

**UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION**

**Central Hudson Gas & Electric
Corporation
Consolidated Edison Company of
New York, Inc.
Long Island Lighting Company
New York State Electric & Gas
Corporation
Niagra Mohawk Power Corporation
Orange & Rockland Utilities, Inc.
Rochester Gas & Electric
Corporation, and
New York Power Pool**

**Docket Nos. ER97-1523-023
OA97-470-021, and
ER97-4234-019**

CERTIFICATION OF PARTIAL UNCONTESTED SETTLEMENT

(Issued January 5, 2000)

TO THE COMMISSION:

CASE SUMMARY

On January 31, 1997, the "Member Systems"¹ of the New York Power Pool filed a conditional proposal with the Commission to establish an Independent System Operator ("ISO") and related entities in New York State. On December 19, 1997, the Member Systems submitted a supplemental filing following extensive discussions with the New York Public Service Commission and the market

¹ The "Member Systems" of the New York Power Pool originally comprised of 7 public utilities and one non-utility. The original seven public utilities are as follows: Central Hudson Gas & Electric Corporation ("Central Hudson"), Consolidated Edison of New York, Inc. ("ConEd"), Long Island Lighting Company ("LILCO") (which has subsequently sold its transmission facilities to the Long Island Power Authority ("LIPA"), which is not a public utility), Niagra Mohawk Power Corporation ("Niagra Mohawk"), New York State Gas and Electric Company ("NYSEG"), Orange and Rockland Utilities ("O&R") (which has subsequently merged with ConEd), and Rochester Gas and Electric Corporation ("Rochester G & E"). The final original Member System, the New York Power Authority ("NYPA"), is not a public utility.

Docket No ER97-1523-023, *et al.*

participants.

On January 27, 1999, the Commission issued an order accepting certain tariff and market rules, approving certain rates, and ordering specific issues to a hearing judge. The issues set before the hearing judge concerned the justness and reasonableness of: 1.) the divisor used to develop the hourly charge for the New York ISO Tariff; 2.) the formulas used to compute the service transmission charge; 3.) the methodology used to compute marginal losses and the information made available to customers to allow informed decision making; and 4.) the criteria used to accredit generation as meeting the installed capacity requirement. On July 29, 1999, the Commission issued a supplemental order approving the ISO Open Access Transmission Tariff ("OATT"), approving the ISO Services Tariff, approving each of the ISO Agreements submitted by the Member Systems, and granting and denying certain rehearing requests of its January 27, 1999 Order.

A procedural schedule was adopted on February 18, 1999, amended several times, and later completely suspended on November 30, 1999, in order to promote settlement. Settlement discussions between the parties led to the filing of the Joint Offer of Settlement of the Member Systems of the New York Power Pool and the Interested Parties ("Joint Offer"), filed on November 17, 1999. Initial Comments on the Joint Offer were filed on December 7, 1999 by Commission Staff, Municipal Electric Utilities Association of New York State, and by 1st Rochdale Cooperative Group, Ltd. together with Coordinated Housing Services, Inc. Reply comments were received on December 17, 1999 from Member Systems and Staff. On December 20, 1999, Municipal Electric Utilities Association of New York State filed an amendment to their initial comments that removed their conditional protest. The Joint Offer constitutes a settlement of all issues set by the Commission except for the marginal losses issue. A procedural schedule was adopted on that remaining issue on December 6, 1999, but was suspended without date on December 15, 1999. A conference regarding the marginal loss issue is set for January 6, 2000.

THE PROPOSED PARTIAL SETTLEMENT

The parties state that the Settlement is to be considered a comprehensive whole and each party's support of the Settlement is conditioned on the Commission's approval of all the terms as agreed to by the Interested Parties. The parties further state that the Settlement should be considered a resolution of the issues set for hearing by the Commission, and is a negotiated consensus of terms to promote a Settlement Agreement.

Terms and Conditions

1. The ISO will make an informational filing describing the operation of the Transmission Service Charge ("TSC") formula as set forth in Attachment H of the ISO OATT after it has been operational for 15 months. The filing shall not constitute a Section 205 filing under the Federal Power Act. The ISO will request that the Commission issue a public notice of the filing. All participants will have the opportunity to request the Commission to establish a separate proceeding under Section 206 of the Federal Power Act based on the informational filing.

