responsibility for NYISO costs by assigning eighty-five (85) percent of the responsibility for paying for the NYISO's budgeted annual operating costs and its Commission-assessed regulatory fees to Loads and other withdrawals of Energy from the NYCA and assigning fifteen (15) percent to all injections supplying Energy into the NYCA Locational-Based Marginal Price ("LBMP") Market.

A majority of the New York Market Participants believe that the proposed new cost allocation methodology would be more equitable than the existing system The NYISO has no financial interest in the allocation of charges among Market Participants, and does not believe that the allocation proposed herein will have an effect, positive or negative, on the

020605 0534·1

[1] Capitalized terms not otherwise defined herein have the meaning ascribed to them in Article 1 of the OATT, or Article 2 of the Services Tariff.

DOCKETED

HUNTON & WILLIAMS

efficiency of its markets. It is making this filing, however, to reflect the wishes of a majority of its Market Participants.

I. List of Documents Submitted

The NYISO submits the following documents:

1. this filing letter;

2. clean OATT sheets reflecting the revisions proposed herein ("Attachment I");

3. redlined OATT sheets reflecting the revisions proposed herein ("Attachment II");

4. clean Services Tariff sheets reflecting the revisions proposed herein ("Attachment III");

5. redlined Services Tariff sheets reflecting the revisions proposed herein ("Attachment IV"); and

6. a form of *Federal Register* Notice ("Attachment V").

II. Copies of Correspondence

Copies of correspondence concerning this filing should be served on:

Robert E. Fernandez, General Counsel and Secretary
Belinda Thornton, Director of Regulatory Affairs
Gerald R. Deaver, Senior Attorney
New York Independent System Operator, Inc.
3890 Carman Road, Schenectady, NY 12303
Tel: (518) 356-6153
Fax: (518) 356-4702
rfernandez@nyiso.com
bthornton@nyiso.com
gdeaver@nyiso.com

Arnold H. Quint
Ted J. Murphy
Hunton & Williams
1900 K Street, NW
Washington, D.C. 20006
Tel: (202) 955-1500
Fax: (202) 778-2201
aquint@hunton.com
murphy@hunton.com

III. Proposed Effective Date

On May 2, 2002, the NYISO Management Committee, by a 59.15% affirmative vote, approved a motion asking that the NYISO seek an effective date of June 1, 2002, for the tariff revisions proposed in this filing. The Management Committee approved this motion knowing that the NYISO would not be in a position to implement the billing software changes necessary to apply the new cost allocation methodology proposed herein until sometime in the fourth quarter of 2002. Nevertheless, a majority of the Management Committee wanted the proposed tariff revisions be made effective on June 1, 2002, so that the NYISO could apply the new allocation methodology from that date forward through true-up billings starting in the fourth quarter of 2002. The NYISO submits, therefore, that there is good cause for a waiver of the Commission's usual sixty-day notice period and respectfully requests that the tariff revisions proposed in this filing become effective on June 1, 2002.

IV. Service List

The NYISO has mailed a copy of this filing to all parties who have executed Service Agreements under the NYISO's OATT or its Market Administration and Control Area Services Tariff, and to the electric utility regulatory agencies in New York, New Jersey, and Pennsylvania.

V. Description of and Purpose for Revisions to Services Tariff and OATT

Currently, the NYISO's annual budgeted operating costs and Commission-assessed regulatory fees are assessed to, and recovered from, Market Participants under Rate Schedule 1 of both the OATT and the Services Tariff. Costs recovered under the Services Tariff are those related to the functions that the NYISO performs under it, including the administration of the LBMP markets, ICAP requirements and the ICAP Markets, Control Area Services other than Ancillary Services provided under the OATT, Market Monitoring, and NYCA reliability functions.[2] All other NYISO operating costs are recovered under the OATT, including costs related to transmission operations, security constrained dispatch, billing and settlement, system studies, communications, dispute resolution, record keeping and auditing, training, system development, professional services, working capital and carrying costs, taxes, general

[2] Services Tariff, Rate Schedule 1, Section 4.

and administrative functions, insurance, bad debts, and Commission-assessed regulatory fees.[3] Under both current versions of Rate Schedule 1, the determinations of applicable billing units, and the computations of rates for recovering these costs, are currently based exclusively on energy withdrawals for serving loads in the NYCA or for exporting energy from the NYCA.

In order to more broadly assign responsibility for the NYISO's costs among Market Participants, the Management Committee adopted a motion asking the NYISO to amend both versions of Rate Schedule 1 so that all Market Participants would pay a portion of the NYISO's fixed annual operating budget and Commission-assessed regulatory fees on the basis of Energy Transactions. Under the proposed methodology, which a majority of the Management Committee considered more equitable than the existing system, Energy injections and sales to the LBMP Market would bear fifteen percent of the total charges and Energy withdrawals from the market for Loads or Exports would assume eighty-five percent.

Accordingly, this filing proposes the following amendments to implement the recovery of NYISO operating costs from both energy injections and energy withdrawals under Rate Schedule 1 of the OATT and the Services Tariff.

A. <u>Applicability of Rate Schedule 1 Charges</u>

In order to implement the proposed cost allocation methodology while ensuring that the entire NYISO fixed budget is fully recovered, the NYISO proposes to revise the applicability provisions of Rate Schedule 1 in both the OATT and the Services Tariff. The proposed amendments to Section 1 of OATT Rate Schedule 1 specify that Transmission Customers taking service exclusively under the OATT will pay "ISO Services Charges" for a portion of the NYISO's budget costs and Commission-assessed regulatory fees, the Residual Adjustment Charge, and the bid production guarantee entirely under the OATT. Transmission Customers taking both OATT and Services Tariff service would pay a portion of NYISO annual budgeted operating costs and Commission-assessed regulatory fees determined pursuant to proposed Sections 3.A through 3.C of the Services Tariff and would pay their Residual Adjustment Charge and bid production guarantee charges under the OATT.

Consistent with the proposed OATT amendments, Market Participants taking service under both tariffs will pay a portion of the NYISO's budgeted annual operating costs and

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3 OATT, Rate Schedule 1, Section 4.A.

Commission-assessed regulatory fees determined under the proposed Section 3.A through 3.C of the Services Tariff Rate Schedule 1 and will continue to pay for Residual Adjustment Charges and bid production guarantees charges according to the OATT. The amendments to Section 1 of Services Tariff Rate Schedule 1 reiterate that OATT-only Customers shall pay ISO Services Charges determined under the OATT.

B. Billing Units and Calculation of Rates

Under the existing Rate Schedules, the rates for collecting OATT and Services Tariff charges are determined by and billed according to energy withdrawals only. These withdrawals are presently comprised of actual withdrawals of Energy to supply Load in the NYCA and scheduled Energy Wheels Through and Exports from the NYCA.

As part of the proposed new cost allocation methodology the NYISO proposes to calculate rates and bills on the basis of both Energy injections and Energy withdrawals by amending the language governing the determination of billing units under both Rate Schedules. Section 2 and 2.A of the OATT Rate Schedule 1 would be amended to provide that withdrawal billing units for the NYISO's budgeted annual operating costs and Commission-assessed regulatory fees will be comprised of Actual Energy Withdrawals to supply Load, schedule Energy Wheels Through, and Exports. The proposed amendments further specify that injection billing units will consist of "Scheduled Energy Injections" to supply LBMP Market Energy in the NYCA. A further proposed amendment to Section 2.A specifies that billing units for ISO operating costs not included in the fixed annual budget will continue to be recovered exclusively on the basis of Energy withdrawals, reflecting the fact that the Management Committee did not ask the NYISO to alter current cost recovery mechanisms for non-fixed budget costs.

Identical billing unit-related amendments are proposed to Section 2 of the Services Tariff Rate Schedule 1.

C. Computation of Rates Under Rate Schedule 1

The proposed methodology for calculating the rates to allocate the NYISO's budgeted annual operating costs and Commission-assessed regulatory fees between Energy injections and Energy withdrawals appears as a new Section 2.B.1.a through 2.B.1.c in OATT Rate Schedule 1 and as a new Section 3.A.1 though 3.A.3 in Services Tariff Rate Schedule 1. Under the proposed OATT Section 2.A.1.a and Services Tariff Section 3.A.1 respectively, the

15% of the responsibility for budgeted annual operating costs and Commission-assessed regulatory fees shall allocated to Energy injection billing units and 85% of the responsibility shall be allocated to Energy withdrawal billing units.

Under proposed Sections 2.B.1.b and 3.A.2 of Rate Schedule 1 of the OATT and the Services Tariff, respectively, the rate to apply to Energy injections for individual Market Participants is the quotient of the 15% annual budgeted operating cost and Commission-assessed regulatory fees allocation divided by the total annual estimated Energy injection billing units. Similarly, the proposed rate to apply to Energy withdrawals is the quotient of the 85% annual budgeted operating costs and Commission-assessed regulatory fees allocation divided by the total annual estimated withdrawal billing units.

Under the proposed Sections 2.B.1.c and 3.A.2 of Rate Schedule 1 of the OATT and the Services Tariff, respectively, the rates derived in Sections 2.B.1.b and 3.A.2 would then be multiplied by each Market Participant's Energy injection and Energy withdrawal billing units, as appropriate, for the month.

Under new Section 2.B.2 of OATT Rate Schedule 1 and Section 3.b of Services Tariff Rate Schedule 1, the NYISO will continue to recover its start up and formation costs. However, the NYISO is proposing to revise these provisions so that these costs will be assessed exclusively to withdrawal billing units.

The existing Residual Adjustment Charge and bid production guarantees charge cost recovery provisions, which would not be amended under this filing, are retained under new Section 2.B.3. of the OATT version of Rate Schedule 1.

VI. Requisite Stakeholder Approval

The NYISO's Management Committee approved the revision to the Services Tariff proposed herein by an affirmative vote of 61.38%.

VII. No Costs Relating to Discriminatory Employment Practices

The NYISO has no expenses or costs that have been alleged or judged to be illegal, duplicate, or unnecessary costs that are demonstrably the product of discriminatory employment practices.

Document 6

TARIFF SHEETS FOR MAY 31, 2002 FILING

1.39d Safe Operations: Actions which avoid placing personnel and equipment in peril with regard to the safety of life and equipment damage.

1.39d.01 Scheduled Energy Injection: Energy injections which are scheduled on a real-time basis through the BME.

1.39d.1 Scheduling Differential: A monetary amount, to be defined by the ISO pursuant to ISO Procedures that is assigned to, or defines Bid Price limits applicable to, Decremental Bids and Sink Price Cap Bids at Proxy Generator Buses, in order to establish an appropriate scheduling priority for the Transaction or Firm Transmission Service associated with each such Bid. The Scheduling Differential shall be no larger than one dollar ($1.00).

1.39e SCUC: Security Constrained Unit Commitment, described in Attachment C of the Tariff.

1.39f Second Contingency Design and Operation: The planning, design and operation of a power system such that the loss of any two (2) facilities will not result in a service interruption to either native load customers or contracted firm Transmission Customers. Second Contingency Design and Operation criteria do not include the simultaneous loss of two (2) facilities, but rather consider the loss of one (1) facility and the restoration of the system to within acceptable operating parameters, prior to the loss of a second facility. These criteria apply to thermal, voltage and stability limits and are generally equal to or more stringent than NYPP, NPCC and NERC criteria.

1.39g Second Settlement: The process of: (1) identifying differences between Energy production, Energy consumption or NYS Transmission System usage scheduled in a First Settlement, and the actual production, consumption, or NYS Transmission System usage during the Dispatch Day; and (2) assigning financial responsibility for those differences to the appropriate Customers and Market Participants. Charges for Energy supplied (to replace Generation deficiencies or unscheduled consumption), and payments for Energy consumed (to absorb consumption deficiencies or excess Energy supply) or changes in transmission usage will be based on the Real-Time LBMPs.

1.39h Secondary Holder: Entities that: (1) purchase TCCs in the Secondary Market; (2) purchase TCCs in a Direct Sale from a Transmission Owner and have not been certified as a Primary Holder by the ISO; or (3) receive an allocation of Native Load TCCs from a Transmission Owner (See Attachment M). A Transmission Customer purchasing TCCs in a Direct Sale may qualify as a Primary Holder with respect to those TCCs purchased in that Direct Sale.

1.39i Secondary Market: A market in which Primary and Secondary Holders sell TCCs by mechanisms other than through the Centralized TCC Auction or by Direct Sale. Buyers of TCCs in the Secondary Market shall neither pay nor receive Congestion Rents directly to or from the ISO.

SCHEDULE 1

SCHEDULING, SYSTEM CONTROL AND DISPATCH SERVICE

This service is required to schedule the purchase, sale and movement of power through, out of, within, or into the NYCA. This service can be provided only by the ISO. The Transmission Customer must purchase this service from the ISO. The ISO Services Charge ~~charges~~ for Scheduling, System Control and Dispatch Service and any rebillings associated therewith are set forth below.

1. Parties to Which Charges Apply

The ISO shall charge, and Transmission Customers taking service under the ISO OATT, only, shall pay~~, the~~an "ISO Services Charge" ~~Scheduling, System Control and Dispatch Service ("Rate Schedule 1") charge~~ as calculated in Section 2.B of this Rate Schedule on all Transmission Services provided pursuant to Parts II, III and IV to this Tariff, provided that Transmission Customers who are retail access customers who are being served by an LSE shall not pay this charge to the ISO; the LSE shall pay these~~is~~ charges. Transmission Customers taking service under both the ISO OATT and the ISO Services Tariff shall pay the applicable ISO Services Charge as calculated (i) in Sections 3.A through C of Rate Schedule 1 of the ISO Services Tariff, and (ii) in Sections 2.B.2 and 2.B.3 of this Rate Schedule.

2. Billing Units and Calculation of Rates

The ISO shall charge each Transmission Customer based on the product of: (i) the ISO Services Charge rate for Scheduling, System Control and Dispatch Service ~~charge rates~~; and (ii) the

Transmission Customer's applicable injection billing units and/or withdrawal billing units for the month as described in Section 2A.

