

## **NYISO Board of Directors Decision**

**On**

### **KeySpan Ravenswood's Appeal of the Management Committee Denial of its Appeal of the Cost Allocation Study for Class Year 2001 Generators**

#### **Introduction**

KeySpan-Ravenswood, Inc. (Ravenswood) appeals from the Management Committee decision denying Ravenswood's appeal from the Operating Committee's approval of the Interconnection Cost Allocation Report for the Class 2001 generating projects (Cost Allocation Report). PSEG Power Cross Hudson Corporation (PSEG), a member of the Class 2002 Developers, has filed a Motion in Support. The New York Power Authority ("NYPA") submitted a letter in general support of Ravenswood's appeal which was received out of time but which was nonetheless considered by the Board and made a part of the record of this appeal. Ravenswood and PSEG made oral presentations before the Board Governance Committee on July 15, 2002.

#### **Procedural Background**

The NYISO Open Access Transmission Tariff (OATT) charges the NYISO with responsibility for allocating the costs of new generation interconnections among transmission owners and project developers. Attachment S to the OATT contains the rules governing the cost allocation process. The NYISO began the studies required for allocating the costs of Class Year 2001 projects in May 2001 and presented its final cost allocation report to the Operating Committee on May 23, 2002. Ravenswood's project was evaluated in the NYISO's report as a member of the Class of 2001.

The Operating Committee approved the staff's report, and a thirty-day period fixed by the tariff in which all Class Year developers were to decide whether to accept their cost allocations began to run. However, Ravenswood was unsatisfied with its cost share, and appealed the Operating Committee vote to the Management Committee with a request for a stay of the next phase of the cost allocation process. The Management Committee's Stay Review Subcommittee granted the stay, but the full committee voted to uphold the Operating Committee's action. Thus the Management Committee's stay expired on July 5, 2002. Ravenswood then brought this appeal.

On June 29, 2002, the Governance Committee of the Board of Directors considered and denied Ravenswood's further Request for Stay pending this appeal on the ground that Ravenswood had shown no likelihood of irreparable harm sufficient to justify a stay.<sup>1</sup> This

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<sup>1</sup> On June 28, 2002, Ravenswood sought a stay from the Federal Energy Regulatory Commission (FERC) on substantially the same grounds presented to this Board. On July 5 FERC denied the stay for the same reasons set forth in this Board's decision to deny the Request for Stay.

denial of the Request for Stay had the effect of allowing the Initial Decision Period for Class 2001 Developers to continue to run.

The Initial Decision Period expired on July 5, 2002. Under the terms of Attachment S, Class 2001 Developers were required to provide either an Acceptance Notice or a Non-Acceptance Notice on that date. *See* OATT, Attachment S, § IV.F.8. Ravenswood provided a letter on July 5 in which it stated that it “cannot respond in the manner contemplated by the Tariff.” By telephone and letter on July 8 and 9 NYISO Staff informed Ravenswood that its letter did not comply with § IV.F.8, and stated that unless Ravenswood provided an Acceptance Notice, it would construe the July 5 letter as a Non-Acceptance Notice.

On July 10, 2002, Ravenswood provided the NYISO with another letter stating that it “cannot accept or reject the cost allocation established by the NYISO” because it continues to seek to have both this Board and FERC address certain issues. The NYISO appropriately construed this letter as a Non-Acceptance Notice. Having rejected its allocation, Ravenswood is no longer a Class 2001 Developer.

### **Discussion**

We find that because Ravenswood is no longer a Class 2001 Developer, its challenges to the Class of 2001 cost allocation process are rendered moot, and we dismiss this appeal on that ground. At the same time, while Ravenswood's appeal raises interesting conceptual issues about the FERC-approved interconnection cost allocation methodology, we find that that existing methodology was adhered to reasonably in the current cost-allocation procedure, and therefore Ravenswood's appeal lacks sufficient merit to warrant reversing the Management Committee's action.