The informational filing will include all input data and workpapers showing the derivation of transmission charges under the TSC formula for the first twelve months of operation. For each of the three months following the twelve month period, the most recent actual monthly data will be made available to the New York Public Service Commission ("PSC"). To the extent necessary, the Transmission Owners and the PSC will enter into protective agreements to govern the submission of confidential data.

2. In order to settle the issue of accreditation of generators, the Member Systems have committed to file and support a proposal with the ISO that will require the ISO to review the accreditation criteria for installed capacity suppliers and to make a filing with the Commission by January 7, 2000. If the ISO is unable to make the filing at that time it will inform the Commission and all parties of the reason for such delay and the expected time-frame for filing, which time-frame shall not exceed March 31, 2000. The ISO's process of reviewing accreditation criteria will be open so that all interested parties can be heard on the issue of developing an accreditation standard or methodology. It is the intent of the parties that the accreditation process not delay the conduct of the Installed Capacity Auction to be held in the Spring of 2000.

If a decision on the issue of accreditation is approved by the ISO Board and the ISO Management Committee, the ISO will make a Section 205 filing requesting that the filing be made effective in time to accredit generators for the Summer 2000 Capability Period. If the proposed resolution is not approved by the ISO Board and the ISO Management Committee, the ISO will still make an informational filing providing that any change in the existing standard will be prospective from the date of the Commission's final order.

The Member Systems have revised the current tariff language to delete the specific references to accreditation of generators by class.

3. In order to clarify the TSC formula, the Member Systems have revised the Attachment H tariff sheets to specify, as to each component of the TSC formula, how often the components are adjusted and which entity will be responsible for performing the calculation.

a. On Attachment H-1 to the ISO OATT, the Member Systems separately list each pre-OATT grandfathered agreement shown on Attachment L where the revenues associated with each agreement are included as a revenue credit to the revenue requirement ("RR") component of the respective company's TSC rate.

b. All customers under grandfathered OATT service agreements that currently pay an individual company OATT Schedule 1 charge continue to pay the charge. The Member Systems clarify in Attachment H that the revenues received by grandfathered OATT customers for OATT Schedule 1 charges will be treated as revenue credits in the Wheeling Revenues ("WR") component as part of the wheeling revenue associated with OATT reservations extending beyond the start-up of the ISO.

c. The Member Systems revised Attachment H to clarify how the WR component will be calculated. The WR component equals the sum of: (1) TSC revenues received from new external transactions (Wheels Through and Export Transactions); (2) transmission revenues received from grandfathered OATT agreements and actual revenues under Schedule 1 to the grandfathered OATT agreements; and (3) any revenues related to pre-OATT grandfathered arrangements if the Transmission Owner increased its OATT revenue requirement component to reflect the fact that revenues related to such transactions are at risk due to options available to the customers resulting from the current restructuring.

4. The Member Systems and the Interested Parties agree that the Commission's January 27 and July 29 Orders approved the establishing of Billing Units ("Bus") based on a MWh basis.

5. The Settlement Agreement sets forth the following TSCs for each individual company.² Table 1 of Attachment H, attached to the Joint Settlement, references the nominal rates which represent the unit rate prior to crediting. However, the actual charge will be determined pursuant to the applicable TSC formula, including all credits which are now specified in detail in the TSC formula.

a. Central Hudson

Central Hudson will recover \$1,309,980 as the Control Center Cost ("CCC") component of its TSC. Central Hudson's TSC will be increased to reflect the New York State gross receipt tax ("GRT"), which is not specifically provided for in the transmission rate, to the extent it is imposed on the company. Central Hudson agrees to make a Section 205 filing to implement any change to the specified tax rate. Central Hudson's BU shall be 4,723,659 Mwh.

b. Con Edison

² And merely summarized here.