A. Billing Units

For the ISO Services Charge calculated under Section 2.B.1 of this Rate Schedule, ~~T~~the Transmission Customer's injection billing units ~~will~~ shall be based on Scheduled Energy Injections to Import Energy into the LBMP Market in the New York Control Area. The Transmission Customer's withdrawal billing units shall be based on its ~~the~~ Actual Energy Withdrawals for all Transmission Service to supply Load in the NYCA, and hourly

Energy schedules for all Wheels Through and Exports. For the ISO Services Charge calculated pursuant to Sections 2.B.2 and 2.B.3 of this Rate Schedule, the Transmission Customer's billing units shall be based on the Actual Energy Withdrawals for all Transmission Service to supply Load in the NYCA, and hourly Energy schedules for all Wheels Through and Exports. To the extent Schedule 1 charges are associated with satisfying Local Reliability Rules, the billing units for such charges will be based on the Actual Energy Withdrawals in the sub-zone(s) where the Local Reliability Rules are applied. To the extent Schedule 1 charges are associated with payments made for supplemental payments and Demand Reduction Incentive payments to Demand Reduction Providers, the billing units of such charges shall be based on Actual Energy Withdrawals to supply Load in the NYCA according to the methodology described in Attachment R. To the extent that the sum of all Bilateral Schedules and all Day-Ahead Market purchases to service Load in the Day-Ahead schedule is less than the ISO's Day-Ahead forecast of Load and the ISO commits Resources in addition to the reserves it normally maintains to enable it to respond to contingencies to meet the ISO's Day-Ahead forecast of Load, charges associated with the costs of Bid Production Cost Guarantees for the additional Resources committed Day-Ahead to meet the ISO's Day-Ahead forecast of Load shall be allocated to Transmission Customers who are not bidding as Suppliers according to the Methodology described in Attachment T.

B. Computation of Rates

The ISO Services Charge for Scheduling, System Control and Dispatch Service ~~Charge~~ shall consist of three components and shall be recovered on a monthly basis in accordance with the following processes:

1. ISO Annual Budget and FERC Regulatory Fees Component

a. The responsibility for the sum of (a) those costs listed in Section 3.A of this Rate Schedule that are included in the ISO's annual budget and (b) the ISO's FERC regulatory fees, shall be allocated 15% to all injection billing units and 85% to all withdrawal billing units.

b. The rate to be applied to injection billing units shall be the quotient of 15% of the sum of he ISO's annual budget and FERC regulatory fees divided by the total annual estimated injection billing units as described in Section 2.A of this Rate Schedule. The rate to be applied to withdrawal billing units shall be the quotient of 85% of the sum of the ISO's annual budget and FERC regulatory fees divided by the total annual estimated withdrawal billing units as described in Section 2.A of this Rate Schedule.

c. The rates derived in Section 2.B.1 of this Rate Schedule shall then be multiplied by each Customer's injection billing units and withdrawal billing units, as appropriate, for the month.

2. ISO Start-Up and Formation Costs Component

The costs listed in Section~~s 3A and~~ 3.B of this Rate Schedule shall be estimated each month for the following month, shall be divided by the total estimated withdrawal billing units as described in Section 2.A of this Rate Schedule for the following month and shall be posted on the ISO's website prior to the start of the subject month. This rate is then multiplied by each customer's withdrawal billing units for the subject month.

3. Residual Adjustment and Bid Production Guarantees Component

~~2~~a. The ISO shall calculate, and ~~each~~ Transmission Customers shall pay, an hourly charge equal to the product of (A) the residual adjustment costs listed in Section 4.A of this Rate Schedule for each hour and (B) the ratio of (i) the Transmission Customer's ~~total~~ withdrawal billing units for that hour as described in Section 2.A of this Rate Schedule to

(ii) the sum of all ISO Transmission Customers' withdrawal billing units for that hour as described in Section 2A of this Rate Schedule.

~~3~~b. The ISO shall calculate, and each Transmission Customer shall pay, a daily charge equal to the product of (A) the bid production guarantee costs listed in Section 4.B of this Rate Schedule for each day and (B) the ratio of (i) the Transmission Customer's ~~total~~ withdrawal billing units for that day as described in Section 2.A of this Rate Schedule to (ii) the sum of all ISO Transmission Customers' withdrawal billing units for that day as described in Section 2A of this Rate Schedule, provided, however, that the costs of supplemental payments and Demand Reduction Incentive Payments made to Demand Reduction Providers shall be allocated to Transmission Customers according to the methodology described in Attachment R. To the extent that the sum of all Bilateral Schedules and all Day-Ahead Market purchases to serve Load in the Day-Ahead schedule is less than the ISO's Day-Ahead forecast of Load and the ISO commits Resources in addition to the reserves it normally maintains to enable it to respond to contingencies to meet the ISO's Day-Ahead forecast of Load, charges associated with the costs of Bid Production

ARTICLE 2

DEFINITIONS

2.0 Definitions

The following definitions are applicable to the ISO Services Tariff:

2.1 Actual Energy Injections

Energy injections which are measured using a revenue-quality real-time meter.

~~2.1~~2.1.1 Actual Energy Withdrawals

Energy withdrawals which are either: (1) measured with a revenue-quality real-time meter; (2) assessed (in the case of Load Serving Entities ("LSEs") serving retail customers where withdrawals are not measured by revenue-quality real-time meters) on the basis provided for in a Transmission Owner's retail access program; or (3) calculated (in the case of wholesale customers where withdrawals are not measured by revenue-quality real-time meters), until such time as revenue - quality real-time metering is available on a basis agreed upon by the unmetered wholesale customers.

2.2 Adverse Conditions

Those conditions of the natural or man-made environment that threaten the adequate reliability of the NYS Power System, including, but not limited to, thunderstorms, hurricanes, tornadoes, solar magnetic flares and terrorist activities.

Rate Schedule 1

Market Administration and Control Area Services Charge

1. Parties to Which Charges Apply

A. The ISO shall charge and each Customer taking service under the ISO Services Tariff, the ISO OATT, or both, shall pay the applicable ~~Market Administration and Control Area~~ "ISO Services ~~c~~Charge" on all services provided under the Tariff. Market Participants taking service under both the ISO Services Tariff and the ISO OATT shall pay the applicable ISO Services Charges as calculated under Sections 3.A through C of this Rate Schedule and under Sections 2.B.2 and 2.B.3 of Rate Schedule 1 of the ISO OATT. Market Participants taking service under the ISO OATT only shall pay the applicable ISO Services Charges as calculated under Rate Schedule 1 of the ISO OATT.

B. Each Market Participant that sells or purchases Energy, including Demand Side Resources, sells or purchases Capacity, or provides Ancillary Services in the ISO Administered Markets utilizes Market Services and must enter into a Service Agreement under the Tariff, as set forth in Attachment A; and each entity that withdraws Energy to supply Load within the NYCA or provides Installed Capacity to an LSE serving Load within the NYCA utilizes the Control Area Services provided by the ISO and benefits from the reliability achieved as a result of ISO Control Area Services, and must enter into a Service Agreement under this Tariff, as set forth in Attachment A.

C. To the extent that Schedule 1 charges are associated with costs the ISO incurs as a result of bad debt, including finance charges, resulting from Virtual Transactions, the ISO shall allocate such bad debt to Customers taking service under the ISO Services Tariff according to the Methodology described in Attachment I.

2. Billing

For the ISO Services Charges calculated under Section 3.A of this Rate Schedule, ~~T~~the ISO shall charge each Customer based on the product of: (i) the applicable ISO ~~Market Administration and Control Area~~ Services ~~c~~Charges rate~~s~~; and (ii) the Customer's applicable injection billing units and/or withdrawal billing units for the month. The Customer's injection billing units shall be based on its Actual Energy Injections to Import Energy into the LBMP market in the New York Control Area. The Customer's withdrawal billing units shall be ~~will be~~ based on the Actual Energy Withdrawals for all Transactions to supply Load in the NYCA and hourly Energy schedules for all Wheels Through and Exports.~~other purchases from the LBMP Markets to supply Load~~

~~outside the NYCA.~~For the ISO Services Charges calculated under Section 3.B of this Rate Schedule, the ISO shall charge each Customer based on the product of: (i) the applicable ISO Services Charges rate; and (ii) the Customer's Actual Energy Withdrawals for all Transactions to supply Energy to the LBMP market in the NYCA and all other purchases from the LBMP markets to supply Load outside the NYCA.

3. Computation of Rate

The ~~Market Administration and Control Area~~ ISO Services ~~c~~Charge shall consist of two components and shall be recovered ~~computed~~ on a monthly basis in accordance with the following processes: ~~based on information available from the prior month.~~

A. ISO Annual Budget and FERC Regulatory Fees Component

1. The responsibility for the sum of (i) the ISO's annual budget including the costs listed in Section 4A of this Rate Schedule; and (ii) the ISO's FERC Regulatory fees, shall be allocated 15% to all injection billing units as described in Section 2 of this Rate Schedule and 85% to all withdrawal billing units as described in Section 2 of this Rate Schedule.

2. The rate for injection billing units shall be the quotient of 15% of the sum of the ISO's annual budget and FERC regulatory fees divided by the total annual estimated injection billing units, as described in Section 2 of this

Rate Schedule. The rate for withdrawal billing units shall be the quotient of 85% of the sum of the ISO's annual budget and FERC regulatory fees divided by the total annual estimated withdrawal billing units as described in Section 2 of this Rate Schedule.

3. The rates derived in pursuant to Sections 3.A.1 and 2 above shall then be multiplied by each customer's injection billing units and withdrawal billing units, as appropriate, for the month, as described in Section 2 of this Rate Schedule.

~~The charge shall equal the quotient of the ISO's monthly costs and expenses that are charged to the ISO Services Tariff divided by the total amount of Actual Energy Withdrawals to supply Load in the NYCA and all other purchases from the LBMP Markets to supply Load outside the NYCA, adjusted for revenues related to Installed Capacity deficiency penalties.~~

B. ISO Start-Up and Formation Costs Component

The costs listed in Section 4.B of this Rate Schedule shall be estimated each month for the following month, shall be divided by the total estimated withdrawal billing units as described in Section 2 of this Rate Schedule, for the following month and shall be posted on the ISO's website prior to the start of the subject month. This rate is then multiplied by each customer's withdrawal billing units for the subject month.

4. ISO Costs

A. ISO costs to be recovered through this ISO Services ~~c~~Charge shall include the costs listed in Section 3A of Rate Schedule 1 of the ISO OATT and the costs incurred by the ISO that ~~are~~ go with "directly assignable" to the services provided by the ISO under th~~e~~is Tariff for ~~and are not recoverable under Rate Schedule 1 of the ISO OATT. Costs recoverable under this charge shall include costs related to~~: the ISO's administration of the LBMP Markets; the ISO's administration of Installed Capacity requirements and an Installed Capacity Market; the ISO's administration of Control Area Services, other than Ancillary Services provided under the ISO OATT; the ISO's administration of the Market Power Monitoring Program; other activities related to the maintenance of reliability in the NYCA; and costs related to any indemnification of or by the ISO pursuant to Section 12.4 of this Tariff, together the annual ISO budget; and, .

B. ~~In addition, f~~Fifty (50) percent of the costs associated with the start-up and formation of the ISO, plus interest, ~~is also recoverable under this charge. Such costs will~~ equaling $27.45 million,

plus interest, less one-half of the start-up costs already collected by the ISO under the ISO OATT—.

These costs will be amortized over a period from September 1, 2000 through December 31, 2004.

Where costs or expenses or receipts are incurred on a basis other than a monthly basis, the

ISO shall use reasonable judgment consistent with commonly accepted accounting practices to develop the monthly components.

<u>Document 7</u>

NYISO AUGUST 5, 2002
RESPONSE TO DEFICIENCY LETTER
(85%/15%)

ARNOLD H. QUINT
DIRECT DIAL: 202-955-1542
EMAIL: aquint@hunton.com

FILE NO: 554320.000042

August 5, 2002

BY HAND

Office of the Secretary
Federal Energy Regulatory Commission
888 First Street, N.E., Room 1A
Washington, D.C. 20426

New York Independent System Operator, Inc.'s
Response to Commission's Deficiency Letter in Docket No. ER02-1961-000

Dear Ms. Fernandez:

Pursuant to the Commission's deficiency letter, dated July 5, 2002, in the above-captioned proceeding ("Deficiency Letter"), the New York Independent System Operator, Inc. ("NYISO"), submits this response providing additional information about the basis for its May 31, 2002, filing ("May 31 Filing") proposing to revise the manner in which Rate Schedule 1 charges are collected pursuant to its Open Access Transmission Tariff ("OATT") and Market Administration and Control Area Services Tariff ("Services Tariff").[1]

Currently, the NYISO's annual operating costs and Commission-assessed regulatory fees are charged to Loads (both internal and external) based on the volume of their Energy withdrawals in the New York Control Area. In its May 31 Filing, the NYISO proposed revisions to collect a portion of its annual operating costs and Commission-assessed regulatory fees from Suppliers. The proposed tariff revisions reallocate the charges for these NYISO costs by assigning eighty-five (85) percent to Loads and fifteen (15) percent to Suppliers of Energy in the NYISO-administered Energy Markets. As indicated in the May 31 Filing, the proposed reallocation was introduced by a Market Participant, passed by a majority vote of the Management Committee, and approved by the NYISO Board of Directors. In support of the motion, the sponsoring Market Participant noted that the NYISO had conducted an earlier study, discussed below, which supported the proposed allocation.

In response to the Commission's earlier orders in Docket No. ER97-1523-028, *et al*,[2] regarding the allocation of Rate Schedule 1 charges, the NYISO conducted an extensive review of its administrative cost centers. It its review, the NYISO closely analyzed the components of its overhead expenses, interviewing key personnel in each department, to determine the primary beneficiaries of the services associated with the NYISO's major cost centers. The NYISO determined that approximately 14.5% of its overhead costs were incurred in the performance of functions that most directly benefit Suppliers. Copies of two of the NYISO's prior presentations supporting this allocation are attached.

During the course of the earlier review of the NYISO's administrative cost centers, the NYISO staff discussed the issue extensively with the Market Participants. At that time, there was no consensus on a proper allocation of costs that would include Suppliers. As a result, the study was not submitted to the Commission. Indeed, the NYISO did not perceive any strong interest on the part of Market Participants for a revision of the cost recovery approach that was then reflected in Rate Schedule 1. The NYISO's earlier study nevertheless supports the proposed reallocation subsequently adopted by the Management Committee. The same Management Committee resolution that adopted the 85/15 split in costs also requested further examination to determine whether the split is an appropriate long-term allocation, which the NYISO is currently undertaking.