Ravenswood asserts that the Cost Allocation Report fails to comply with the Tariff in four ways: first, that the baseline study must include all units constructed to meet reliability requirements, as well as existing and proposed units necessary to reliably meet load; second, that “generic” units used in the baseline assessment must be “reasonably” selected and “feasible” of construction for the required in-service year; <sup>2</sup>third, that both the baseline assessment and the reliability assessment be based on “up-to-date” accurate data; and fourth that the costs of system upgrades required for the reliability assessment be determined by NYISO Staff to be least cost for both transmission owners and developers.

In considering Ravenswood's arguments, we must keep in mind that there is an urgent need for generation in New York State, and especially in New York City. We have reviewed the Cost Allocation Report, and have investigated the way it was conducted over the course of over 14 months with extensive participation by affected market participants. We believe the baseline study and the entire Cost Allocation Report was based on a fair and rational implementation of the cost allocation rules in effect throughout the study, and that it should not be disturbed. At this point, we are reluctant to inject further uncertainty and

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<sup>2</sup> NYPA argues, among other things, that the generic sites should have been selected on the basis of whether they could feasibly accommodate units on an “emergency” basis. We find no such requirement in the applicable rules.

delay in a process that has already had approval by a majority of the Operating Committee, the Management Committee, and the Class 2001 Developers.

## **I. The Baseline Study Includes All Relevant Units to Meet Reliability Requirements**

We find that the baseline study underlying the Cost Allocation Report does include all relevant units necessary to meet the NYISO's reliability requirements. Ravenswood argues that the generic units should mimic those units in the Class 2001 generating projects that, by historical happenstance, were already under construction or sited when the study was being performed. Ravenswood specifically refers to units under construction by NYPA while the study was conducted.

Ravenswood misconstrues the nature of the baseline planning process. The NYISO is charged with developing a baseline level for the New York transmission system, including modeling additional transmission or "generic generation" to determine System Upgrade Facilities needed to meet projected load growth and changes in load patterns in a reliable and least cost manner. The baseline study explicitly cannot consider "any proposed Developer projects, except for those proposed projects to which interconnection costs have already been allocated and accepted by the Developers of those projects." OATT, Attachment S, § IV.F.1.a(1)(b)(emphasis supplied). None of the NYPA units qualified for inclusion in the baseline under the terms of the tariff, since their interconnection costs had not previously been allocated and accepted.<sup>3</sup> Thus, the baseline study, in compliance with the tariff procedures, did not include these units.<sup>4</sup>

## **II. The Generic Units Are Reasonably Selected and Feasible**

Ravenswood argues that the "generic" units could not possibly be constructed in the time-periods assumed in the Cost Allocation Report, and points out that certain of the generic units "do not exist." For the reasons set forth below, we find that NYISO Staff's assumptions that necessary generic facilities would be reasonably sited and in service by certain dates was reasonable.

The tariff recognizes that the baseline study may reveal the need for system upgrades in order to meet reliability requirements. In such a case, the rules authorize the NYISO to develop hypothetical solutions, which must be feasible and represent a least-cost estimate of the costs of the necessary System Upgrade Facilities. The relevant tariff provisions are as follows:

If existing transmission or generation facilities, combined with previously approved and accepted System Upgrade Facilities, are insufficient to meet Applicable Reliability Requirements, then the

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<sup>3</sup> Certain of the "generic generation units" used in the Cost Allocation Study happened to mimic two of the NYPA sites because these corresponded with least-cost system additions needed to meet reliability requirements.

<sup>4</sup> As noted above, the NYPA units were under construction on an emergency basis when the cost allocation process was commenced. The effect of including the NYPA units in the baseline study would have been to shift the cost responsibility for their interconnection to the transmission owners. Thus it was decided to include these units in the Class of 2001 to reflect appropriate cost causation principles.

NYISO staff will develop feasible solutions that include the identification of System Upgrade Facilities that are sufficient to either interconnect additional generic generation and/or increase transmission transfer capability. OATT, Attachment S, §IV.F.1.a(1)(e).

“System Upgrade Facilities” are defined as “the least costly configuration of commercially available components of electrical equipment that can be used, consistent with good utility practice ...to make the modifications ... that are required to maintain system reliability ...”. OATT, Attachment S, § I.B.