Docket No ER97-1523-023, *et al.*

The revenue requirement for Con Edison will be \$385.9 million. The CCC term in the TSC formula will be \$21 million. The Billing Units term in the TSC formula will be at a level of 49,984,628 MWh.

c. NYSEG

NYSEG will calculate its TSC in accordance with Attachment H of the ISO OATT, with an effective date of the first day of ISO operations. The Settlement Agreement specifies the procedure pursuant to which NYSEG's TSC will be collected subject to refund based on the Commission's Decision in the NYSEG's rate case, Docket No. ER97-2353-000 ("NYSEG Order").

NYSEG's revenue requirement as reflected in Attachment H of the ISO OATT is \$111,718,757, subject to refund and subject to the outcome of the NYSEG Order.

In its Compliance Filing, NYSEG will reverse all intermediate wheeling revenue credits and all NYPP T-Fund revenue credits that the Commission finds were appropriately included or should have been included in Statement AU filed in Docket No. ER97-2353-000, except for the credits associated with the Marcy South Agreement (\$4,226,003), the Central Hudson Vinegar Hill Agreement (\$12,316) and Allegheny Hydro (\$4,698).

In its Compliance Filing, NYSEG will reduce the Commission-approved revenue requirements by the revenues associated with the Gilboa Transmission Agreement (\$432,000) and the Mohansic Transmission Agreement (\$659,443) and pursuant to the NYSEG Order. The Settlement RR also reflects a reduction associated with the NYPP Assessment Charge of \$1,973,956 for the 1997 test year.

NYSEG's CCC shall be \$1,633,000. Its BU will be 13,741,901 (MWh).

d. O&R

The Member Systems and the Interested Parties agree that O&R's revenue requirement will be \$32,820,759. There will be no changes to O&R's CCC of \$1,288,426 as set forth in the Member Systems' April 30, 1999 compliance filing. O&R's BU will be 4,915,358 MWh.

e. RG&E

The RR component in the TSC for RG&E is \$25,795,509. RG&E's CCC Component is \$583,577. The BU for RG&E is set at 6,967,556 MWh. RG&E will also collect the applicable GRT as specified in Section 5.0 of Attachment H.

Docket No ER97-1523-023, *et al.*

f. Niagra Mohawk

Niagra Mohawk has a pending settlement in its individual OATT proceeding (Docket No. OA96-194-000). Parties that are not subject to that settlement will be subject to the "filed" TSC rate set out in subpart (A) of the Settlement. Parties subject to that settlement will be subject to the "settled" TSC rate set out in subpart (B) of the Settlement.

In order to determine its "filed" RR for purposes of the TSC formula, the Member Systems and the Interested Parties agree that Niagra Mohawk will adjust its OATT revenue requirement from \$244,059,243 to \$187,551,978. The filed TSC rate shall be subject to review and modification by the Commission consistent with the Commission's review and modification and any refunds of the filed rates in Docket No. OA96-194-000 as well as all stipulations and agreements with the filed rates in Docket No. OA96-194-000.

The Member Systems and the Interested Parties agree that Niagra Mohawk's WR component also will include as a revenue credit the actual revenues received by Niagra Mohawk associated with the Oswego 6 plant under FERC Rate Schedule No. 176, or its successor. The Member Systems and the Interested Parties agree that Niagra Mohawk's CCC will be \$4,539,625. The Member Systems and the Interested Parties agree that Niagra Mohawk's BU will be 34,448,060 MWh, which includes .0436 losses.

In order to determine its "settled" RR for purposes of the TSC formula, the Member Systems and the Interested Parties agree that Niagra Mohawk will adjust its settled OATT revenue requirement from \$201,100,320 to \$153,619,348. Again, the Member Systems and the Interested Parties agree that Niagra Mohawk's CCC will be \$4,539,625, and that Niagra Mohawk's BU will be 34,448,060 MWh, which includes .0436 losses.