Please contact me if you have any further questions regarding this information.

Respectfully submitted,

Arnold H. Quint

Counsel for
New York Independent System Operator, Inc.

cc: Ms. Alice Fernandez
Mr. Paul Singh, Energy Industry Analyst

Document 8

FERC SEPTEMBER 25, 2002 ORDER

100 FERC 61, 315
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
William L. Massey, Linda Breathitt,
and Nora Mead Brownell.

New York Independent System Operator, Inc. Docket No. ER02-1961-000 and ER02-1961-001

ORDER ON REVISED TARIFF SHEETS

(Issued September 25, 2002)

1. On May 31, 2002, as supplemented on August 5, 2002,[1] pursuant to section 205 of the Federal Power Act (FPA), the New York Independent System Operator, Inc (NYISO) submitted proposed revisions to its funding mechanism in Schedule 1 of both its Open Access Transmission Tariff (OATT) and its Market Administration and Control Area Services Tariff (Services Tariff). As discussed below, we will accept the proposed revisions for filing. This order will benefit the public by ensuring a more equitable distribution among market participants of NYISO's fixed annual operating budget and Commission-assessed regulatory fees.

Background

2. NYISO's budgeted annual operating costs are currently assessed 100 percent to Loads.[2] The proposed revisions would reallocate responsibility for those costs, 85 percent to Loads and other withdrawals of energy from the New York Control Area (NYCA), and 15 percent to all injections, i.e., generators and other suppliers, supplying energy into the NYCA Locational-Based Marginal Price (LBMP) market.

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[1]NYISO filed the August 5 supplement in response to a Commission deficiency letter, issued on July 5, 2002.

[2]Costs recovered under the Schedule 1 to the Services Tariff are related to the functions that the NYISO performs under it, including the administration of the LBMP markets, ICAP markets and some control area services, while NYISO recovers all other operating costs under Schedule 1 to the OATT. The determinations of applicable billing units, and the computations of rates for recovering these costs, are based exclusively on energy withdrawals for serving loads in the NYCA or for exporting energy from the NYCA.

3. In support of the proposed 85/15 cost reallocation, NYISO states that it conducted an extensive review of its administrative cost centers. NYISO maintains that it closely analyzed the components of its overhead expenses, interviewing key personnel in each department, to determine the primary beneficiaries of the services associated with its major cost centers. NYISO determined that approximately 14.5 percent of its overhead costs were incurred in the performance of functions that most directly benefit suppliers. NYISO further states that the proposed reallocation was introduced by a market participant, passed by a majority vote of the Management Committee, and approved by NYISO's Board of Directors.

4. The proposed revisions would be implemented as follows. Transmission customers taking service exclusively under the OATT would pay "ISO Services Charges" for a portion of NYISO's budget costs and Commission-assessed regulatory fees, the Residual Adjustment Charge, and the bid production guarantee entirely under the OATT. Transmission Customers taking both OATT and Services Tariff service would pay a designated portion of NYISO's annual budgeted operating costs and Commission-assessed regulatory fees, as determined under the Services Tariff, and residual adjustment and bid production guarantee charges, as provided for under the OATT.

5. Furthermore, NYISO would calculate rates and bills on the basis of both energy injections and energy withdrawals. Withdrawal billing units for NYISO's budgeted annual operating costs and Commission-assessed regulatory fees would be comprised of actual energy withdrawals to supply load, schedule energy wheels through, and exports. In addition, injection billing units would consist of scheduled energy injections to supply the LBMP market energy in the NYCA. However, billing units for ISO operating costs not included in the fixed annual budget would continue to be recovered exclusively on the basis of energy withdrawals.

6. NYISO states that it would not be in a position to implement the billing software changes necessary to apply the new cost allocation methodology until sometime in the fourth quarter of 2002. Nevertheless, NYISO requests that the proposed revisions be allowed to take effect June 1, 2002, so that it may apply the new allocation methodology from that date forward through true-up billings starting in the fourth quarter of 2002.

Notice of the Filing and Responsive Pleadings

7. Notice of the May 31 filing was published in the Federal Register,[3] with comments, protests and interventions due on or before June 21, 2002. The following entities filed a timely motion to intervene: the New York Power Authority; Sithe Marketing, LP and Sithe/Independence Power Partners, L.P.; Dynegy Power Marketing, Inc. Keyspan-Ravenswood, Inc.; and H.Q. Energy Services (US). Member Systems and the New York Transmission Owners each filed a timely motion to intervene and comments in the support of the filing. The Municipal Electric Utilities Association of New York State (MEUA) filed a timely motion to intervene and protest, as well as a motion to consolidate.

8. Notice of the August 5 supplement to May 31 filing was published in the Federal Register,[4] with comments, protests and interventions due on or before August 26, 2002. Reliant Resources, Inc., filed a timely motion to intervene. Multiple Intervenors and the New York Transmission Owners filed a timely motion to intervene and comments in support of the filings. Allegheny Electric Cooperative, Inc. (AEC) filed a timely motion to intervene and protest, and MEUA filed a timely supplemental protest. MEUA and AEC shall be collectively referred to as the protestors.

9. Although the protestors consider the proposed Schedule 1 revisions to be an improvement over the current assignment of 100 percent of budgeted operating costs to Loads, they assert that NYISO provides no cost support for the proposed 85/15 reallocation. In addition, MEUA asserts that the proposed revisions are defective in not addressing the variable components of the Schedule 1 charges, in addition to the fixed budget for operating costs, and in not allocating any cost responsibility to parties engaged in virtual bidding. Moreover, MEUA contends that NYISO should revise its funding mechanism to allocate costs for non-transmission services to the parties that benefit from those services, so that non-benefitting parties do not, in effect, subsidize those costs. MEUA also requests that this proceeding be consolidated with Docket No. ER97-1523-028, which MEUA contends involves related issues pertaining to revisions of NYISO's funding mechanism.[5] The protestors

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[3]67 Fed. Reg. 40,709 (2002).

[4]67 FERC ¶ 54,179 (2002).

[5]MEUA states that in that proceeding, the Commission ordered NYISO to revise its

further assert that the proposed revisions should be set for hearing or expedited hearing so that the proper allocation may be determined.

10. Since the protestors view the 85/15 reallocation as an improvement over the current assignment of costs, they support a June 1, 2002 effective date for the proposed revisions on an interim basis, and subject to adjustment and refund based upon the outcome of any Commission-ordered hearing.

Discussion

Procedural Matters

11. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2000), each timely, unopposed motion to intervene serves to make the entity that filed it a party to this proceeding.

Analysis

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funding mechanism to allocate costs for non-transmission services to the parties that benefit from them.

12. We will accept NYISO's proposed revisions, effective June 1, 2002, as no party objects to the requested June 1, 2002 effective date. We are unpersuaded by the protestors' arguments that NYISO has failed to adequately support the proposed 85/15 cost allocation. In the August 5 filing, NYISO provides two cost studies[6] supporting an assignment of costs of 14.5 percent to Generators. It is evident from both of the studies, based on extensive review of its cost centers, that approximately 15 percent of NYISO's overhead costs are incurred as a result of performing functions that most directly benefit suppliers.

13. We note that in its August 5 filing, NYISO states that "the Management Committee resolution that adopted 85/15 split in costs also requested further examination to determine whether the split is an appropriate long-term allocation, which the NYISO is currently undertaking." We encourage NYISO to complete its examination of that issue as soon as possible, and expect that NYISO will revise its cost allocation, if necessary, in accordance with its findings.

14. We find to be outside of the scope of this proceeding MEUA's argument that NYISO's funding mechanism should be revised to address the variable components of Schedule 1 charges and to allocate cost responsibilities for virtual bidding. In the filings at issue here, NYISO focused upon only its fixed budget for operating costs. It may be appropriate for NYISO to consider the variable components of Schedule 1 charges and cost responsibilities for virtual bidding in conducting its study of whether the 85/15 cost allocation represents an appropriate long-term funding mechanism, and indeed, we encourage NYISO to do so.

15. We further reject MEUA's contention that these proceedings should be consolidated with Docket No. ER97-1523-028. As MEUA states, that proceeding addresses issues related to separation of NYISO's transmission costs from its costs for non-transmission services, rather than the allocation among market participants of NYISO's fixed budget for operating costs involved here. Finally, we reject the protestors' assertion that NYISO's filings should be set for hearing. As we previously stated, we find that NYISO has provided sufficient support for the proposed 85/15 cost allocation.

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[6]The cost information is derived from summaries of two presentations to stakeholders on May 24, 2001, and June 15, 2001. NYISO assigned its total 2001 annual operating cost of $95.6 million to various services to Market Participants in 2001. See August 5 filing at 4.

The Commission orders:

NYISO's proposed revisions are hereby accepted for filing, effective June 1, 2002, as discussed in the body of this order.

By the Commission.

(S E A L)

Linwood A. Watson, Jr.,
Deputy Secretary.

<u>Document 9</u>

NYISO APRIL 16, 2003 FILING LETTER
(CORRECTIONS TO THE MAY 31, 2002 FILING)

ORIGINAL

HUNTON & WILLIAMS

FILED
OFFICE OF THE SECRETARY
03 APR 16 AM 9:58
FEDERAL ENERGY
REGULATORY COMMISSION

ARNOLD H. QUINT
DIRECT DIAL: 202 • 955 • 1542
EMAIL: aquint@hunton.com

April 16, 2003

BY HAND

The Honorable Magalie R. Salas, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

ER03-749 - 000

Correction of New York Independent System Operator, Inc.'s Filing of
Tariff Revisions to Modify Recovery of Charges Assessed Under Rate Schedule 1

Dear Ms. Salas:

The New York Independent System Operator, Inc. ("NYISO") makes this filing under Section 205 of the Federal Power Act to correct errors in a previous filing regarding the allocation of responsibilities among the NYISO's customers for its costs.

On May 31, 2002, pursuant to Section 205 of the Federal Power Act, the NYISO filed tariff revisions to its Open Access Transmission Tariff ("OATT") and Market Administration and Control Area Services Tariff ("Services Tariff") to reallocate the responsibility for "the NYISO's budgeted annual operating costs and its Commission-assessed regulatory fees,"[1] ("Budgeted Costs") that had previously been allocated entirely on the basis of withdrawals of energy from and within the New York Control Area ("NYCA"). The May 31 Filing assigned eighty-five (85) percent of Budgeted Costs on the basis of withdrawals of energy from and within the NYCA and fifteen (15) percent of those costs on the basis of injections of energy within and into the NYCA.

The May 31 Filing, which was accepted by the Commission in an order dated September 25, 2002, ("September 25 Order"),[2] contained inadvertent errors in the tariff sheets submitted, as explained below. Consistent with the clear intent of the NYISO's Management Committee, the NYISO now seeks, pursuant to Section 205 of the Federal Power Act, to correct these errors regarding the allocation of responsibility for the NYISO's costs among its customers.

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[1] New York Independent System Operator Inc.'s Filing of Tariff Revisions to Modify Recovery of Charges Assessed Under Rate Schedule 1 of Its Open-Access Transmission Tariff and Market Administration and Control Area Services Tariff, in Docket No. ER02-1961-000 (May 31, 2002) ("May 31 Filing") at p.1.
[2] Order on Revised Tariff Sheets, 100 FERC 61,315 (2002).

I. Documents Submitted

1. This letter;
2. Clean revised sheets from the OATT incorporating new tariff provisions proposed by the NYISO ("Attachment I");
3. Redlined revised sheets from the OATT identifying the new tariff provisions proposed by the NYISO ("Attachment II");
4. Clean revised sheets from the Services Tariff incorporating new tariff provisions proposed by the NYISO ("Attachment III");
5. Redlined revised sheets from the Services Tariff identifying the new tariff provisions proposed by the NYISO ("Attachment IV");
6. A form of Federal Register Notice ("Attachment V").

II. Copies of Correspondence

Communications regarding this proceeding should be addressed to:

Robert E. Fernandez, General Counsel and Secretary
Mollie Lampi, Assistant General Counsel
Belinda F. Thornton, Director of Regulatory Affairs
New York Independent System Operator, Inc.
3890 Carman Road
Schenectady, NY 12303
Tel: (518) 356-6000
Fax: (518) 356-4702
rfernandez@nyiso.com
mlampi@nyiso.com
bthornton@nyiso.com

Arnold H. Quint
Ted J. Murphy
Hunton & Williams LLC
1900 K. Street, N.W.
Washington, D.C. 20006
Tel: (202) 955-1500
Fax: (202) 778-2201
aquint@hunton.com
tmurphy@hunton.com

Kevin W. Jones[3]
Hunton & Williams LLC
951 E. Byrd Street
Richmond, VA 23219
Tel: (804) 788-8731
Fax: (804) 788-8218
kjones@hunton.com

[3] The NYISO respectfully requests waiver of 18 C.F.R. § 385.203(b)(3) (2001) to permit service on counsel for the NYISO in both Washington, D.C. and Richmond, Virginia.

III. Background and Description of Changes

The NYISO's Management Committee voted to approve the revised recovery methodology for Budgeted Costs on December 5, 2001, and voted on May 2, 2002, to approve a June 1, 2002, effective date for the revision. The meeting materials and motions for both these actions clearly indicated that the reallocation was to be applied to "fixed ISO budget" costs.[4]

The tariff revisions submitted in the May 31 Filing correctly established that the "responsibility for ... those costs listed in Section 3.A of [the OATT] *that are included in the ISO's annual budget* ... shall be allocated 15% to all injection billing units and 85% to all withdrawal billing units."[5] (Emphasis supplied.) The tariff revisions inadvertently failed, however, to include language making clear that the allocation for costs listed in Section 3.A that are *not included* in the ISO's annual budget would continue to be charged entirely according to withdrawal billing units. That was the clear intent of the Management Committee's enabling motions. In addition, the tariff revisions submitted with the May 31 Filing mistakenly removed language from Article 4 of Rate Schedule 1 of the Services Tariff.

The tariff revisions submitted with the instant filing serve to correct errors in the May 31 Filing by adding provisions to the OATT and Services Tariff that indicate that the recovery of costs not related to ISO's annual budget and FERC fees, but listed in Section 3.A of the OATT, will continue to be recovered from customers on the basis of withdrawal billing units. The proposed tariff revisions also correct the inadvertent removal of language in Article 4 of Rate Schedule 1 of the Services Tariff. Finally, the revisions submitted with this filing also include minor conforming edits consistent with the changes described above.

