104 FERC 61, 094

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 Nos. ER03-873-000, ER00-1969-018, and ER00-3591-016

ORDER ACCEPTING COMPLIANCE REPORT AND TARIFF REVISIONS

(Issued July 22, 2003)

1. In this order, the Commission accepts a compliance report, which is related to Bid Production Cost Guarantee (BPCG) payments made by the NYISO to operating reserves suppliers on Long Island, submitted by the New York Independent System Operator, Inc. (NYISO) pursuant to the Commission's order issued on August 27, 2002.[1] The Commission also accepts for filing, to be effective May 24, 2003, proposed tariff revisions submitted by the NYISO that modify its method for determining when to allocate BPCG costs to Long Island load rather than to state-wide load.

2. This order benefits customers by ensuring greater efficiency in the NYISO operating reserves markets.

Background

3. NYISO's efforts to allocate the costs of BPCG payments on a locational basis have their impetus in a Commission proceeding that addressed market design flaws which created a potential for market power abuse in NYISO's operating reserves market.[2] In that proceeding, New York State Electric & Gas (NYSEG) complained that state-wide reliability requirements allowed eastern ten-minute reserves suppliers to set the reserves market-clearing price and that BPCG payments to suppliers committed to meet these requirements were being recovered from all loads state-wide, rather than from the eastern loads that were incurring them.[3] The Commission ordered NYISO to review and report on whether the cost recovery arrangements for reliability requirements should be revised.

4. After a number of orders on the matter and related compliance filings,[4] the

Commission accepted, in its August 27, 2002 order, that NYISO would allocate the costs of Long Island BPCG payments to Long Island load under certain circumstances and approved its criteria for determining what those circumstances would be. The two criteria (both must be met) under which NYISO would allocate costs of BPCG payments to Long Island load are (1) when locational reserve constraints cause the commitment of Long Island units that would not otherwise be committed, and (2) such commitments cause BPCG payments to a Long Island unit to increase by an amount equal to or greater than 200 percent.

5. In accepting NYISO's proposal, the Commission recognized that the second criteria was founded on the market impact thresholds from NYISO's Market Mitigation Measures. It found that the proposal appropriately drew from the Market Mitigation Measures because its purpose was to ensure that reserve suppliers, especially those in Long Island, would not be able to exercise market power to set reserves prices state-wide during constrained periods. The Commission, however, additionally found that allocating BPCG costs to Long Island load would only be appropriate to the extent those costs were minimal; were the costs substantial, NYISO would have to file a more comprehensive mechanism to ensure that the costs were appropriately borne by Long Island loads. Accordingly, the Commission directed NYISO to

> report back to this Commission in 90 days from the date of issuance of this order to state its state-wide BPCG costs during this summer period (of 2002), the BPCG payments made to Long Island generators, and whether it has allocated costs to Long Island, and if so, when and what costs. NYISO should also provide data and workpapers concerning the timing and amount of BPCG costs incurred to meet Long Island requirements.

6. To comply with the order, NYISO filed a report on its BPCG costs on December 9, 2002, in Docket Nos. ER00-3591-016 and ER00-1969-018. Further, on May 23, 2003, NYISO filed revisions to its Market Administration and Control Services Tariff to modify the way it assigns BPCG costs to Long Island load in Docket No. ER03-873-000.

Notice of the Filings

7. Notice of the compliance report filed in Docket Nos. ER00-3591-016 and ER00-1969-018 was published in the Federal Register,67 Fed. Reg. 77,765 (2002), with comments, protests, and interventions due on or before December 30, 2002. A timely motion to intervene was filed by the New York Transmission Owners. NYSEG, Rochester Gas & Electric Corporation (Rochester), and Niagara Mohawk Power Corporation (Niagara Mohawk) filed a timely motion to intervene and protest.

8. Notice of the filing in Docket No. ER03-873-000 was published in the Federal Register, 68 Fed. Reg. 33,929 (2003), with protests, answers, and motions to intervene required to be filed on or before June 13, 2003. Timely motions to intervene were filed by Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Long Island Power Authority (LIPA), New York Power Authority, and Orange and Rockland Utilities, Inc., (collectively, New York Transmission Owners); Reliant Resources, Inc.; Keyspan-Ravenswood, LLC; Niagara Mohawk Power Corporation. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. 385.214 (2000), the filing of a timely motion to intervene that has not been opposed makes the movant a party to the proceeding. NYSEG and Rochester (collectively, Energy East Companies) motioned to intervene and comments out of time.

The Compliance Report

9. On December 9, 2002, NYISO filed a compliance report on its BPCG costs. In the report, NYISO states that its total state-wide day ahead BPCG costs incurred during the Summer 2002 capability period were $18.4 million and that the total day ahead BPCG payments made to generators committed on Long Island that were scheduled to provide operating reserves during the same period were $2.6 million. NYISO did not submit information on the amount of BPCG costs incurred specifically to meet Long Island requirements because of constraints, which is the first criteria for allocating the costs. NYISO claims that in order to do so, it would have to re-run its Security Constrained Unit Commitment software (SCUC), and that the cost to do so would be enormously burdensome. NYISO did, however, submit information on the amount of BPCG payments made to generators on Long Island and the amount by which those payments exceeded the market impact threshold. NYISO's analysis shows that during the relevant period $2.4 million in BPCG payments to units on Long Island providing operating reserves exceeded the thresholds for market power mitigation. Nevertheless, NYISO did not allocate any of these costs to Long Island load in particular, or otherwise mitigate the payments, because it reviewed them under its Market Mitigation Measures and none of the payments failed the measures' conduct threshold.