INITIAL COMMENTS ON THE SETTLEMENT AGREEMENT

Initial Comments on the Joint Offer were filed on December 7, 1999 by Commission Staff (Commission Trial Staff's Initial Comments Supporting the Joint Offer of Settlement ("Staff's Initial Comments")), Municipal Electric Utilities Association of New York State (Comments and Conditional Protest of the Municipal Electric Utilities Association of New York State ("MEUA's Initial Comments")), and by 1st Rochdale Cooperative Group, Ltd. and Coordinated Housing Services, Inc. (Comments of 1st Rochdale Cooperative Group, Ltd. and Coordinated Housing Services, Inc. on the Joint Offer of Settlement ("1st Rochdale and Coordinated Housing's Initial Comments")).

Staff

Docket No ER97-1523-023, *et al.*

Staff finds the Joint Offer to be a fair and reasonable resolution of the majority of the issues arising in this proceeding. Staff's Initial Comments at 8. Staff notes that the Joint Offer is the product of numerous negotiation sessions and will bring the parties involved closer to certainty on settled issues, and therefore bring about a more efficient market-based regime. *Id.* at 8-9. Staff then goes on to comment on particular points to the Joint Offer.

Staff points out that the Commission accepted the Member Systems' proposal to adopt their current revenue requirements from their individual tariffs. *Id.* at 9. Staff comments that the revenue requirements have either already been found by the Commission to be in the public interest, or will be reviewed by the Commission in separate proceedings. *Id.* Staff's view is that the revenue requirement adjustments made by Member Systems are reasonable and necessary to meet the conditions of the new pricing regime. *Id.* at 9-10.

Staff next comments on the Pre-OATT Grandfathered Agreements that are revenue credited to the RR. *Id.* at 10. Staff states that Member Systems' are willing to list separately on Attachment H-1 each Pre-OATT Grandfathered Agreement shown on Attachment L where the revenues associated with each agreement are included as a revenue credit to the RR component of the applicable company's TSC rate. *Id.* Staff notes that this eliminates the confusion of where the particular agreements are reflected in the TSC formula. *Id.*

The next section of the Joint Offer discussed by Staff is the treatment the settlement gives individual Member Systems' Schedule 1 charges. *Id.* at 10-11. Staff explains that Schedule 1 charges concern scheduling, system control, and load dispatch service. *Id.* at 10. The Member Systems have agreed to explain, in Attachment H to the ISO OATT, how the revenues received from the individual Member System's OATT Schedule 1 charges paid by grandfathered OATT customers will be treated as revenue credits in the WR component as part of the wheeling revenue associated with OATT reservations extending beyond the start-up of the ISO. *Id.* at 11. Staff notes that previous formulas were unclear as to whether these revenues would be credited. *Id.* Staff concludes this section by discussing the advantages of eliminating the confusion created and by so doing, preventing over-recovery. *Id.*

Finally, Staff addresses the section of the Joint Offer concerning the sub-components in the WR component. *Id.* Staff notes that "new" external transactions are those ongoing external transactions that are not the result of a grandfathered agreement. *Id.* Staff next comments on the statement in the Joint Offer which reads "any revenues related to pre-OATT grandfathered agreements." *Id.* Staff comments that some Member Systems have expressed concerns regarding their future ability under the New York ISO pricing regime to recover revenues from certain contracts. *Id.* at 11-12. Staff comments finally that if these revenues are captured in the WR component, it will result

Docket No ER97-1523-023, *et al.*

in more accurate rates. *Id.* at 12.

MEUA

MEUA starts its comments on the Joint Offer by stating the four basic elements to the settlement agreement that reflect the four issues set for hearing by the Commission. MEUA's Initial Comments at 2. Using these issues as a guide, MEUA states that the parties, with the help of FERC's trial staff, engaged in numerous settlement discussions, resulting in the Joint Offer. *Id.* MEUA claims it is an interested party and was an active participant in the settlement negotiations. *Id.* at 3. MEUA further states that it has no opposition to the "literal terms and conditions" of the Joint Offer as it was submitted on November 17, 1999. *Id.* However, MEUA claims its support of the Joint Offer depends on the reading of several key provisions. *Id.*

First, MEUA requests that if the Commission chooses to approve the Joint Offer of Settlement, it must acknowledge that MEUA has the right to pursue rehearing and its Petition for Review. *Id.* MEUA points to specific language in the Joint Offer that states that the Joint Offer does not prejudice the parties' rights to seek rehearing on issues not addressed in the settlement. *Id.* Therefore, because MEUA seeks rehearing on certain

issues, it comments that the Commission should approve the settlement while noting MEUA's rights to pursue rehearing. *Id.*