IV. Proposed Effective Date and Request for Waiver of Notice Requirements

The NYISO requests that the corrected tariff provisions be effective as of June 1, 2002, the date the original tariff revisions became effective pursuant to the September 25 Order. The instant filing serves only to correct inadvertent errors in the NYISO's May 31 Filing as described above. As a result, waiver of the Commission's notice requirements is appropriate.

V. Federal Register Notice

A form of Federal Register Notice is provided as Attachment V hereto.

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[4] See Management Committee Final Minutes, December 5, 2001, Motion # 2 and Management Committee Final Minutes May 2, 2002, Motion # 2.
[5] ISO OATT, Schedule 1, Section 2.B.1.

Document 10

TARIFF SHEETS FOR APRIL 16, 2003 FILING

SCHEDULE 1

SCHEDULING, SYSTEM CONTROL AND DISPATCH SERVICE

This service is required to schedule the purchase, sale and movement of power through, out of, within, or into the NYCA. This service can be provided only by the ISO. The Transmission Customer must purchase this service from the ISO. The ISO Services Charge for Scheduling, System Control and Dispatch Service and any rebillings associated therewith are set forth below.

1. Parties to Which Charges Apply

The ISO shall charge, and Transmission Customers taking service under the ISO OATT, only, shall pay an "ISO Services Charge" as calculated in Section 2.B of this Rate Schedule on all Transmission Services provided pursuant to Parts II, III and IV to this Tariff, provided that Transmission Customers who are retail access customers who are being served by an LSE shall not pay this charge to the ISO; the LSE shall pay these charges. Transmission Customers taking service under both the ISO OATT and the ISO Services Tariff shall pay the applicable ISO Services Charge as calculated (i) in Sections 3.A through C of Rate Schedule 1 of the ISO Services Tariff, and (ii) in Sections 2.B.3~~2~~ and 2.B.4~~3~~ of this Rate Schedule.

2. Billing Units and Calculation of Rates

The ISO shall charge each Transmission Customer based on the product of: (i) the ISO Services Charge rate for Scheduling, System Control and Dispatch Service; and (ii) the

Energy schedules for all Wheels Through and Exports. For the ISO Services Charge calculated pursuant to Sections 2.B.2, ~~and~~ 2.B.3, and 2.B.4 of this Rate Schedule, the Transmission Customer's billing units shall be based on the Actual Energy Withdrawals for all Transmission Service to supply Load in the NYCA, and hourly Energy schedules for all Wheels Through and Exports. To the extent Schedule 1 charges are associated with satisfying Local Reliability Rules, the billing units for such charges will be based on the Actual Energy Withdrawals in the sub-zone(s) where the Local Reliability Rules are applied. To the extent Schedule 1 charges are associated with payments made for supplemental payments and Demand Reduction Incentive payments to Demand Reduction Providers, the billing units of such charges shall be based on Actual Energy Withdrawals to supply Load in the NYCA according to the methodology described in Attachment R. To the extent that the sum of all Bilateral Schedules and all Day-Ahead Market purchases to service Load in the Day-Ahead schedule is less than the ISO's Day-Ahead forecast of Load and the ISO commits Resources in addition to the reserves it normally maintains to enable it to respond to contingencies to meet the ISO's Day-Ahead forecast of Load, charges associated with the costs of Bid Production Cost Guarantees for the additional Resources committed Day-Ahead to meet the ISO's Day-Ahead forecast of Load shall be allocated to Transmission Customers who are not bidding as Suppliers according to the Methodology described in Attachment T.

B. Computation of Rates

The ISO Services Charge for Scheduling, System Control and Dispatch Service shall consist of ~~three~~ four components and shall be recovered on a monthly basis in accordance with the following processes:

1. ISO Annual Budget and FERC Regulatory Fees Component

a. The responsibility for the sum of (a) those costs listed in Section 3.A of this Rate Schedule that are included in the ISO's annual budget and (b) the ISO's FERC regulatory fees, shall be allocated 15% to all injection billing units and 85% to all withdrawal billing units.

b. The rate to be applied to injection billing units shall be the quotient of 15% of the sum of the ISO's annual budget and FERC regulatory fees divided by the total annual estimated injection billing units as described in Section 2.A of this Rate Schedule. The rate to be applied to withdrawal billing units shall be the quotient of 85% of the sum of the ISO's annual budget and FERC regulatory fees divided by the total annual estimated withdrawal billing units as described in Section 2.A of this Rate Schedule.

c. The rates derived in Section 2.B.1 of this Rate Schedule shall then be multiplied by each Transmission Customer's injection billing units and withdrawal billing units, as appropriate, for the month.

2. ISO Unbudgeted Cost Component

The responsibility for those costs listed in Section 3.A of this Rate Schedule that are not included in the ISO's annual budget shall be allocated 100% to all withdrawal billing units. The rate to be applied to withdrawal billing units in each month shall be the quotient of the amount of these costs to be included in the month, as determined by the ISO, divided by the total estimated withdrawal billing units for the month, as described in Section 2.A of this Rate Schedule. This rate shall then be multiplied by each Transmission Customer's withdrawal billing units for the month.

3. ISO Start-Up and Formation Costs Component

The costs listed in Section 3.B of this Rate Schedule shall be estimated each month for the following month, shall be divided by the total estimated withdrawal billing units as described in Section 2.A of this Rate Schedule for the following month and shall be posted on the ISO's website prior to the start of the subject month. This rate is then multiplied by each Transmission ~~c~~Customer's withdrawal billing units for the subject month.

4~~3~~. Residual Adjustment and Bid Production Guarantees Component

a. The ISO shall calculate, and Transmission Customers shall pay, an hourly charge equal to the product of (A) the residual adjustment costs listed in Section 4.A of this Rate Schedule for each hour and (B) the ratio of (i) the Transmission Customer's withdrawal billing units for that hour as described in Section 2.A of this Rate Schedule to

Rate Schedule 1

Market Administration and Control Area Services Charge

1. Parties to Which Charges Apply

A. The ISO shall charge and each Customer taking service under the ISO Services Tariff, the ISO OATT, or both, shall pay the applicable "ISO Services Charge" on all services provided under the Tariff. Market Participants taking service under both the ISO Services Tariff and the ISO OATT shall pay the applicable ISO Services Charges as calculated under Sections 3.A through C of this Rate Schedule and under Sections 2.B.3~~2~~ and 2.B.4~~3~~ of Rate Schedule 1 of the ISO OATT. Market Participants taking service under the ISO OATT only shall pay the applicable ISO Services Charges as calculated under Rate Schedule 1 of the ISO OATT.

B. Each Market Participant that sells or purchases Energy, including Demand Side Resources, sells or purchases Capacity, or provides Ancillary Services in the ISO Administered Markets utilizes Market Services and must enter into a Service Agreement under the Tariff, as set forth in Attachment A; and each entity that withdraws Energy to supply Load within the NYCA or provides Installed Capacity to an LSE serving Load within the NYCA utilizes the Control Area Services provided by the ISO and benefits from the reliability achieved as a result of ISO Control Area Services, and must enter into a Service Agreement under this Tariff, as set forth in Attachment A.

For the ISO Services Charges calculated under Section 3.B and 3.C of this Rate Schedule, the ISO shall charge each Customer based on the product of: (i) the applicable ISO Services Charges rate; and (ii) the Customer's Actual Energy Withdrawals for all Transactions to supply Energy to the LBMP market in the NYCA and all other purchases from the LBMP markets to supply Load outside the NYCA.

3. Computation of Rate

The ISO Services Charge shall consist of two components and shall be recovered on a monthly basis in accordance with the following processes:

A. ISO Annual Budget and FERC Regulatory Fees Component

1. The responsibility for the sum of (i) the ISO's annual budget including the costs listed in Section 4A of this Rate Schedule; and (ii) the ISO's FERC Regulatory fees, shall be allocated 15% to all injection billing units as described in Section 2 of this Rate Schedule and 85% to all withdrawal billing units as described in Section 2 of this Rate Schedule.

2. The rate for injection billing units shall be the quotient of 15% of the sum of the ISO's annual budget and FERC regulatory fees divided by the total annual estimated injection billing units, as described in Section 2 of this

Rate Schedule. The rate for withdrawal billing units shall be the quotient of 85% of the sum of the ISO's annual budget and FERC regulatory fees divided by the total annual estimated withdrawal billing units as described in Section 2 of this Rate Schedule.

3. The rates derived in pursuant to Sections 3.A.1 and 2 above shall then be multiplied by each customer's injection billing units and withdrawal billing units, as appropriate, for the month, as described in Section 2 of this Rate Schedule.

B. Unbudgeted Costs Component

The responsibility for those costs listed in Section 4.A of this Rate Schedule that are not included in the ISO's annual budget shall be allocated 100% to all withdrawal billing units. The rate to be applied to withdrawal billing units in each month shall be the quotient of the amount of these costs to be included in the month, as determined by the ISO, divided by the total estimated withdrawal billing units for the month, as described in Section 2 of this Rate Schedule. This rate shall then be multiplied by each Customer's withdrawal billing units for the month.

C. ISO Start-Up and Formation Costs Component

The costs listed in Section 4.B of this Rate Schedule shall be estimated each month for the following month, shall be divided by the total estimated withdrawal billing units as described in Section 2 of this Rate Schedule, for the following month and shall be posted on the ISO's website prior to the start of the subject month. This rate is then multiplied by each customer's withdrawal billing units for the subject month.

4. ISO Costs

A. ISO costs to be recovered through this ISO Services Charge shall include the costs listed in Section 3A of Rate Schedule 1 of the ISO OATT and the costs incurred by the ISO that ~~go with~~ are "directly assignable" to the services provided by the ISO under this Tariff ~~for~~ that are not recoverable under Rate Schedule 1 of the ISO OATT. Costs recoverable under this charge shall include costs related to: the ISO's administration of the LBMP Markets; the ISO's administration of Installed Capacity requirements and an Installed Capacity Market; the ISO's administration of Control Area Services, other than Ancillary Services provided under the ISO OATT; the ISO's administration of the Market Power Monitoring Program; other activities related to the maintenance of reliability in the NYCA; and costs related to any indemnification of or by the ISO pursuant to Section 12.4 of this Tariff, together the annual ISO budget; and~~,.~~

<u>Document 11</u>

FERC June 11, 2003 Order

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
William L. Massey, and Nora Mead Brownell.

New York Independent System Operator, Inc. Docket No. ER03-749-000

ORDER CONDITIONALLY ACCEPTING CORRECTED TARIFF SHEETS

(Issued June 11, 2003)

1. In this order, the Commission conditionally accepts the corrections proposed by the New York Independent System Operator, Inc. (NYISO), on April 16, 2003, to its Open Access Transmission Tariff (OATT) and Market Administration and Control Area Services Tariff (Services Tariff). This order benefits customers by clarifying that NYISO has not changed its practices concerning allocation of certain costs, thus facilitating open and transparent markets.

Background

2. On September 25, 2002, the Commission accepted revisions to NYISO's OATT and Services Tariff that changed, for both tariffs, the cost allocation for NYISO's budgeted annual operating costs and Commission-assessed regulatory fees.[1] NYISO had proposed these changes in a May 31, 2002 submittal (May 31 Filing). Formerly, these costs had been allocated entirely on the basis of withdrawals of energy from and within the New York Control Area (NYCA). The revisions, which the Commission made effective as of June 1, 2002, reduced the percentage of these costs allocated to withdrawals to 85 percent, and allocated the remaining 15 percent on the basis of injections of energy within and into the NYCA. The September Order noted that NYISO's Management Committee was examining whether the 85/15 split in costs is an appropriate long-term allocation. It encouraged

[1]New York Independent System Operator, 100 FERC ¶ 61,315 (2002) (September Order).

NYISO to complete this examination as soon as possible, and to revise the cost allocation, if necessary, in accordance with its findings.

3. On April 16, 2003, the NYISO submitted a filing to correct errors contained in the May 31 filing and accepted in the September Order. NYISO states that the May 31 filing contained inadvertent errors in the tariff sheets, regarding the allocation of responsibility for NYISO's costs among its customers, and that it now seeks to correct these errors.

4. NYISO states that the tariff revisions submitted in the May 31 filing correctly established that the responsibility for those costs listed in Section 3.A of Schedule 1 of NYISO's OATT that are included in NYISO's annual budget shall be allocated 15 percent to all injection billing units and 85 percent to all withdrawal billing units. However, NYISO explains, the May 31 filing inadvertently failed to include language making it clear that the allocation for the costs listed in Section 3.A of Schedule 1 of the OATT that are not included in NYISO's annual budget would continue to be charged entirely according to withdrawal billing units.

5. NYISO states that the tariff revisions submitted with the instant filing correct errors in the May 31 filing by adding provisions to the OATT and Services Tariff that specify that the recovery of costs not related to NYISO's annual budget and Commission-assessed regulatory fees, but listed in Section 3.A of Schedule 1 of the OATT, will continue to be recovered from customers on the basis of withdrawal billing units. NYISO also states that tariff revisions are necessary to correct the inadvertent removal of language in Section 4 of Rate Schedule 1 of the Services Tariff,[2] and that the revisions submitted with the instant filing include minor conforming edits.

6. NYISO requests waiver of the 60-day prior notice requirements, so that the corrected tariff provisions can be made effective June 1, 2002, the date the original tariff revisions became effective, pursuant to the September Order.

<u>Interventions, Comments and Protest</u>

7. Notice of NYISO's April 16, 2003 filing was published in the Federal Register, 68 Fed. Reg. 22,372 (2003), with comments, protests, and interventions due on or before May 7, 2003. New York Transmission Owners,[3] Reliant Resources, Inc., and Multiple

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[2]The restored tariff language makes clear that recovery under the Services Tariff is only for directly assignable costs that are not recoverable under the OATT.

[3]Central Hudson Gas & Electric Corporation, Consolidated Edison Company of (continued...)

Intervenors[4] filed motions to intervene. Multiple Intervenors also filed a protest, to which NYISO filed an answer, on May 22, 2003.

