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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.