

NYISO Board of Directors Governance Committee Decision
On
KeySpan-Ravenswood's Request for Stay Pending Appeal

KeySpan-Ravenswood, Inc. (Ravenswood) has filed an appeal from the Management Committee decision denying Ravenswood's appeal from the Operating Committee's approval of the Cost Allocation Report for the Class 2001 generating projects (Cost Allocation Report). Ravenswood has also filed with that appeal a Request for Stay pursuant to Section 3.01 of the Board's Procedural Rules for Appeal. No other entity has filed a motion supporting or opposing the Request for Stay.

Pursuant to Section 3.02 of the Procedural Rules for Appeal, the Governance Committee shall grant a stay of a Management Committee decision pending appeal when the Governance Committee determines both that (i) "irreparable harm is likely to occur in the absence of a Stay," and (ii) "no overriding, countervailing issues regarding reliability, system integrity, prejudice to other Parties, or other similar issues are present."

Ravenswood alleges that the expiration of the 30-day deadline for accepting the Project Cost Allocation assigned to it in the Cost Allocation Report before its appeal is decided will irreparably harm itself and "other sponsors." Ravenswood does not, however, allege any fact nor present any financial analysis that supports this allegation, and no other sponsor has come forward to demonstrate any irreparable harm. Ravenswood states only that the Project Cost Allocation, if accepted and then not reduced following a decision on the merits of its appeal, "may" make its project uneconomic. Ravenswood states that "a developer" will "likely cancel or delay a project" rather than rely on "a hope of success on appeal." Ravenswood then claims that it would be "harmed" if it rejects the Project Cost Allocation and cancels its project, and then succeeds on the appeal, because it would have "needlessly cancelled" the project and would have to seek an interconnection cost allocation again for a future class year to reinstate the project.

These conclusory allegations do not constitute a showing that "irreparable harm is likely to occur" if the Request for Stay is not granted. First, Ravenswood has no standing to claim irreparable harm on behalf of other sponsors, and we find theoretical allegations of decisions by, or harm to, "a developer" unpersuasive. Second, as Ravenswood recognizes, "[a]ll Class Year 2001 developers now know what their cost allocation is," but Ravenswood alleges only that its cost allocation "may" make its project uneconomic without making any effort to support this claim with financial analysis or other evidence. This allegation is far less than a showing that irreparable harm is "likely" should its appeal succeed but no stay granted in the interim. Third, we decline to find that a developer's decision to avoid the risk that its project "may" be uneconomic by canceling or deferring it would constitute irreparable harm.

The Request for Stay is denied.