8. Multiple Intervenors raises two issues. Multiple Intervenors is concerned that the proposed revisions will not make sufficiently clear that the 85/15 split of costs allocations applies to Commission-assessed regulatory fees. It asks us to modify NYISO's proposed texts according to its suggested language. Referencing the Commission's encouragement, in the September Order, that NYISO complete its examination of the appropriateness of the 85/15 cost split as soon as possible, Multiple Intervenors asks us to require NYISO to take expeditiously all necessary measures to complete the examination. It also recommends specific areas for NYISO's examination.

9. Finally, Multiple Intervenors points out an error in the Services Tariff. It submits that the first sentence of Section 3 of Rate Schedule 1 of the Services Tariff, entitled "Computation of Rate," should be amended by deleting the word "two" and, in its place, inserting the word "three."

10. In its answer, NYISO states that it has discussed with Multiple Intervenors further clarification of the allocation of Commission-assessed regulatory fees. NYISO's answer submits substitute text, which, it states, Multiple Intervenors supports, to clarify that the 85/15 cost split includes Commission-assessed regulatory fees. NYISO also expresses its agreement with Multiple Intervenors' correction of the error in Rate Schedule 1 of the Services Tariff.

11. Concerning the cost allocation study required by the September Order, NYISO states that it will soon release a request for proposals for an outside consultant to perform the study. The outside consultant is to review and update NYISO's 2001 cost allocation materials, address the effect of information technology investments on the cost allocation, and identify which NYISO customers use or benefit from Rate Schedule 1 functions so as to determine which customers should be allocated these costs. NYISO asks the Commission to reject Multiple Intervenors' request for a further directive to perform the study.

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[3](...continued)
New York, Inc., LIPA, New York Power Authority, New York State Electric & Gas Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation, and Niagara Mohawk Power Corporation, a National Grid Company.

[4]Multiple Intervenors describes itself as an unincorporated association of approximately 55 large commercial and industrial energy consumers with manufacturing and other facilities in New York State.

Discussion

Procedural Matters

12. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(c)(1) (2003), the timely unopposed motions to intervene make the entities that filed them parties to this proceeding. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2003), prohibits answers to protests unless otherwise permitted by the decisional authority. We find that good cause exists to allow NYISO's answer because of its usefulness in resolving this proceeding.

Tariff Modifications

13. We will accept NYISO's proposed tariff corrections, as modified in NYISO's answer. These proposed corrections make it unambiguous that the allocation of the costs listed in Section 3.A of Schedule 1 of the OATT that are not included in NYISO's annual budget will continue to be charged entirely according to withdrawal billing units and that Commission-assessed regulatory fees, like annual budgeted costs, are to be recovered from NYISO customers based on the 85/15 split.

14. We will deny NYISO's request for waiver of the Federal Power Act's 60-day prior notice requirement. The stated basis is that the April 16, 2003 filing serves only to correct inadvertent errors in the May 31, 2002 filing. In Central Hudson Gas & Electric Corporation, we stated that we would not waive the 60-day prior notice requirement absent extraordinary circumstances when an agreement for new service is filed on or after the day service has commenced.[5] Inadvertent error, like administrative error, does not constitute the extraordinary circumstances that warrant waiver of the 60-day prior notice requirement.[6] Moreover, the proposed corrections merely make NYISO's OATT and Services Tariff unambiguous; they do not change how NYISO recovers its costs. Accordingly, we will deny waiver and make NYISO's proposed tariff corrections effective after 60 days from the date of their filing, or June 16, 2003.

NYISO's Allocation Study

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[5] Central Hudson Gas & Electric Corporation, 60 FERC ¶ 61,206, reh'g denied, 61 FERC ¶ 61,021 (1992) (Central Hudson).

[6] See Central Hudson, 60 FERC at 61,339. See also, Mississippi Power Company, 96 FERC ¶ 61,021 (2001).

15. With regard to Multiple Intervenors' request for expeditious completion of the cost allocation study discussed in the September Order, we continue to believe that NYISO should address that issue as soon as possible. The September Order: (1) noted that NYISO was currently examining whether the 85/15 split is an appropriate long-term allocation; (2) encouraged NYISO to complete its examination of that issue as soon as possible; and (3) stated the expectation that NYISO will revise its cost allocation, if necessary, in accordance with its findings.[7] The September Order noted that NYISO had focused only on the fixed budget for operating costs, and encouraged NYISO to consider also the variable components of Schedule 1 charges and cost responsibilities for virtual bidding in conducting its study of whether the 85/15 cost allocation represents an appropriate long-term funding mechanism.[8] NYISO's answer does not address these latter factors.

16. We will reinforce our direction that NYISO complete its examination of the appropriateness of the 85/15 split for the fixed budget for operating costs and the variable components of the Schedule 1 charges as soon as possible. So that we may ascertain the progress that NYISO has made we will direct NYISO to file, within 30 days of the date of this order, a status report on the proposed independent consultant study, and a timetable for the study's completion and for NYISO's submittal of proposed tariff revisions resulting from the study's findings.

17. Finally, we will require NYISO to file revised tariff sheets to modify the language in Section 2.B.2 of the OATT, and Section 3 of Rate Schedule 1 of the Services Tariff to conform these sections to the text proposed in NYISO's answer.

The Commission orders:

(A) NYISO's proposed tariff corrections are hereby accepted for filing, to become effective June 16, 2003, as discussed in the body of this order.

(B) NYISO is hereby directed to file, within 30 days of the date of this order, a status report on the progress made in its examination of the cost allocation issues, as discussed in the body of this order.

(C) NYISO is hereby directed to file revised tariff sheets, within 15 days of the date of this order, that revise the first sentence of Section 3 of Rate Schedule 1 of the Services Tariff, the first sentence of Section 3.B of Rate Schedule 1 of the Services Tariff,

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[7] 100 FERC ¶ 61,315 at P 13.

[8] Id. at P 14.

and the first sentence of Section 2.B.2 of Rate Schedule 1 of the OATT, as discussed in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

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SUMMARY OF RATE SCHEDULE 1 COST ALLOCATION FOR END OF 2002, JUNE 26, 2003 BAWG MEETING

2002 85/15 ADJUSTMENT DETAILS

USES 85-15 ALLOCATION OF RATE STABILIZATION AND COST COMPONENTS TO MAINTAIN CURRENT REVENUE

Withdrawals' Exposure	June-02	July-02	August-02	September-02	October-02	November-02	December-02	**June - Dec**
OATT Cost of Operations	$6,546,007	$6,546,007	$6,546,007	$6,546,007	$6,546,007	$6,546,007	$6,546,007	$45,822,05
OATT Start-Up Costs	$547,119	$547,119	$547,119	$547,119	$547,119	$547,119	$547,119	$3,829,83
FERC Fees	$354,167	$354,167	$354,167	$354,167	$354,167	$354,167	$354,167	$2,479,16
MST Start-Up Costs	$547,119	$547,119	$547,119	$547,119	$547,119	$547,119	$547,119	$3,829,83
Monthly Revenue Requirement	$7,994,412	$7,994,412	$7,994,412	$7,994,412	$7,994,412	$7,994,412	$7,994,412	$55,960,88
Withdrawals' 2002 Budget Under-run Allocation	($116,411)	($113,811)	($144,849)	($143,956)	($137,160)	($142,807)	($143,716)	($942,71
Withdrawals' Rate stabilization	$106,805	$1,482,458	$1,416,135	$149,699	($310,565)	($550,131)	$198,954	$2,493,35
Withdrawals' 2002 Exposure	**$7,984,806**	**$9,363,059**	**$9,265,698**	**$8,000,154**	**$7,546,687**	**$7,301,474**	**$8,049,650**	**$57,511,52**
Withdrawals' OATT Cost of Operations Rate [$/MWh]	$0.478977	$0.407928	$0.411020	$0.476746	$0.506166	$0.523458	$0.474081	
Withdrawals' OATT NYISO Start-up Cost Rate [$/MWh]	$0.040033	$0.034095	$0.034353	$0.039847	$0.042306	$0.043751	$0.039624	
Withdrawals' OATT FERC Fee Rate [$/MWh]	$0.025915	$0.022071	$0.022238	$0.025794	$0.027386	$0.028321	$0.025650	
Withdrawals' MST NYISO Start-up Cost Rate [$/MWh]	$0.040033	$0.034095	$0.034353	$0.039847	$0.042306	$0.043751	$0.039624	
Withdrawals' 2002 Budget Under-run Allocation [$/MWh]	($0.008518)	($0.007092)	($0.009095)	($0.010484)	($0.010606)	($0.011420)	($0.010408)	
Withdrawals' Rate stabilization Rate	$0.007815	$0.092382	$0.088918	$0.010903	($0.024014)	($0.043992)	$0.014409	
Withdrawals' Final Monthly Rate	**$0.584255**	**$0.583478**	**$0.581788**	**$0.582652**	**$0.583543**	**$0.583869**	**$0.582980**	

Suppliers' Exposure	June-02	July-02	August-02	September-02	October-02	November-02	December-02	**June - Dec**
OATT Cost of Operations	$1,155,178	$1,155,178	$1,155,178	$1,155,178	$1,155,178	$1,155,178	$1,155,178	$8,086,24
FERC Fees	$62,500	$62,500	$62,500	$62,500	$62,500	$62,500	$62,500	$437,50
Monthly Revenue Requirement	$1,217,678	$1,217,678	$1,217,678	$1,217,678	$1,217,678	$1,217,678	$1,217,678	$8,523,74
Suppliers' 2002 Budget Under-run Allocation	($20,543)	($20,084)	($25,562)	($25,404)	($24,205)	($25,201)	($25,362)	($166,36
Suppliers' Rate stabilization	$19,562	$271,466	$260,226	$27,582	($57,280)	($102,224)	$36,830	$456,16
Suppliers' 2002 Exposure	**$1,216,696**	**$1,469,059**	**$1,452,342**	**$1,219,855**	**$1,136,193**	**$1,090,252**	**$1,229,146**	**$8,813,54**
Suppliers' OATT Cost of Operations Rate [$/MWh]	$0.081442	$0.069374	$0.069657	$0.080580	$0.085465	$0.087728	$0.079754	
Suppliers' OATT FERC Fee Rate [$/MWh]	$0.004406	$0.003753	$0.003769	$0.004360	$0.004624	$0.004746	$0.004315	
Suppliers' 2002 Budget Under-run Allocation [$/MWh]	($0.001448)	($0.001206)	($0.001541)	($0.001772)	($0.001791)	($0.001914)	($0.001751)	
Suppliers' Rate stabilization Rate [$/MWh]	$0.001379	$0.016303	$0.015691	$0.001924	($0.004238)	($0.007763)	$0.002543	
Suppliers' Final Rate [$/MWh]	**$0.085779**	**$0.088224**	**$0.087575**	**$0.085092**	**$0.084061**	**$0.082797**	**$0.084861**	
Net Base Rate	$0.670806	$0.571315	$0.575390	$0.667173	$0.708252	$0.731755	$0.663048	
Rate Stabilization Component	$0.009194	$0.108685	$0.104610	$0.012827	($0.028252)	($0.051755)	$0.016952	
Adjusted Rate	$0.680000	$0.680000	$0.680000	$0.680000	$0.680000	$0.680000	$0.680000	

2002 Budget Under-run Allocation:	June-02	July-02	August-02	September-02	October-02	November-02	December-02	
Projected Revenue prior to adjusting	$9,338,456.99	$10,966,013.60	$10,888,450.34	$9,389,370.12	$8,844,244.91	$8,559,735.09	$9,447,873.22	
Actual Schedule 1 Revenue collected to date	$9,279,936.55	$10,899,796.61	$10,818,041.07	$9,320,011.13	$8,782,881.76	$8,491,727.52	$9,378,797.21	
Difference	$58,520.44	$66,216.99	$70,409.27	$69,358.99	$61,363.16	$68,007.57	$69,076.01	
2002 Budget Under-Run Monthly Withdrawal Refund	($66,668.93)	($57,526.38)	($85,001.06)	($85,001.06)	($85,001.06)	($85,001.06)	($85,001.06)	($549,200.6
2002 Budget Under-Run Monthly Injection Refund	($11,765.10)	($10,151.71)	($15,000.19)	($15,000.19)	($15,000.19)	($15,000.19)	($15,000.19)	($96,917.1
Withdrawals' Cost Adjustment	($116,411.30)	($113,810.82)	($144,848.94)	($143,956.20)	($137,159.75)	($142,807.49)	($143,715.67)	($942,710.1
Suppliers' Cost Adjustment	($20,543.17)	($20,084.26)	($25,561.58)	($25,404.04)	($24,204.66)	($25,201.32)	($25,361.59)	($166,360.6

Withdrawal MWh	June-02	July-02	August-02	September-02	October-02	November-02	December-02	**June - Dec**
LSE Internal LBMP Energy Sales	5,857,256	8,064,461	7,973,958	6,064,647	5,887,602	6,013,465	6,366,794	46,228,18
Internal Bilaterals	7,185,555	7,332,755	7,322,209	6,781,881	6,388,753	5,802,146	6,654,816	47,468,11
Importl/Non-LBMP Market Bilaterals	65,331	62,062	69,992	55,865	73,206	89,342	128,029	543,82
Export/Non-LBMP Market Bilaterals	129,008	136,124	137,744	135,440	139,270	137,834	142,151	957,57
Wheel Through Bilaterals	209,561	175,877	201,158	196,069	129,763	146,880	108,817	1,168,12
External TC LBMP Energy Sales	219,937	275,707	221,178	496,696	313,938	315,660	407,161	2,250,27
	13,666,649	16,046,987	15,926,238	13,730,599	12,932,532	12,505,327	13,807,769	98,616,10

Injection MWh	June-02	July-02	August-02	September-02	October-02	November-02	December-02	**June - Dec**
DAM Internal PS LBMP Energy Purchases	5,466,340	7,376,328	7,344,247	5,702,419	4,983,726	4,946,944	5,298,036	41,118,04
Internal Bilaterals	7,185,555	7,332,755	7,322,209	6,781,881	6,388,753	5,802,146	6,654,816	47,468,1
Importl/Non-LBMP Market Bilaterals	65,331	62,062	69,992	55,865	73,206	89,342	128,029	543,82
Export/Non-LBMP Market Bilaterals	129,008	136,124	137,744	135,440	139,270	137,834	142,151	957,57
Wheel Through Bilaterals	209,561	175,877	201,158	196,069	129,763	146,880	108,817	1,168,1
External PS LBMP Energy Purchases	1,128,307	1,568,367	1,508,545	1,464,042	1,801,648	2,044,581	2,152,392	11,667,84
	14,184,102	16,651,513	16,583,894	14,335,717	13,516,367	13,167,727	14,484,241	102,923,5