Ravenswood’s argument that total construction and operating costs for the proposed generic units be included has no support in the tariff. The baseline study is an assessment of the costs of System Upgrade Facilities that transmission owners must pay. Actual generation construction costs, beyond the installation of the necessary equipment, are not considered at any stage of the allocation process, and operating costs are specifically excluded. OATT, Attachment S, § IV.B.

In addition, while the term “feasible” is not defined in the tariff, we find the NYISO staff’s interpretation to be rational. As with its argument about the NYPA units, Ravenswood misconstrues the nature of the baseline planning process. The NYISO staff evaluated the feasibility of generic solutions *from an integrated utility’s planning perspective*, and the assumption that necessary facilities would be in service by certain dates was not unreasonable since the planning utility would have taken steps well in advance of actual construction to ensure their availability.

### **III. Both the Baseline and the Reliability Assessments Are Based On Appropriate Data**

We also reject Keyspan’s argument that the tariff requires the NYISO to interrupt and recalibrate its cost allocation studies to incorporate changing information as it becomes available from PJM and ISO-NE during the course of the process.

The process of conducting a Cost Allocation Study is complex, and requires the setting of a cut-off date for consideration of additional, newer data. Ravenswood argues that “current” and “accurate” data must be used, which it construes to be “the most current available database” that may become available before the Cost Allocation Report is completed and/or approved. Just as a deadline may seem to arbitrarily separate two similar generation projects into different Class Years, so will a deadline seem to arbitrarily separate data that must be used from data that – though later available – cannot.

The tariff imposes no obligation to continuously update data as this would prevent the cost allocation process from ever coming to a conclusion. In this case, the NYISO used the database that was available at the time the studies commenced (May 2001); this database was supplied by Consolidated Edison (“Con Ed”) and is the same database that developers, including Ravenswood, used for their projects’ System Impact Reliability Studies (“SRIS”). This database incorporated the then-existing databases for the PJM and New England regions.

In short, Ravenswood's approach would turn the class year cost allocation process into a "moving target" instead of a "snapshot", as it was intended, and would create unworkable uncertainty for all parties.

#### **IV. NYISO Staff Reasonably Determined the Costs of System Upgrades to be The Least Cost Available for both Transmission Owners and Developers**

Ravenswood asserts, without support, that NYISO Staff "simply delegated" to Con Ed the task of determining the least cost configuration of commercially available components available to meet system upgrade requirements in the reliability assessment. This Board has carefully investigated the process NYISO Staff used in determining the least cost configuration of system upgrade facilities for both transmission owners and developers, and finds Ravenswood's assertion without merit.

While NYISO Staff received input from ConEd, NYISO Staff also received information and analysis from other sources, and performed its own analysis. In October 2001, FERC required an amendment to Attachment S to ensure that the NYISO took "decisional control" over the process from the transmission owners. Rather than re-commence the Class of 2001 allocation, the NYISO retained GE to provide an independent evaluation of the most critical aspects of the all the work submitted by the transmission owners; the most significant of which were Con Ed's short-circuit/fault duty analyses. GE independently found that Con Ed's methodologies were reasonable and consistent with applicable reliability requirements in effect when the baseline study was commenced as required under Attachment S. Thereafter, the NYISO staff also integrated the transmission owners' baseline assessments and independently conducted a statewide analysis which resulted in a material reallocation of baseline costs to the transmission owners.

Significantly, a majority of the NYISO Management Committee, the Operating Committee, and those Market Participants who participated in the various working group and subcommittee meetings on these issues also support the work NYISO Staff has done. There is no basis for Ravenswood's claim that the NYISO staff abrogated their responsibility.

#### **Conclusion**

NYISO Staff is charged with performing a cost allocation study for each class year that allocates system upgrade costs between transmission owners and the Class Year Developers. The cost allocation rules have been developed by the Committees, approved by this Board and FERC, and are now being applied in a rational and impartial manner by NYISO Staff. While we appreciate that individual Developers may sometimes not like the results of a particular cost allocation report as it applies to the Developer's project, we cannot say that the rules are unfair, or have resulted in an unfair cost allocation to any Developer. Finally, we note that six of the nine Class Year 2001 Developers accepted their cost allocations, with the only appeal being filed by Ravenswood.

The appeal is dismissed.