10. The NYSEG, Rochester, and Niagara Mohawk contend that NYISO's report does not comply with the August 27 Order. They claim that although NYISO set forth generally its BPCG costs, these costs are largely uncorroborated because NYISO failed to provide any data and workpapers concerning the timing and amount of them. They argue that since NYISO does not actually know how much of the BPCG costs are attributable to a constraint, it was incumbent on NYISO to provide an alternative cost recovery mechanism. They state that NYISO's concern about the expense of re-running the SCUC is understandable, but request that the Commission order NYISO to adapt its software going-forward to quantify all constraint-induced out-of-merit Long Island operating reserves costs.

The Tariff Filing

11. NYISO's proposed revisions would change its criteria for determining when to allocate Long Island BCPG costs to Long Island load in a way it claims will conform the methodology to the standards of its Market Mitigation Measures. NYISO proposes to retain the second criteria, but modify the first - from a determination of whether a constraint caused a Long Island unit to be committed to a determination of whether a unit exceeded the conduct threshold from the Market Mitigation Measures. Thus, NYISO would only allocate costs of BPCG payments to Long Island load under its proposal when (1) there is a 300 percent increase or an increase of $100 per MW in a unit's minimum generation bid or a 200 percent increase in a unit's start-up bid as compared to a reference price, and (2) acceptance of these bids would cause BPCG payments to a market participant to increase by an amount equal to or greater than 200 percent.

12. NYISO claims that expenses related to determining whether a constraint caused a Long Island unit to be committed are prohibitive and contribute to a need for a change in the criteria. It claims that such a determination requires re-running the SCUC, which it says is enormously expensive and inefficient in light of the relatively small amount of BPCG payments made to Long Island units. NYISO also argues that conforming its criteria wholly to its Market Mitigation Measures is appropriate because, as the Commission found, the purpose of allocating BPCG payments to Long Island load is to address market power problems.

13. NYISO requests an effective date for its proposed tariff revisions of September 30, 2001, "consistent with the original filings related to this matter."

14. The Energy East Companies protest the filing, reiterating that NYISO has not supplied information about the extent of the BPCG costs that are attributable to Long Island constraints, and is not in compliance with the August 27 order. They contend that the issue in this proceeding is not simply market power, but state-wide socialization of costs. They argue that NYISO must quantify the BPCG costs, allocate them to Long Island load consistent with cost causation principles, and implement true locational reserves pricing.

Discussion

15. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,[5] the timely, unopposed motions to intervene in each proceeding serve to make each filing entity a party to the proceeding in which it intervened.

16. Pursuant to Rule 214 of the Commission rules of Practice and Procedure, 18 C.F.R. § 385.214 (2003), the Commission will grant Energy East Companies' motion to intervene and comment out of time in Docket No. ER03-873-000.

17. We accept NYISO's report on its BPCG costs as in compliance with our August 27 Order. We will not require NYISO to submit additional information. We requested the report to learn more about the amount of BPCG costs incurred to service Long Island load and to ensure that these costs were not so substantial as to necessitate an allocation mechanism more comprehensive than the one before us. We are satisfied that these costs - which are no more than $2.4 million - are not substantial enough to justify design of a potentially expensive allocation mechanism to closely pinpoint their cost causation.

18. With respect to NYISO's tariff filing in Docket No. ER03-873-000, we accept for filing to be effective May 24, 2003,[6] NYISO's revisions to its Market Administration and Control Services Tariff, as requested in Docket No. ER03-873-000. Because the issue in this proceeding is mitigation of market power in NYISO's non-spinning reserves market, it is appropriate that attempts to exercise market power through BPCG payments be addressed by the Market Mitigation Measures. In addition, fully incorporating the mitigation of BPCG payments in Long Island into the Market Mitigation Measures is consistent with our concern that NYISO have a single set of mitigation procedures. Further, NYISO's proposed tariff revisions focus on the existence of market power problems and seek to mitigate them. The Energy East Companies' issue of fine-tuning NYISO's cost allocation design to more accurately reflect cost causation is outside the scope of this proceeding.

The Commission orders:

(A) In Docket No. ER03-873-000, NYISO's revised tariff sheets are hereby accepted for filing, to become effective May 24, 2003.

(B) NYISO's compliance filing submitted in Docket Nos. ER00-3591-016 and ER00-1969-018 on December 9, 2002 is hereby accepted, as discussed in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

[1]New York Independent System Operator, Inc., 100 FERC ¶ 61,213 (2002).

[2]See New York Independent Transmission System Operator, Inc., 91 FERC ¶

61,218 (2000).

[3]See NYSEG complaint filed on March 31, 2000, in Docket No. EL00-63-000, at 13-14.

[4]On November 8, 2000, the Commission accepted the proposal and suspended it for 5 months in 93 FERC ¶ 61,142 (2000). On March 29, 2001, the Commission approved the proposal to become effective at the end of the suspension period, and required NYISO to resubmit the tariff sheets, in 94 FERC ¶ 61,371 (2001). On June 29, 2001, in 95 FERC ¶ 61,484 (2001), the Commission conditionally approved the tariff sheets resubmitted by NYISO, provided that NYISO revise them to set forth the criteria it would use to determine when BPCG costs would be allocated to Long Island customers.