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SUMMARY OF RATE SCHEDULE 1
COST ALLOCATION FOR BEGINNING OF 2003,
JUNE 26, 2003 BAWG MEETING

2003 85/15 ADJUSTMENT DETAILS

USING 85-15 ALLOCATION OF RATE STABILIZATION AND COST COMPONENTS TO MAINTAIN CURRENT REVENUE

Withdrawals' Exposure	January-03	February-03	March-03	April-03	May-03	2003 thru 5/31
OATT Cost of Operations	$7,084,893	$7,084,893	$7,084,893	$7,084,893	$7,084,893	$35,424,465
OATT Start-Up Costs	$547,940	$547,940	$547,940	$547,940	$547,940	$2,739,701
FERC Fees	$354,167	$354,167	$354,167	$354,167	$354,167	$1,770,833
MST Start-Up Costs	$547,940	$547,940	$547,940	$547,940	$547,940	$2,739,701
Monthly Revenue Requirement	$8,534,940	$8,534,940	$8,534,940	$8,534,940	$8,534,940	$42,674,701
Withdrawals' adjustment to maintain revenue to date	($51,190)	($58,010)	($57,681)	($50,497)	($512,959)	($730,336)
Withdrawals' Rate stabilization	$642,438	($297,298)	($8,012)	($780,206)	($692,388)	($1,135,466)
Withdrawals' 2003 Exposure	**$9,126,188**	**$8,179,632**	**$8,469,247**	**$7,704,238**	**$7,329,593**	**$40,808,899**

Withdrawals' OATT Cost of Operations Rate [$/MWh]	$0.497315	$0.555501	$0.536049	$0.590596	$0.583266
Withdrawals' OATT NYISO Start-up Cost Rate [$/MWh]	$0.038462	$0.042962	$0.041458	$0.045676	$0.045109
Withdrawals' OATT FERC Fee Rate [$/MWh]	$0.024860	$0.027769	$0.026797	$0.029523	$0.029157
Withdrawals' MST NYISO Start-up Cost Rate [$/MWh]	$0.038462	$0.042962	$0.041458	$0.045676	$0.045109
Withdrawals' adjustment to maintain revenue to date [$/MWh	($0.003593)	($0.004548)	($0.004364)	($0.004209)	($0.042229)
Withdrawals' Rate stabilization Rate	$0.045095	($0.023310)	($0.000606)	($0.065038)	($0.057001)
Withdrawals' Final Monthly Rate	**$0.640602**	**$0.641335**	**$0.640790**	**$0.642224**	**$0.603411**

Suppliers' Exposure	January-03	February-03	March-03	April-03	May-03	2003 thru 5/31
OATT Cost of Operations	$1,250,275	$1,250,275	$1,250,275	$1,250,275	$1,250,275	$6,251,376
FERC Fees	$62,500	$62,500	$62,500	$62,500	$62,500	$312,500
Monthly Revenue Requirement	$1,312,775	$1,312,775	$1,312,775	$1,312,775	$1,312,775	$6,563,876
Suppliers' adjustment to maintain revenue to date	($9,033)	($10,237)	($10,179)	($8,911)	($90,522)	($128,883)
Suppliers' Rate stabilization	$118,923	($54,975)	($1,479)	($143,437)	($126,464)	($207,432)
Suppliers' 2003 Exposure	**$1,422,664**	**$1,247,564**	**$1,301,117**	**$1,160,428**	**$1,095,789**	**$6,227,562**

Suppliers' OATT Cost of Operations Rate [$/MWh]	$0.083665	$0.093553	$0.090432	$0.100042	$0.099447
Suppliers' OATT FERC Fee Rate [$/MWh]	$0.004182	$0.004677	$0.004521	$0.005001	$0.004971
Suppliers' adjustment to maintain revenue to date [$/MWh]	($0.000604)	($0.000766)	($0.000736)	($0.000713)	($0.007200)
Suppliers' Rate stabilization Rate [$/MWh]	$0.007958	($0.004114)	($0.000107)	($0.011477)	($0.010059)
Suppliers' Final Rate [$/MWh]	**$0.095201**	**$0.093350**	**$0.094110**	**$0.092853**	**$0.087159**

Net Rate	$0.686947	$0.767424	$0.740713	$0.816515	$0.807060
Rate Stabilization Component	$0.053053	($0.027424)	($0.000713)	($0.076515)	($0.067060)
Adjusted Rate	$0.740000	$0.740000	$0.740000	$0.740000	$0.740000

Adjustment to maintain Schedule 1 revenue to date	January-03	February-03	March-03	April-03	May-03	2003 thru 5/31
Projected Revenue prior to adjusting	$10,609,075.92	$9,495,442.71	$9,838,224.92	$8,924,073.38	$9,028,863.40	$47,895,680
Actual Schedule 1 Revenue collected to date	$10,548,852.73	$9,427,195.79	$9,770,364.68	$8,864,665.69	$8,425,382.24	$47,036,461
Difference	$60,223.19	$68,246.92	$67,860.24	$59,407.69	$603,481.16	$859,219
Withdrawals' Cost Adjustment	($51,189.71)	($58,009.88)	($57,681.21)	($50,496.54)	($512,958.99)	
Suppliers' Cost Adjustment	($9,033.48)	($10,237.04)	($10,179.04)	($8,911.15)	($90,522.17)	

Withdrawal MWh	January-03	February-03	March-03	April-03	May-03	2003 thru 5/31
LSE Internal LBMP Energy Sales	6,507,521	5,930,884	5,935,824	5,857,757	5,488,251	29,720,235
Internal Bilaterals	7,022,872	6,141,234	6,504,175	5,563,827	5,926,199	31,158,308
Importl/Non-LBMP Market Bilaterals	135,879	103,128	90,342	64,190	47,922	441,461
Export/Non-LBMP Market Bilaterals	143,981	128,451	142,742	128,654	132,881	676,709
Wheel Through Bilaterals	109,869	95,431	81,748	135,484	170,027	592,560
External TC LBMP Energy Sales	326,153	354,936	462,052	246,266	381,657	1,771,063
	14,246,275	12,754,064	13,216,884	11,996,178	12,146,936	64,360,337

Injection MWh	January-03	February-03	March-03	April-03	May-03	2003 thru 5/31
DAM Internal PS LBMP Energy Purchases	5,527,588	4,941,744	5,089,819	4,665,389	4,506,545	24,731,085
Internal Bilaterals	7,022,872	6,141,234	6,504,175	5,563,827	5,926,199	31,158,308
Importl/Non-LBMP Market Bilaterals	135,879	103,128	90,342	64,190	47,922	441,461
Export/Non-LBMP Market Bilaterals	143,981	128,451	142,742	128,654	132,881	676,709
Wheel Through Bilaterals	109,869	95,431	81,748	135,484	170,027	592,560
External PS LBMP Energy Purchases	2,003,671	1,954,336	1,916,740	1,939,903	1,788,655	9,603,305
	14,943,861	13,364,324	13,825,567	12,497,447	12,572,230	67,203,428

Document 14

NYISO SEPTEMBER 15, 2004 FILING LETTER

(80%/20%)

NEW YORK INDEPENDENT SYSTEM OPERATOR

September 15, 2004

BY HAND

The Honorable Magalie R. Salas, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

Re: New York Independent System Operator, Inc.'s Filing of Tariff Revisions to Modify Recovery of Certain Charges Assessed under Rate Schedule 1 of Its Open-Access Transmission Tariff and Market Administration and Control Area Services Tariff

Dear Ms. Salas:

Pursuant to Section 205 of the Federal Power Act ("FPA"), the New York Independent System Operator, Inc. ("NYISO") hereby submits revisions to Rate Schedule 1 of its Open Access Transmission Tariff ("OATT") and of its Market Administration and Control Area Services Tariff ("Services Tariff"). Rate Schedule 1, among other things, allocates the NYISO's budgeted annual operating costs and its Federal Energy Regulatory Commission ("FERC" or "Commission") assessed regulatory fees ("NYISO's Operating Costs") among Market Participants[1] in New York. Rate Schedule 1 currently allocates 85 percent of NYISO's Operating Costs to load and other withdrawals of energy ("Load") from the New York Control Area ("NYCA") and 15 percent to all injections, except wheel-throughs, supplying Energy into the NYCA ("Supply"). Pursuant to an affirmative vote of its Management Committee, the NYISO proposes herein to revise this percentage allocation so that 80 percent is allocated to Load and 20 percent is allocated to Supply.

A substantial majority[2] of the New York Market Participants believe that the proposed allocation percentages would be more equitable than the existing allocation. The NYISO is making this filing to reflect the wishes of the majority of its Market

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1 Capitalized terms not otherwise defined herein have the meaning ascribed to them in Article 1 of the OATT or Article 2 of the Services Tariff, as appropriate.

2 The proposed modification was approved at the Management Committee with an affirmative vote of 87.63 percent.

Participants and to comply with FERC's orders issued in Docket Nos. ER02-1961 and ER03-749.[3]

I. List of Documents Submitted

The NYISO submits the following documents:

1. This filing letter;

2. R.J. Rudden Associates, Inc.'s Executive Summary ("Attachment I");

3. NYISO's Board of Director's Decision Regarding Appeals of Management Committee Vote ("Attachment II");

4. Clean OATT sheets reflecting the revisions proposed herein ("Attachment III");

5. Redlined OATT sheets reflecting the revisions proposed herein ("Attachment IV");

6. Clean Services Tariff sheets reflecting the revisions proposed herein ("Attachment V");

7. Redlined Services Tariff sheets reflecting the revisions proposed herein ("Attachment VI"); and

8. A form of *Federal Register* Notice ("Attachment VII").

II. Copies of Correspondence

Copies of correspondence concerning this filing should be served on:

Robert E. Fernandez, General Counsel and Secretary
Elaine D. Robinson, Acting Director, Regulatory Affairs
Karen Georgenson Gach, Senior Attorney
New York Independent System Operator, Inc.
290 Washington Ave. Extension
Albany, NY 12203
Tel: (518) 356-8875
Fax: (518) 356-8825
rfernandez@nyiso.com
erobinson@nyiso.com
kgach@nyiso.com

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3 *New York Independent System Operator, Inc.*, 100 FERC ¶ 61,315 (2002); *New York Independent System Operator, Inc.*, 103 FERC ¶ 61,324 (2003). This filing has also been approved by the NYISO Board of Directors.

III. Service List

As it has done with numerous other filings, the NYISO will electronically serve a copy of this filing on the official representative of each of its customers, on each participant in its stakeholder committees, on the New York Public Service Commission and on the New Jersey Board of Public Utilities. The NYISO will serve the Pennsylvania Public Utility Commission with a hard copy of this filing, as requested by that agency. The NYISO respectfully requests a waiver of the requirements of Rule 2010 so that it may use electronic service methods. The NYISO's use of such methods has been convenient for both the NYISO and for the recipients of the service, and to date it has engendered no complaints. Allowing use of electronic service would also be consistent with the spirit of the Commission's recent Notice of Proposed Rulemaking on service and notification procedures.[4]

IV. Proposed Effective Date

The NYISO seeks an effective date of January 1, 2005 for the tariff revisions proposed in this filing. So that the NYISO may have time to implement any required changes to its billing system prior to the January 1, 2005 effective date, the NYISO requests that the Commission issue an order approving the proposed tariff changes by November 15, 2004.

V. Background

When the NYISO began operations in 1999, the NYISO's Operating Costs contained in Rate Schedule 1 were allocated entirely to Load. On May 31, 2002, the NYISO filed a proposal with the Commission, that had been approved by Market Participants through the Management Committee, to modify this allocation so that 85 percent of NYISO's Operating Costs would be allocated to Load and 15 percent would be allocated to Supply to more broadly assign responsibility for the NYISO's Operating Costs among Market Participants.[5] The same Management Committee motion that adopted the 85/15 split in Operating Cost recovery also directed that there be an examination to determine whether the split was an appropriate long-term allocation.

The Commission accepted the proposed allocation methodology in an order issued September 25, 2002.[6] In this order, FERC "encouraged" the NYISO to study whether the allocation was appropriate for the long-term. In a subsequent order, FERC also directed the NYISO to examine the appropriateness of the 85/15 allocation and required the

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4 *Electronic Notification of Commission Issuances, Notice of Proposed Rulemaking*, 107 FERC ¶ 61,311 (2004).

5 A detailed discussion of this proposal is contained within NYISO's filing letter filed in Docket No. ER02-1961 on May 31, 2002.

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

NYISO to file a status report.[7] The NYISO submitted a status report on July 11, 2003, stating that it was approaching consultants to perform the requested study in either 2003 or 2004, depending on budget constraints. As discussed in detail below, the NYISO subsequently contracted with a consultant who worked with Market Participants and NYISO staff for over seven months to develop the instant proposal.

VI. Current Proposal

The proposal filed herein revises the allocation percentages for NYISO's Operating Costs in Rate Schedule 1 so that 80 percent is allocated to Load and 20 percent is allocated to Supply for a minimum term of five years. This proposal requires the review of the allocation methodology during the fourth quarter of 2008 if significant market changes merit its review. This proposal was developed in response to the Management Committee's motion, described above, and FERC's direction to evaluate the long-term appropriateness of the current 85/15 allocation.

The proposed modification to the allocation percentages is supported by the study performed by the NYISO's consultant, R.J. Rudden Associates, Inc. ("Rudden"). The NYISO contracted with Rudden to study the appropriateness of the 85/15 allocation and examine the possible unbundling of Rate Schedule 1. The Executive Summary of this study is attached as Attachment I to this filing letter.

Rudden conducted an extensive review of the NYISO's costs, services and activities during the preparation of this study, expending about 1000 hours over seven months and meeting eight times with Market Participants. Rudden's review included interviewing NYISO staff regarding their activities and an examination of the rate designs at the other ISO/RTOs which have unbundled recovery of their Operating Costs. Rudden identified five service classifications for the activities performed by the NYISO and then made an initial allocation of costs to each of them. After a number of iterations, including substantial input from all sectors of Market Participants, Rudden concluded that the implementation of an unbundled rate using those five service categories would, on an aggregated basis, allocate 77 percent of NYISO's Operating Costs to Load and 23 percent to Supply (Executive Summary at 5).