Second, MEUA comments that the intent of the settling parties, in the form of the Joint Offer, was to clarify that the right to challenge the use of energy (MWh) as the divisor was not set for hearing. *Id.* at 4. Instead, MEUA insists that the parties believe the issue set for hearing was "assuming the use of energy rather than demand as the divisor, what is the proper numerical value to use for the Billing Units that comprise the divisor." *Id.*

Finally, MEUA notes that the Joint Offer reflects the settling parties' view that the energy (MWh) was established as the Billing Units in the January 27 and July 29 Orders. *Id.* Because of this reliance, MEUA requests that any Commission approval of the Joint Offer should include an acknowledgment that the January and July Orders established

energy as the divisor, and that the issue of whether energy or demand is the proper Billing Unit was not set for hearing. *Id.*

Following the section of MEUA's reading of certain key provisions in MEUA's Initial Comments, is a section entitled "Conditional Protest." *Id.* However, by amendment on December 20, 1999, MEUA amends its initial comments to eliminate its conditional protest and, therefore, the protest

Docket No ER97-1523-023, *et al.*

will not be addressed here.

Concluding, MEUA requests that the Presiding Judge certify the Joint Offer to the Commission as an uncontested offer of settlement. *Id.* at 7.

1st Rochdale & Coordinated Housing

1st Rochdale and Coordinated Housing's Initial Comments begin by stating that 1st Rochdale and Coordinated Housing do not oppose the settlement as expressed by the Joint Offer. 1st Rochdale and Coordinated Housing's Initial Comments at 1. 1st Rochdale and Coordinated Housing next point out that the Joint Offer provides rates for use as the New York ISO commences operations. *Id.* at 1-2. They consider it appropriate that the Joint Offer does not establish any principles or precedents. *Id.* at 2.

Next, 1st Rochdale and Coordinated Housing state that they strongly support the requirement that after 15 months of the New York ISO's inception, an informational filing is required. *Id.* They believe that this is appropriate because the filing will represent the necessary means for re-examination of the rates that result from the settlement. *Id.* When the filing does occur, 1st Rochdale and Coordinated Housing will closely examine the TSC's Billing Units and whether they should continue to exclude grandfathered contracts. *Id.* Quoting from the Joint Offer, 1st Rochdale and Coordinated Housing discuss the cost allocation versus the revenue credit approach regarding individual companies' TSC rate. *Id.* at 2-3. They claim that, under certain circumstances, the Commission finds the cost allocation approach preferable to the revenue credit approach. *Id.* at 2-3. They state that if the rates of the grandfathered contracts are lower than the New York ISO's proposed rate, then a revenue credit approach would create a shortfall certain customers would have to absorb. *Id.* at 3.

Finally, 1st Rochdale and Coordinated Housing reiterate that since the New York ISO is just beginning, and the information regarding the billing determinant is not available, 1st Rochdale and Coordinated Housing do not oppose the settlement. *Id.* They conclude by stating the importance of the ISO making its required filing within the 15 months required by the joint offer. *Id.*

REPLY COMMENTS

Reply comments were received on December 17 from Member Systems (Reply Comments in Support of the Joint Offer of Settlement of the Member Systems of the New York Power Pool and the Interested Parties ("Member Systems' Reply Comments")) and Staff (Commission Trial Staff's Reply Comments Reaffirming Support for the Joint Offer of Settlement ("Staff's Reply Comments")).

