

89 FERC ¶ 61, 223
UNITED STATES OF AMERICA
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.

Docket No. ER00-67-000

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

ORDER ACCEPTING FILING IN PART,
REJECTING FILING IN PART AND GRANTING WAIVER OF NOTICE

(Issued November 24, 1999)

This order addresses proposed revisions to the New York ISO Open Access Transmission Tariff (ISO OATT) and the New York ISO Market Administration and Control Area Services Tariff (ISO Services Tariff) filed 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). The order accepts the filing in part and rejects the filing in part, and grants waiver of notice, as described further below.

Background

On October 7, 1999, the Applicants submitted revisions to the ISO OATT and the ISO Services Tariff.¹ The Applicants explain that the proposed changes would: (1) revise the billing and payment procedures of the tariffs to provide a one to four day separation between receipts of payments from customers and payments by the ISO for services; and (2) limit the amount of energy a generator may offer in the day-ahead market to the amount of generation the New York ISO believes each generator can reasonably produce. Applicants request an effective date of the date the New York ISO begins operations.

Notice of Filing and Interventions

Notice of the filing was published in the Federal Register, 64 Fed. Reg. 56,782 (1999) with protests and motions to intervene due on or before October 27, 1999.

A motion to intervene and protest was filed by PG&E Generating and PG&E Energy Trading-Power, L.P. (PG&E) and a protest was filed by Orion Power New York GP, Inc. (Orion). These protests will be addressed further, below. In addition, the New York Public Service Commission filed comments in support of the filing.

On November 18, 1999, Sithe/Independence Power Partners, L.P., (Sithe) filed a motion to intervene out-of-time.

Discussion

Procedural Matters

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (1999), the timely, unopposed motion to intervene of PG&E serves to make it a party to this proceeding. In addition, given the stage of this proceeding, and the absence of undue delay or prejudice, we find good cause to grant the untimely, unopposed motion to intervene of Sithe.

The Commission's Rules of Practice and Procedure, 18 C.F.R § 385.213(a)(2)(1999), generally do not permit answers to protests. Accordingly, we reject the answer filed by the New York ISO.

¹Applicants note that the revised pages filed here relate to two issues that were addressed as errata by the Applicants in Docket No. ER97-1523-015, et al. On October 28, 1999, the Commission issued an order rejecting the filing in that docket. See Central Hudson Gas & Electric Corp., et al., 89 FERC ¶ 61,110 (1999).

Tariff Revisions

The New York ISO's tariffs currently provide for the New York ISO to receive payments from customers within twenty days of receipt of invoices by the customers and for the New York ISO to make payments to service providers within twenty days of receipt of bills by the ISO. The Applicants state that these provisions result in the ISO making payments to service providers on the same date that the ISO is scheduled to receive payments from customers. Therefore, Applicants note that late payments to the New York ISO result in a mismatch between receipts from customers and amounts paid by the ISO for services. In addition, the Applicants add that, while the New York ISO's line of credit generally handles cash flows, it was not designed to satisfy large mismatches between receipts and payments. Accordingly, as a matter of better cash management, Applicants propose to change the date payments should be made by customers to the New York ISO to the first business day after the 15th of the month and to change the date payments will be made by the New York ISO to service providers to the first business day after the 19th of the month. Applicants states that this change will provide a one to four day separation between receipts from customers and payments to service providers that will allow the New York ISO time to reconcile its accounts before making payments for services.

Orion claims that the Applicants have not justified a departure from the original proposal. Orion states that, absent an explanation of any changes in the New York ISO's credit requirements or line of credit situation that necessitate the proposed change, the Applicants should be required to retain their original proposal.

We disagree with Orion. The Applicants' proposal, which provides a one to four day separation between receipts from customers and payments to service providers will avoid mismatches between receipts from customers and payments to service providers and will enable the ISO to obtain payments before it must itself make payments to others. The Applicants' proposal here is also consistent with billing and payment provisions accepted for ISO New England, Inc. and PJM Interconnection, L.L.C.²

Applicants also propose to revise the ISO Services Tariff to give the ISO authority "to limit the amount of Energy offered at any time by a Generator into the Day-Ahead Market to the amount of Energy it reasonably believes that Generator is capable of producing at that point in time."³ Applicants state that this is necessary for reliability purposes. The Applicants note that while there is some assurance through the day-ahead Security Constrained Unit Commitment that the New York ISO will

²See PJM Interconnection, L.L.C., 85 FERC ¶ 61,383 (1998); ISO New England, Inc., 85 FERC ¶ 61,453 (1998), reh'g pending, accepting tariff revisions that included such billing and payment provisions.

³New York ISO Services Tariff Substitute First Revised Sheet No. 51.

have sufficient energy to serve load, the Applicants claim that additional assurance is needed since the New York ISO "cannot rely on energy that it does not believe is likely to be available." ⁴

PG&E and Orion object to the limitation, arguing that the Applicants have failed to provide support for this proposed tariff change. These parties argue that the New York ISO assures sufficient supply to meet load through the Installed Capacity market (which includes an availability standard that must be met), rather than the energy market it now seeks to restrict with this filing. Moreover, PG&E states that the ISO Services Tariff contains numerous protections against non-delivery applicable to the energy market and that the New York ISO's Performance Tracking System provides New York ISO with hourly plant performance information. Finally, PG&E argues that the proposed limitation would prevent a generator from supplementing its own production with energy from a third party resource and then offering the greater amount to the market. PG&E states that this measure is permitted under current market rules.

We do not find the Applicants' proposal to limit the amount of energy a generator may offer in the day-ahead market to the amount of generation "the New York ISO reasonably believes the generator is capable of producing" ⁵ to be reasonable. As support for the need for such a limitation, the New York ISO states only that the ISO cannot rely on energy that it does not believe is likely to be available. However, Applicants have demonstrated no deficiency in its existing market policing mechanisms which would establish a need to restrict a generator's offer to sell energy in the day-ahead market. Accordingly, we find that the Applicants have not offered adequate support for the proposal and we will reject it.

In sum, we will accept the filing in part and reject it in part, as discussed above.

Waiver of Notice

The Applicants request an effective date of the date the New York ISO commences operations. The Applicants request waiver of the Commission's notice requirement because that date is likely to be less than 60 days from the date of the filing. We find good cause to grant the Applicants' request for waiver of the 60-day prior notice requirement and we will allow the accepted tariff revisions to become effective, as requested, on the date the New York ISO commences operations. ⁶

⁴Applicants' October 7, 1999 Filing at 3.

⁵Id. at 2.

⁶See Central Hudson Gas & Electric Corp., et al., 60 FERC ¶ 61,106, reh'g denied, 61 FERC (continued...)

The Commission orders:

(A) The revised tariff sheets are hereby accepted in part and rejected in part, to become effective the date the New York ISO commences operations.

(B) Waiver of the prior notice and filing requirement is hereby granted to allow an effective date of the date the New York ISO commences operations.

(C) The New York ISO will be informed of rate schedule designations at a later date.

By the Commission.

(S E A L)

David P. Boergers,
Secretary.