Based on Rudden's work and the input from the stakeholders, Rudden ultimately recommended keeping the current straight percentage allocation methodology and modifying the percentages consistent with the results of the study, instead of unbundling the Rate Schedule 1 rate. Rudden reached this conclusion based largely on the concern that developing a fully unbundled rate, especially one with Market Participant support, could not be accomplished within a reasonable amount of time and at a reasonable cost. Rudden's conclusion is supported by the fact that, despite the serious efforts of all parties, after seven months of discussion, little progress had been made with the Market Participants regarding how Rate Schedule 1 would be unbundled because of the difficulty of allocating specific costs to specific sets of Market Participants with any significant

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7 *New York Independent System Operator, Inc.*, 103 FERC ¶ 61,324 (2003).

level of precision. Rudden reasoned that, in contrast, modifying the allocation percentages to reflect the results of the study would allow an appropriate allocation methodology to be implemented in a timely manner. Moreover, implementing an unbundled rate would require significant and costly changes to the NYISO's billing system, delay revising the current allocation while the billing system changes were being made and delay implementation of other key NYISO projects. Therefore, Rudden concluded that the more appropriate approach was to modify the current allocation percentages to closely approximate the results of a full unbundling.

Rudden supported revising the allocation percentages to reasonably approximate a split of 77 percent to Load and 23 percent to Supply. The development and results of the study were reviewed and discussed by Market Participants at the Budget, Standards and Performance Subcommittee, Business Issues Committee and the Management Committee over the period of seven months. Market Participants from all five sectors were active during this process, provided feedback to Rudden concerning its analysis and, ultimately, reached consensus on a proposal to allocate 80 percent to Load and 20 percent to Supply.

The Market Participants, Rudden and the NYISO also agreed on a minimum term of five years for the proposed allocation percentages, which will allow Market Participants to better quantify and forecast their Rate Schedule 1 exposure. The five-year minimum term was an important aspect of the proposal for many Market Participants that ultimately voted in favor of it. The five-year minimum term provides a level of certainty for those Market Participants who are entering into long-term bilateral contracts and considering construction of new capacity and, additionally, supports the development of futures markets.

The five-year minimum term also works in conjunction with other actions taken by the Management Committee which allow Market Participants to better quantify their Rate Schedule 1 costs. Specifically, the Management Committee approved new Budget Development and Project Monitoring Guidelines ("Budget Guidelines") at its July 24, 2003 meeting.[8] The Budget Guidelines require the NYISO to provide a five-year budget target to Market Participants, in addition to the detailed budget provided annually for the following year. The information provided in the five-year target is most useful to Market Participants for quantifying costs if the allocation methodology for NYISO's Operating Costs is fixed for a certain period. Therefore, the five-year term of the instant proposal furthers the efforts by Market Participants to quantify Rate Schedule 1 costs for long-range planning purposes.[9]

The proposal was approved by the Management Committee with an overwhelming majority of 87.63 percent. This vote represented broad support across all sectors. In fact,

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8 *See* NYISO Management Committee July 24, 2003 Summary of Motions, Motion #1.

9 The NYISO is currently undertaking a review and possible refinement of its comprehensive credit policy through the regular stakeholder process. Market Participants may raise issues concerning the NYISO's credit policy through this process.

a majority of each of the five sectors voted in favor of the proposal, with three sectors voting unanimously to support the proposal.

Two Market Participants,[10] who had voted against the proposal, appealed the action of the Management Committee to NYISO's Board of Directors. These parties argued, in part, that the straight percentage allocation methodology unfairly allocates costs to parties engaging in bilateral transactions.[11] Specifically, these parties argued that customers engaging in bilateral transactions should not be allocated costs though Rate Schedule 1 that are related to credit support[12] or scheduling and billing services because bilateral transactions do not require the same level of services from the NYISO as transactions in the Locational-Based Marginal Price market. However, a review of how the NYISO operates reveals that parties engaged in bilateral transactions do extensively utilize these services and, therefore, are appropriately allocated such charges under Rate Schedule 1. Accordingly, the Board denied the appeals. The Board Decision is attached as Attachment II of this filing letter.

VII. Proposed Tariff Revisions

The proposed tariff revisions change the percentage allocation contained in Rate Schedule 1 of the OATT and the Services Tariff to reflect the proposed 80/20 allocation. Specifically, the NYISO proposes to amend Section 2.B.1 of the OATT's Rate Schedule 1 to change the existing references to 85 and 15 percent to 80 and 20 percent. In addition, language has been added to that section stating that the 80/20 allocation will be effective for a minimum term of five years and that the allocation methodology will be reviewed during the fourth quarter of 2008 if significant market changes merit its review. The NYISO proposes that identical changes be made to Section 3.A of the Services Tariff's Rate Schedule 1.

VIII. Requisite Stakeholder Approval

As described above, the NYISO's Management Committee approved the tariff revisions proposed herein by an affirmative vote of 87.63 percent.

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10 The first appeal was from Entergy Nuclear Indian Point 2, LLC, Entergy Nuclear Indian Point 3, LLC and Entergy Nuclear Fitzpatrick, LLC. The second appeal was from a small group of New York municipal electric utilities.

11 Not all parties who engage in bilateral transactions shared in the appealing parties' opposition to the proposal. In fact, many parties who engage in bilateral transactions voted in favor of the proposal.

12 Costs related to credit support represent less than 1 percent of NYISO's Operating Costs. Specifically, costs attributable to credit support are approximately $1 million out of a total budget of approximately $124 million.

Document 15

NYISO OCTOBER 21, 2004 ANSWER
TO COMMENTS AND PROTESTS

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

New York Independent System Operator, Inc.) Docket No. ER04-1229-000

MOTION OF THE NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.
FOR LEAVE TO ANSWER AND ANSWER TO COMMENTS AND PROTESTS

Pursuant to Rules 212 and 213 of the Federal Energy Regulatory Commission ("Commission") Rules of Practice and Procedure, 18 C.F.R. §§ 212, 213 (2004), the New York Independent System Operator, Inc. ("NYISO") hereby respectfully requests leave to answer and answers certain comments and protests concerning its September 15, 2004 filing in this proceeding ("September 15 Filing"). In the September 15 Filing, the NYISO proposed to revise the allocation of the NYISO's budgeted annual operating costs and its FERC-assessed regulatory fees ("NYISO's Operating Costs") contained in Schedule 1 of the NYISO's Open Access Transmission Tariff and of its Market Administration and Control Area Services Tariff. The proposal is to allocate 80 percent of these costs to load and other withdrawals of energy ("Load") and 20 percent to all injections, except wheel-throughs, supplying Energy into the NYCA ("Supply").[1] The proposed modification was approved by the NYISO's Management Committee with an affirmative vote of 87.63 percent.

In support of this Motion for Leave to Answer and Answer, the NYISO states the following.

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[1] NYISO's Operating Costs are currently allocated 85% to Load and 15% to Supply.

I. Motion for Leave to Answer

The NYISO recognizes that the Commission generally discourages answers to responsive pleadings. The Commission has, however, allowed such answers when they help to clarify complex issues, provide additional information that will assist the Commission, correct inaccurate statements, or are otherwise helpful in the development of the record in a proceeding.[2] This Answer satisfies those standards because it responds only to specific arguments raised by the Protestors and provides additional information that the Commission needs to fairly evaluate them. The NYISO, therefore, respectfully requests that the Commission grant the NYISO leave to answer.

II. Answer

The NYISO will not repeat in this Answer statements made in the September 15 Filing which are responsive to the Protests and Comments filed in this proceeding. Instead, the NYISO intends herein to address only certain factual mischaracterizations made in those pleadings.

In its Comments filed October 6, 2004, KeySpan-Ravenswood, LLC ("Ravenswood") attempts to challenge the NYISO's assertion that the vote on the 80/20 proposal at the Management Committee represented broad support from Market Participants from across sectors. Ravenswood characterizes the Management Committee's vote on this issue as "evidence of the load vs. supply split" which Ravenswood has previously described and states

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[2] *See, e.g.*, *New York Independent System Operator, Inc.,* 108 FERC ¶ 61,188 at P 7 (2004) (accepting NYISO answer to protests because it provided information that aided the Commission in better understanding the matters at issue in the proceeding.); *Morgan Stanley Capital Group, Inc. v. New York Independent System Operator, Inc.*, 93 FERC ¶ 61,017 at 61,036 (2000) (accepting an answer that was "helpful in the development of the record . . . ."); *New York Independent System Operator, Inc.*, 91 FERC ¶ 61,218 at 61,797 (2000) (allowing an answer deemed "useful in addressing the issues arising in these proceedings . . .").

that the vote was not representative of the "actual magnitude of support for the proposal" (Ravenswood Comments at 3). These assertions are misleading.

A review of the voting record demonstrates the broad support the proposal received across sectors. All five sectors[3] voted with a majority in favor of the proposal. In fact, of the Market Participants in the Generation Owners sector who voted, 75 percent voted in favor of the proposal, and, of the Market Participants in the Other Suppliers sector who voted, 100 percent voted in favor of the proposal.[4] Therefore, any implication that the sectors representing the supply side of the market did not vote overwhelmingly in support of the 80/20 proposal is not correct.

The Protest of the New York Municipal Power Agency ("NYMPA") attempts to cast doubt on the objective nature of the study performed by R.J. Rudden Associates, Inc. ("Rudden"). NYMPA places great significance on an initial report provided by Rudden on March 19, 2004, which included a preliminary recommendation to allocate 70.67 percent of NYISO's Operating Costs to Load and 29.33 percent to Supply (NYMPA Protest at 5-11). NYMPA characterizes Rudden's final recommendation to allocate 77 percent to Load and 23 percent to Supply as an inappropriate compromise.

NYMPA fails to recognize that the Rudden study was an iterative process allowing Rudden to gather information that would ultimately lead to an independent recommendation concerning the allocation of NYISO's Operating Costs. Rudden presented preliminary results of its study to Market Participants and solicited feedback. Rudden then made an independent

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[3] The five sectors are Generation Owners, Other Suppliers, Transmission Owners, End Use Consumers, and Public Power/Environmental Parties.

[4] Four of the eight Market Participants in the Generation Owners sector present at the Management Committee meeting abstained. Ten of the eighteen Market Participants in the Other Suppliers sector present at that meeting abstained.

judgment regarding the merits of the comments received from Market Participants. Some comments from Market Participants and the NYISO provided Rudden with a better understanding of how the NYISO actually operates and, accordingly, triggered an adjustment to the preliminary results. After several iterations of this cycle with Market Participants, Rudden then made its independent, final recommendation to allocate 77 percent to Load and 23 percent to Supply. Rudden also supported the 80/20 proposal since it was reasonably close to Rudden's 77/23 recommendation.

III. Conclusion

The NYISO respectfully requests that the Commission accept this Answer. Furthermore, the NYISO requests that the Commission accept the tariff sheets submitted in the September 15 Filing.

Respectfully submitted,

/s/ *Karen Georgenson Gach*
Robert E. Fernandez, General Counsel and Secretary
Karen Georgenson Gach, Senior Attorney
New York Independent System Operator, Inc.
290 Washington Ave. Extension
Albany, NY 12203
Tel: (518) 356-8875
Fax: (518) 356-8825

Dated: October 21, 2004

Document 16

FERC November 15, 2004 Order

UNITED STATES OF AMERICA 109 FERC ¶ 61,161
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeen G. Kelly.

New York Independent System Operator, Inc. Docket No. ER04-1229-000

ORDER ACCEPTING PROPOSED TARIFF REVISIONS

(Issued November 15, 2004)

1. In this order, we will accept revisions filed by the New York Independent System Operator, Inc. (NYISO) to its funding mechanism in Rate Schedule 1 of both its Open-Access Transmission Tariff (OATT) and its Market Administration and Control Area Services Tariff (Services Tariff) effective January 1, 2005, as requested.[1] This order will benefit the public by ensuring a more equitable distribution among market participants of NYISO's fixed annual operating budget and Commission-assessed regulatory fees.

Background

2. NYISO proposes to revise the allocation percentages for NYISO's Operating Costs in Rate Schedule 1. Currently, 85 percent of NYISO's budgeted annual operating costs are assessed to withdrawals of energy from and within the New York Control Area (Load). The remaining 15 percent of NYISO's budgeted annual operating costs are assessed to injections of energy, except wheel-throughs (Supply). Prior to 2002, when the current allocation rates became effective, these costs were allocated entirely to Load. When the Commission approved the current allocation, it did so with the recommendation that NYISO examine the appropriateness of the 85/15 split for the fixed budget for operating costs and the variable components of Rate Schedule 1 over the long-term.[2] NYISO's filing represents its response to this directive.

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[1] Among other things, NYISO's Rate Schedule 1 prescribes how it allocates its budgeted annual operating costs and its Commission assessed regulatory fees (collectively referred to as "NYISO's Operating Costs") to its market participants.

[2] *New York Independent System Operator, Inc.*, 103 FERC ¶ 61,324 at P15 (2003).

3. NYISO's proposal would allocate 80 percent to Load and 20 percent to Supply for a minimum term of five years. NYISO states that this proposal requires the review of the allocation methodology during the fourth quarter of 2008 if significant market changes merit its review. NYISO states that the five-year minimum term was a crucial aspect of the proposal for many of NYISO's market participants who ultimately voted for it. NYISO states that the five-year term provides a level of certainty for parties entering into long-term bilateral contracts and considering construction of new capacity and, additionally, supports the development of futures markets. NYISO also suggests that, because it operates on a five-year budget in addition to an annual budget, market participants will be better served if they know that the methodology for allocating NYISO's Operating Costs is fixed for at least five years.