Member Systems

Member Systems start their reply comments on the Joint Offer by discussing the Billing Unit issue addressed by MEUA in its initial comments. Member Systems Reply Comments at 4. Member Systems state that they agree with MEUA that the scope of the Billing Unit issue does not include the concept of whether energy or demand should be used as the divisor. *Id.* Member Systems note that the issue set for hearing, and resolved by the Joint Offer, deals with the proper numerical value to be used as the divisor, only after assuming that MWh, or energy, is the divisor. *Id.* Claiming that the Commission's previous orders approved energy-based Billing Units, Member Systems state that the Commission made an overall approval of Locational Based Marginal Pricing ("LBMP"). *Id.* Finally, Member Systems conclude their section on Billing Units by noting that the Joint Offer, supported by all active parties, recognizes the Commission's support of the energy-based divisor, and reaches a settlement of the issue concerning Billing Units. *Id.*

The next issue addressed by Member Systems in their reply comments is the individual Transmission Service Charge ("TSC") section of the Joint Offer. *Id.* at 4-5. Member Systems state that they agree with the comments submitted by Staff that the TSC is a settled formula rate. *Id.* at 4. They claim that the company specific section of the Joint Offer settles the System Control and Dispatch Costs, but that the Revenue Requirement and Billing Unit elements of the TSC calculation will depend on the variable nature of the Wheeling Revenue ("WR") component as reflected in the ISO tariff. *Id.* Member Systems also note that other aspects of the TSC formula are specifically defined in the ISO tariff itself. *Id.*

Finally, Member Systems respond to 1st Rochdale's initial comments regarding the TSC's revenue credits to the WR. *Id.* at 4-5. Member Systems state that the WR credit mechanism was specifically detailed in the ISO OATT Tariff, with input from active participants, to ensure that all appropriate credits were made to the TSC. *Id.* at 4. Member Systems also note that 1st Rochdale will have the opportunity to evaluate the results of the formula rate when the informational filing occurs after 15 months. *Id.* at 5. Therefore, Member Systems claim that the Joint Offer settles all aspects of the TSC on a company specific basis, with implementation of each Member Systems' formula rate as per the Joint Offer and the tariff sheets attached to the Joint Offer. *Id.* Concluding, Member Systems request that the Joint Offer be certified to the Commission for approval as a fair and reasonable resolution of the majority of the issues set for hearing. *Id.*

Staff

Staff's reply comments concentrate on the issue raised by MEUA in their initial comments regarding Billing Units. Staff's Reply Comments at 1-3. Staff states that it agrees with MEUA that the Billing Unit issue that was set for hearing in this proceeding was not the proposed methodology, but if the proposed methodology was applied correctly. *Id.* at 2. In other words, Staff continues, the issue is not whether demand (MWh) should be used as the divisor, but, rather, what is the proper numerical

Docket No ER97-1523-023, *et al.*

value to use for Billing Units that comprise the divisor. *Id.* at 2-3. In conclusion, Staff states that it agrees with MEUA's interpretation of the issue set for hearing on the Billing Unit component of the TSC and reaffirms its support of the Joint Offer. *Id.* at 3.

DISCUSSION AND CONCLUSION

The Joint Offer resolves all issues in this proceeding set for hearing by the Commission except the marginal losses dispute. While the "conditional protest" of MEUA would make me unable to certify the Joint Offer to the Commission, that protest was withdrawn by amendment on December 20, 1999. Accordingly, the Joint Offer is now complete and is available for certification.

CERTIFICATION

Pursuant to 18 C.F.R. § 385.602(g), I hereby certify for the Commission's consideration:

(1) The Joint Offer of Settlement of the Member Systems of the New York Power Pool and the Interested Parties, filed on November 17, 1999;

(2) The Explanatory Statement in support of the Joint Offer, filed November 19, 1999;

(3) Commission Trial Staff's Initial Comments Supporting the Joint Offer of Settlement, filed on December 7, 1999;

(4) Comments and Conditional Protest of the Municipal Electric Utilities Association of New York State, filed on December 7, 1999;

(5) Amendment to Comments and Conditional Protest of the Municipal Electric Utilities Association of New York State, filed on December 20, 1999;

(6) Comments of 1st Rochdale Cooperative Group, Ltd. and Coordinated Housing Services, Inc. on the Joint Offer of Settlement filed, on December 7, 1999;

(7) Reply Comments in Support of the Joint Offer of Settlement of the Member Systems of the New York Power Pool and the Interested Parties, filed on December 17, 1999;

(8) Commission Trial Staff's Reply Comments Reaffirming Support for the Joint Offer of Settlement, filed on December 17, 1999;

Docket No ER97-1523-023, *et al.*

(9) All pleadings, orders, and other documents of record in this proceeding.

