

UNITED STATES OF AMERICA⁸⁹ FERC ¶ 61,109
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: James J. Hoecker, Chairman;
Vicky A. Bailey, William L. Massey,
Linda Breathitt, and Curt Hébert, Jr.

New York Independent System Operator, Inc.

Central Hudson Gas & Electric
Corporation
Consolidated Edison Company of
New York, Inc.

New York State Electric & Gas
Corporation
Niagara Mohawk Power Corporation
Orange and Rockland Utilities, Inc.
Rochester Gas and Electric
Corporation

Docket Nos. ER97-1523-012,
ER97-4234-009 and
OA97-470-011

ORDER ON INSTALLED CAPACITY
AUCTION PROPOSAL

(Issued October 28, 1999)

This order addresses a proposal submitted by the Member Systems of the New York Power Pool (NYPP) (collectively, Member Systems) and the Independent System Operator (New York ISO or ISO) (collectively, Applicants) to conduct an Installed Capacity (ICAP) auction for the ISO market. As described further below, the order provides guidance to the Applicants to aid in the design and implementation of a permanent ICAP auction to commence at a future date.

Background

In an order issued on July 29, 1999,¹ the Commission directed the New York ISO to file a detailed proposal for an installed capacity auction including, but not limited to, bidding rules, procedures for determining market clearing prices and market power mitigation measures. On August 10, 1999, as

¹Central Hudson Gas & Electric Company, et al., 88 FERC ¶ 61,138 at 61,392-93 (1999), reh'g pending.

supplemented on September 17, 1999, the Applicants filed a proposal for an installed capacity auction, including bidding rules and auction procedures to be used, on an interim basis, for the winter capability period beginning November 1, 1999.² The Applicants explained that they would develop rules for a permanent auction intended to begin with the summer 2000 capability period. In addition, the Applicants submitted binding bid and offer forms.

As proposed, the New York ISO's installed capacity auction would not replace, but instead would supplement, the existing bilateral market. Thus, participation would not be mandatory. The Applicants' proposal would allow eligible participants to offer to sell or bid to purchase installed capacity on a monthly basis.³ The monthly auctions are also designed to permit load serving entities to adjust their capacity holdings up or down to reflect gain or loss of customer load responsibility. The ISO procedures will define the minimum number of business days before each auction begins by which bids and offers must be submitted to the ISO.

The amount of installed capacity that can be offered for sale from a given resource for a given month will be limited to: the demonstrated capacity from that resource during a capability period, less any committed firm capacity sales from that resource. Sellers of installed capacity into the auction must submit documentation verifying both control of that resource and that the capacity offered is not already committed elsewhere.

Bidders seeking to purchase installed capacity must meet a creditworthiness requirement, to be set forth in the ISO Procedures. A bid to purchase installed capacity will be rejected if the amount owed by the bidder as a result of the auction exceeds the bidder's credit limit. The bid procedures provide parameters for submitting bids in the auction.

All, part, or none of a bid or offer may be selected in the auction. In the event of multiple bids or multiple offers at the same prices, and in the event only a portion of those bids or offers can be selected, the amount of installed capacity selected shall be proportional to the amount of installed capacity bid or offered. The pricing will reflect the New York City market mitigation price caps accepted by the Commission.⁴

² Market power mitigation measures were submitted in Docket No. ER97-1523-010, et al. and will be addressed independently.

³ Load Serving Entities (LSEs) wishing to procure installed capacity for an entire capability period can simply bid for installed capacity for all months in that capability period.

⁴ Consolidated Edison Company of New York, 84 FERC ¶ 61,287 at 62,357-58 (1998); see also Central Hudson Gas & Electric Corporation, 86 FERC ¶ 61,062 at 61,237 (1999).

The Applicants' proposal also states that only LSEs are eligible to make bids to purchase installed capacity in the auction.

Subsequent to filing, the New York ISO announced that the interim auction will not take place. The Applicants continue to request prompt action on the proposal, however, so that they can have the benefit of the Commission's guidance in designing the permanent auction.

Notices of Filings and Interventions

Notice of the filings were published in the Federal Register, 64 Fed. Reg. 46,369, as supplemented, 64 Fed. Reg. 52,305 (1999), with protests and motions to intervene due on or before September 28, 1999.

The New York State Public Service Commission (New York Commission) filed a notice of intervention and comments. Sithe/Independence Power Partners, L.P., KeySpan-Ravenswood, Inc., Orion Power New York GP, Inc., PG&E Generating, and Arthur Kill Power LLC, Astoria Gas Turbine Power LLC, Huntley Power LLC, and Dunkirk Power LLC, (jointly, NRG Entities) filed motions to intervene.⁵ PG&E Energy Trading-Power, L.P. (PG&E Trading) filed comments. Intervenors' comments are addressed below.

On October 7, 1999, the Applicants filed an answer to PG&E Trading's comments.

Discussion

Procedural Matters

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (1999), the notice of intervention of the New York Commission and the timely, unopposed motions to intervene serve to make those entities who have not previously been admitted as intervenors parties to this proceeding.

⁵ We also note that a Motion to Lodge was filed on September 14, 1999, by Orion Power.

In addition, NRG Entities filed supplemental comments in response to rules posted by the New York ISO on September 3, 1999. However, although the NRG Entities label this posting as a "filing," no September 3 filing was made with the Commission. Therefore, we shall not address the NRG Entities comments. Similarly, we shall not address the Applicants' response to the NRG Entities' submission.