4. NYISO states that the proposal was approved by the Management Committee with an overwhelming majority of 87.63 percent and received broad support across all sectors.[3] In addition, NYISO states that the proposal is supported by a study performed by the consulting firm of R.J. Rudden Associates, Inc. (Rudden). NYISO states that it contracted with Rudden to study the appropriateness of the 85/15 allocation and to examine the possible unbundling of Rate Schedule 1. NYISO states that Rudden's review included interviewing NYISO staff regarding their activities and an examination of the rate designs at other ISOs/RTOs that have unbundled recovery of their operating costs. According to NYISO, Rudden reviewed five components of NYISO's overhead expenses to determine the primary beneficiaries of the services associated with its major cost centers.[4] Based on its analysis, NYISO explains, Rudden recommended allocating 77 percent of NYISO's Operating Costs to Load and 23 percent to Supply after unbundling the rates. However, NYISO explains, based on Rudden's work and the input from stakeholders, Rudden ultimately recommended keeping the current straight percentage allocation methodology instead of unbundling the Rate Schedule 1 rate. Thus, according to NYISO, Rudden recommended to adopt the 80/20 split, which is consistent with the results of the study. NYISO states that Rudden was concerned that developing a

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[3] According to NYISO, a majority of each of the five sectors voted in favor of the proposal, with three sectors voting unanimously to support the proposal.

[4] According to Rudden, if NYISO's overhead expenses are allocated based on which customer groups benefit most from each service, the five service categories are properly allocated as follows: (1) System Reliability Costs – 100 percent allocation to Load; (2) Real-Time Operation Costs – 100 percent allocation to Load; (3) Energy and Ancillary Services Markets Costs – 60.5 percent allocation to Load and 39.5 percent allocation to Supply; (4) Capacity Markets Costs – 50 percent allocation to Load and 50 percent allocation to Supply; and (5) Transmission Congestion Contracts Markets Costs – 60.5 percent allocation to Load and 39.5 percent allocation to Supply. *See* NYISO filing, Attachment I.

fully unbundled rate, especially one with market participant support, could not be accomplished within a reasonable amount of time and at a reasonable cost. NYISO points out that after seven months of discussions among the parties little progress had been made regarding how Rate Schedule 1 would be unbundled. Based on these circumstances, NYISO states that Rudden concluded that the more appropriate approach was to modify the current allocation percentages to closely approximate the results of a full unbundling. NYISO states that market participants then decided to adopt an 80/20 allocation as a compromise solution that approximates the results of full unbundling.

5. NYISO seeks an effective date of January 1, 2005 for the proposed tariff revisions, but requests that the Commission issue an order approving the proposed tariff changes by November 15, 2004, so that it can have time to implement any required changes to its billing system.

6. NYISO states that the proposed amendments were appealed to NYISO's Board by the Entergy Nuclear Entities[5] and by a group of New York Municipal electric utilities (New York Municipals),[6] but that NYISO's Board denied these appeals. Appellants (before NYISO's Board) argued that the straight percentage allocation methodology unfairly allocates costs to parties engaging in bilateral transactions. Specifically, these parties argued that customers engaging in bilateral transactions should not be allocated costs through Rate Schedule 1 that are related to credit support or scheduling and billing services because bilateral transactions do not require the same level of services from the NYISO as transactions in the locational-based marginal price (LBMP) market. NYISO states that it reviewed its operations and determined that: (1) parties engaged in bilateral transactions utilize credit support functions for portions of bilateral transactions; (2) the scheduling burden for bilateral and LBMP energy is the same; and (3) cost to NYISO for billing a bilateral transaction is not less than the cost of billing a transaction through the LBMP market. NYISO states that based on these findings, parties engaging in bilateral transactions are appropriately allocated costs under Rate Schedule 1.

[5] Entergy Nuclear Entities are comprised of: Entergy Nuclear Indian Point 2, LLC; Entergy Nuclear Indian Point 3, LLC; and Entergy Nuclear Fitzpatrick, LLC.

[6] New York Municipals are comprised of: the Village of Bergen; Freeport Electric Department; Green Island Power Authority; Greenport Municipal Utilities; City of Jamestown Board of Public Utilities; Town of Massena Electric Department; Village of Rockville Centre; Salamanca Board of Public Utilities; Village of Sherburne; City of Sherrill Power & Light.

Notice of Filing and Pleadings

7. Notice of NYISO's filing was published in the *Federal Register*, 69 Fed. Reg. 59,913 (2004), with protests and interventions due on or before October 6, 2004. Timely motions to intervene were filed by the AES Eastern Energy, L.P. (AES), NRG Companies, Keyspan-Ravenswood, LLC (Ravenswood), Independent Power Producers of New York (IPPNY), Entergy Nuclear Entities, and, jointly, by Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Power Authority, New York Power Authority, New York State Electric & Gas Corporation, Rochester Gas and Electric Corporation, Orange and Rockland Utilities, Inc., and Niagara Mohawk Power Corporation (collectively, New York Transmission Owners).

8. Timely motions to intervene and protests were filed by Edison Mission Energy, Inc. and Edison Mission Marketing and Trading Inc. (collectively, Edison Mission), New York Municipal Power Agency (NYMPA) and New York Municipals.

9. AES supports NYISO's filing and emphasizes that the proposal was approved by NYISO's stakeholders as a package that guarantees that costs will not be unbundled and that the proposed 80/20 cost allocation ratio will remain in place for at least five years to allow market participants to properly assess their risk exposure for the payment of NYISO's Operating Costs. In addition, AES supports NYISO's conclusion that parties engaged in bilateral contracts must continue to pay NYISO's Operating Costs because they extensively use these services.

10. Ravenswood also views NYISO's proposal as a package and points out that the five-year minimum term for the new cost allocation methodology will provide certainty to suppliers that their burden will not increase in the near future. Ravenswood agrees that the split allocation of costs is a more efficient solution than full unbundling. Finally, Ravenswood indicates that "suppliers had little choice in the matter – accept the new proposal or face one that would shift an even more unreasonable cost responsibility to supply."[7] In line with Ravenswood, IPPNY states that it "reluctantly supports the NYISO's 80/20 allocation as a package proposal" coupled with the minimum five-year term as a compromise.[8]

11. Both Edison Mission and NYMPA request that the Commission reject NYISO's proposal and order NYISO to unbundle its rates. In particular, Edison Mission argues that a bundled cost allocation approach adversely affects the economic efficiency of energy markets and transfers an embedded sunk cost into the overall market clearing

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[7] Ravenswood Motion to Intervene at 3.

[8] IPPNY Motion to Intervene at 3.

prices leading to higher costs to customers. Edison Mission explains that by applying the old cost of service model to allocate costs to the current market design for energy, ancillary services and unforced capacity, the current rate allocation mechanism distorts price signals for suppliers of these goods. Edison Mission recommends, in addition to the full unbundling of the NYISO's Operating Costs, that participants in the non-physical markets administered by NYISO (e.g., markets for transmission congestion credits and virtual transactions) be assessed the cost of operating those markets.

12. NYMPA disputes the specific allocation of costs among service categories recommended by Rudden. First, it argues that System Reliability costs, which the Rudden study assigned to Load only, should be allocated to all who benefit – including Supply. As an example, NYMPA suggests that reliability services might facilitate exports and wheel-throughs, which would benefit Supply. Second, NYMPA requests a further explanation of why 100 percent of Real-Time Operations costs are charged to Load. Third, NYMPA questions the 60/40 Load/Supply allocation of the Energy and Ancillary Services market costs and points out that an earlier Rudden report suggested a broad range of possible allocation ratios (from a 60/40 split to a 40/60 split between Load and Supply). Fourth, NYMPA disagrees with the 60/40 Load/Supply allocation for administering the transmission congestion contracts market, arguing that the costs should be borne by those who participate in these markets, including third-party institutions, and notes that many Loads and Suppliers do not participate in this market at all. Fifth, NYMPA disputes the 50/50 allocation of Management Service Costs [9] and argues that it is not clear who benefits from these fees. Finally, NYMPA urges the Commission to require NYISO to split its Schedule 1 costs more appropriately to those who benefit and asks the Commission to set for hearing any disputed issues of fact that cannot be decided based on the pleadings.

13. New York Municipals protest NYISO's failure to unbundle and functionalize its costs so that transmission service customers of NYISO do not continue to subsidize customers using non-transmission services of the NYISO. New York Municipals contend that prior Commission orders mandated that NYISO revise its funding mechanism to allocate costs for the non-transmission services to the parties that benefit from these services.[10]

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[9] NYMPA states that the March 19, 2004 Rudden Report finds that Management Services Costs include: (1) costs that support the activities required for all of the service categories; and (2) activities that cannot be assigned or allocated to another Service Category.

[10] In this regard, New York Municipals cite *Central Hudson Gas & Electric Corp.*, 92 FERC ¶ 61,279 (2000).

14. New York Municipals accept the 80/20 allocation of the NYISO's fixed budget costs on an interim basis, but argue that the proposed minimum term of five years is excessive and inconsistent with the need for NYISO to revise its funding mechanism to reflect proper cost functionalization.

15. New York Municipals also argue that the proposed cost allocation is unreasonable in light of the Commission's Notice of Inquiry in Docket No. RM04-12-000[11] and possible actions that might result from this Inquiry. They are concerned that, if the Commission accepts the present NYISO proposal, it might prevent the Commission from requiring NYISO to revise its rates and charges, consistent with the findings we may make in Docket No. RM04-12-000, for at least five years.

16. Finally, New York Municipals argue that the proposed five-year term is not reasonable, because it results in dramatic cost shifts between Load and Suppliers. In support of this argument, New York Municipals contend that: (1) NYISO's arguments in favor of a five-year term are not strong enough because recent findings have shown that NYISO charges are not a barrier to new RTO development, and thus NYISO charges should not be of significant importance for market participants; and (2) five-year budget targets were adopted to provide NYISO's Board of Directors with certainty that market participants would accept the debt financing associated with information technology improvements and therefore are not relevant for cost-allocation among participants.

17. NYISO and Entergy Nuclear Entities each filed for leave to file an answer to the protests.

Discussion

18. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2004), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2004), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We are not persuaded to accept the answers of Entergy Nuclear Entities or NYISO, and will, therefore, reject them.

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[11] In the Notice of Inquiry on Financial Reporting and Cost Accounting, Oversight and Recovery Practices for Regional Transmission Organizations and Independent System Operators (Docket No. RM04-12-000) dated September 16, 2004, FERC invited comments on its accounting and financial reporting requirements for and oversight of regional transmission organization (RTO) and independent system operator (ISO) costs.

19. We will accept NYISO's proposed revisions, effective January 1, 2005, as requested. By employing an independent consultant, working through its stakeholder process, and achieving overwhelming support of the Management Committee, NYISO has adequately responded to our request to examine the appropriateness of the 85/15 split for allocating NYISO's Operating Costs.[12] We also note that the proposed 80/20 cost allocation ratio is supported by a larger majority (87.63 percent) of market participants than previously supported the 85/15 split (approved by 61.38 percent of the vote in 2002). In this regard, we agree with NYISO's characterization (as supported by AES, Ravenswood and IPPNY) that the proposal must be viewed as a package, and that this package includes the use of the new cost allocation ratio for a minimum of five years.

20. While it is true, as argued by New York Municipals, that the 80/20 allocation ratio does not freeze NYISO's operating costs for five years, the allocation ratio does play a large part in determining the total amount of this charge borne by NYISO market participants and, thus, the argument that the five-year minimum term gives budget stability to NYISO's market participants has merit. However, given that changes in the market conditions occur over time, we also agree that cost allocation ratios should be reviewed by NYISO at the end of 2008 to ensure that they are just and reasonable.

21. NYMPA's criticisms of the results of the Rudden study make much of the fact that Rudden's final report differed from the allocations of specific cost categories between Load and Supply contained in earlier drafts of the report. While this is true, the fact that Rudden used an iterative approach in preparing its final report does not show that its final recommendation was less valid than those advanced in its earlier drafts and does not show that the final report did not represent Rudden's objective independent analysis of the issue. The supporting study conducted by Rudden evaluated the merits of unbundling Schedule 1, as advocated by certain parties, and, in so doing, made comparisons between NYISO and three other RTOs/ISOs—ISO-NE, PJM, and CAISO. It is apparent from the filing and the interventions that the proposed revision of the allocation and the five-year term reflects a compromise among NYISO stakeholders in order to effectuate the results of the Schedule 1 unbundling project.[13] The Commission concludes that NYISO has presented evidence that the proposal reasonably allocates NYISO's Operating Costs to those who use the services. Therefore, we will reject the protestors' assertion that NYISO's filing should be set for hearing.

22. We also find that NYISO has adequately addressed both cost functionalization and unbundling issues in the Rudden report, commissioned by NYISO. After examining which customer groups benefit most from each of the five service categories, the Rudden

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[12] *New York Independent System Operator, Inc.*, 103 FERC ¶ 61,324 at P 15 (2003).

[13] *See* Attachment I of the September 15, 2004 filing.

report proposed a cost allocation methodology that yielded a 77/23 cost split. Based on Rudden's recommendation and the input from stakeholders, NYISO decided not to unbundle the rates, and to accept an 80/20 cost split that closely approximates the one recommended by Rudden. We find that NYISO's cost allocation methodology and functionalization of costs is just and reasonable. Therefore, we conclude that New York Municipals' argument that NYISO has not addressed the Commission mandated order to functionalize and unbundle its rates is without merit.

23. We also reject the New York Municipals' argument that our approval here of the minimum five-year term for the 80/20 allocation ratio will tie our hands if we decide that another allocation ratio is preferable when we take final action in the proceeding in Docket No. RM04-12-000. The decisions we are reaching in this case are based on the results of the Rudden study and a consensus package approved by a majority of NYISO's members (where the parties agreed on an overall result without reaching agreement on any underlying principles). Nothing in that package will preclude the Commission from reviewing the package after the issuance of a final order in the ongoing rulemaking proceeding in Docket No. RM04-12-000 and determining whether or not revisions are necessary. We also note that our action here does not preclude us, acting *sua sponte*, from investigating rates, terms and conditions under the "just and reasonable" standard of section 206 of the Federal Power Act at such times and under such circumstances as the Commission deems appropriate.

The Commission orders:

(A) NYISO's proposed revisions to its Open-Access Transmission Tariff and its Market Administration and Control Area Services Tariff are hereby accepted for filing to become effective on January 1, 2005.

(B) NYISO is hereby directed to review the appropriateness of the cost allocation ratio and make a filing with the Commission at least 60 days prior to the end of the five-year term of the new cost allocation methodology.

By the Commission.

Magalie R. Salas,
Secretary.