Jacob Leventhal
Presiding Administrative Law Judge

Docket No ER97-1523-023, *et al.*

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

DRAFT

In Reply Refer To:
ER97-1523-023, OA97-470-021
and ER97-4234-019
(not consolidated)

LeBoeuf, Lamb, Greene & MacRae, L.L.P.
ATTN: Andrea J. Chambers, Esquire
Attorney for the Member Systems
of the New York Power Pool

Suite 1200
1875 Connecticut Avenue, N.W.
Washington, D.C. 20009-5278

Dear Ms. Chambers:

On November 17, 1999, you filed in the above-referenced dockets, on behalf of Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., LIPA, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., New York Power Authority, and Rochester Gas and Electric Corporation (collectively, the Member Systems), a settlement agreement between the Member Systems and Interested Parties (AES Enterprises, Inc., AES NY, L.L.C., Cogen Technologies Linden Venture L.P., Constellation Power Source, Inc., Electric Clearinghouse, Inc., Energy Marketers Coalition, Engage Energy US, LP, Enron Corporation, Enron Power Marketing, Inc., Hydro Quebec, Independent Power Producers of New York, Inc., Keyspan-Ravenswood, Inc., Long Island Power Authority, Multiple Intervenors, Municipal Electric Utilities Association of New York State, National Energy Marketers Association, PECO Energy Company, Public Interest Intervenors, Public Service Electric and Gas Company, San Diego Gas & Electric Company, Select Energy, Inc., Northeast Utilities Service Company, Sithe/Independence Power Partners, L.P., Southern Energy Bowline, L.L.C., Southern Energy Lovett, L.L.C., Southern Energy NY-Gen, L.L.C., Southern Energy New York, Inc., Southern Energy New York G.P., Inc., State of New York Public Service Commission, State of New York, The E Cubed Company, LLC, PG&E Generating (formerly U.S. Generating Company), PG&E Energy Trading-Power, L.P. (formerly U.S. Gen Power Services, L.P.), Athens Generating Company, L.P., and Selkirk Cogen Partners, L.P.).

On December 7, 1999, FERC Staff submitted comments in support of the settlement.

Comments also were submitted by 1st Rochdale Cooperative Group, Ltd. and Coordinated Housing Services Inc., which did not oppose the settlement. The Municipal Electric Utilities Association of New York State filed comments and conditional protest of the settlement; however, it requested that the settlement be certified to the Commission as an uncontested offer of settlement. On December 17, 1999, FERC Staff filed reply comments reaffirming support of the settlement. Reply comments were also received from you on December 17, 1999 that supported the settlement. Finally, Municipal Electric Utilities Association of New York State submitted an amendment that withdrew their conditional protest on December 20, 1999. On January 5, 2000, the presiding administrative law judge certified the uncontested settlement to the Commission.

The subject settlement is in the public interest and is hereby approved. Member Systems shall file the tariff sheets reflecting the settlement rates within thirty (30) days after the date of approval of this settlement. The Commission's approval of the settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding. The Commission retains the right to investigate the rates, terms, and conditions under the just and reasonable and not unduly discriminatory or preferential standard of Section 206 of the Federal Power Act, 16 U.S.C. §824e.

Within ninety (90) days from the date of this letter, any amounts collected in excess of the settlement rates shall be refunded together with interest computed under Section 35.19a of the Commission's Regulations. Within thirty (30) days after making such refunds, Member Systems shall file with this Commission a compliance report showing monthly billing determinants, revenue receipt dates, revenues under the prior, present, and settlement rates, the monthly revenue refund, and the monthly interest computed, together with a summary of such information for the total refund period. Member Systems shall furnish copies of the report to the affected wholesale customers and to each state commission within whose jurisdiction the wholesale customers distribute and sell electric energy at retail.

This letter terminates Docket Nos. ER97-1523-023, OA97-470-021, and ER97-4234-019.

By direction of the Commission.

David P. Boergers
Secretary

cc: All Parties