The Commission's Rules of Practice and Procedure, 18 C.F.R. 385.213 (a) (2) (1999), do not normally permit answers to protests or comments. Accordingly, we reject the answer filed by the Member Systems.

The Installed Capacity Auction

The New York ISO has provided a comprehensive description of the auction procedures and bidding protocols necessary to implement an interim ICAP auction. As noted above, this order does not accept or reject the Applicants' ICAP interim auction proposal. Rather, as requested by the Applicants, it notes certain aspects which the Commission finds acceptable and others requiring modification.

Several intervenors argue that the auction is premature and that beginning the auction before the New York ISO startup would result in confusion for market participants. Intervenors also claim that the proposal lacks certain necessary details and argue that the existing bilateral market is sufficient until the New York ISO has permanent auction procedures in place. Moreover, they argue that the auction cannot be approved without market mitigation measures.

Because the New York ISO has announced that the interim ICAP auction will not take place, intervenors' concerns that the interim proposal is premature are moot. However, we encourage New York ISO to address the intervenors' and other market participants' concerns and questions prior to filing its permanent auction procedures. Moreover, as noted above, market mitigation measures have been filed and, while being addressed independently, are expected to be in place before the permanent auction begins.

Market Rules and Requirements

Intervenors assert that the filing requires greater detail prior to approval or implementation. Intervenors state that they have asked the New York ISO numerous questions concerning the unfiled market rules and have not received satisfactory answers. Also, they state that New York ISO must clarify how and when LSE installed capacity requirements will be calculated. Intervenors request that the Commission require the ISO to provide further clarification of the installed capacity requirements. In addition, they state that bidding procedures must be explained in more detail.

Intervenors ask for a variety of clarifications, which consist of details primarily involving how much installed capacity each LSE is required to have and when it must acquire it. These issues are not related to the auction and are beyond the scope of this proceeding. Therefore, we will not require the ISO to provide the further clarification requested by intervenors of the installed capacity requirements.

Market Clearing Prices

Intervenors complain that the Applicants' description of how the market clearing price is determined is confusing. The Applicants state that, where partial bids are involved, the market clearing price will be:

determined by the least-bid cost method of meeting a price-insensitive demand for a small amount of Installed Capacity in that location. In cases where there are no locational constraints, this will be either the lowest \$/kW-month offer submitted by an Offeror whose offer was not fully selected in the sub-auction or the lowest \$/kW-month bid submitted by a Bidder whose offer was partially selected in the sub auction, whichever is lower. [6]

We agree with intervenors that this description warrants clarification. The New York ISO's description fails to define certain terms relied on to calculate the market clearing price nor does the proposal define how prices will be determined in different locations. Moreover, the New York ISO has failed to explain why "least-bid cost method," "price-insensitive demand" and a "small amount" of Installed Capacity in a particular location are used to define the market clearing price. Finally, while the necessary definitions may be included in the New York ISO's market manual, because these definitions concern rates, this portion of the manual must be filed with the Commission.⁷ Accordingly, we instruct the New York ISO to clarify how the market clearing prices are determined and to adequately explain and support its definition of market clearing price in its filing to implement the permanent auction.

Price Caps

The New York ISO's procedures include a cap on monthly offered and received prices by the owners of New York City generation of \$105/kW/year. Intervenors request that bids for monthly sales greater than 1/12 of \$105/kW/year by in-City generators be permitted as long as the weighted average of all monthly bids does not exceed \$105/kW/year.

In Consolidated Edison Company of New York, Inc., 84 FERC ¶ 61,287 (1998) (ConEd), the Commission accepted as a market mitigation procedure, a traditional, cost-based bid cap. While it was defined only in terms of a yearly rate (\$105/kW/year), the Commission did not in any way signal its approval of an above cost rate for monthly service, and so monthly service would be limited to no more than 1/12 of the yearly rate. Thus, the market mitigation procedures approved in ConEd require that all offers by in-City generation be capped at \$105/kW/year and at 1/12 of that rate for the monthly rate.

⁶ Applicants' August 10, 1999 Filing at 7.

⁷ This is consistent with Pennsylvania-New Jersey-Maryland Interconnection, 81 FERC ¶ 61,257 at 62,267 (1998), reh'g pending.

Therefore the ICAP auction rules properly recognize that ConEd caps all offers by the owners of in-City generation at \$105/kW/year and at 1/12 of that rate for the monthly rate. Accordingly, we find the Applicants' procedures in this regard acceptable.

Participation in the Auction

PG&E Trading states that the New York ISO has not supported its restriction on participation in the auction to LSEs. PG&E Trading asserts that the limitation is arbitrary and would prohibit non-load serving entities with installed capacity from participating in the auction.

We agree with PG&E Trading that participation in the auction should not be limited to LSE's. The New York ISO has provided no explanation to support such a limitation and, consistent with the approach taken in PJM Interconnection, L.L.C., 86 FERC ¶ 61,017 at 61,044 (1999), which expanded the PJM Capacity Credit Markets to allow sellers that did not serve load in the PJM control area to participate in those markets, the New York ISO will be directed to revise its filing for the permanent auction to permit any entity to participate.

Bid Forms

Lastly, we find the New York ISO's standard bid and offer forms acceptable, as these forms simply provide a standard format for submitting binding bids to purchase or offers to sell capacity.

The Commission orders:

Applicants are hereby directed in any future ICAP auction proposal to conform such proposal to the findings in this order.

By the Commission.

(S E A L)

David P. Boergers,
Secretary.