

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

<b>Central Hudson Gas &amp; Electric Corporation</b>	<b>Docket Nos. ER97-1523-034</b>
<b>Consolidated Edison Company of New York, Inc.</b>	<b>OA97-470-032</b>
<b>Long Island Lighting Company</b>	<b>ER97-4234-030</b>
<b>New York State Electric and Gas Corporation</b>	
<b>Niagara Mohawk Power Corporation</b>	<b>ER00-556-003</b>
<b>Orange and Rockland Utilities, Inc.</b>	
<b>Rochester Gas and Electric Corporation and</b>	
<b>New York Power Pool</b>	

**CERTIFICATION OF UNCONTESTED PARTIAL SETTLEMENT  
(Issued May 16, 2000)**

**TO THE COMMISSION:**

**CASE SUMMARY**

On August 3, 1999 Niagara Mohawk Power Corporation (“Niagara Mohawk”), New York State Electric & Gas Corporation (“NYSEG”) and seven of the eight Members of the Transmission Owners Committee of the Energy Association of New York State (“Member Systems”)<sup>1</sup> filed proposed amendments to certain transmission service agreements (“TSAs”) between or among Member Systems and third party transmission customers. The purpose of the proposed amendments was to facilitate the growth and development of a competitive wholesale electric market in New York State through reformation of the identified contracts. In doing so, the parties hoped to foster the operation of an Independent System Operator and related entities. Among the TSAs sought to be modified in the August 3, 1999 filing was one between Niagara Mohawk and PG&E Energy Trading-Power, L.P. (“PGET”). In its September 30, 1999 Order, the Commission accepted the revised TSAs for filing and suspended them to take effect upon the effective date of the New York Independent System Operator's ("NYISO") open access transmission tariff (“OATT”), and set those amendments for hearing. By order issued October 14, 1999, Chief Judge Curtis L. Wagner, Jr. designated me to preside over the hearings in this proceeding.

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<sup>1</sup> Formerly known as the Member Systems of the New York Power Pool.

In an October 15, 1999 Order, I established three phases for this proceeding. During the first phase, the parties conducted settlement negotiations under the guidance of Settlement Judge H. Peter Young. These negotiations, which concluded on January 31, 2000, led to settlements<sup>2</sup> or settlements in principle between a number of the parties. In the next phase of the proceeding, the parties briefed legal issues which they believed could be resolved without an evidentiary hearing. However, because of the complex and fact-intensive nature of the issues involved in this proceeding, few of those briefed could be resolved in the second phase absent an evidentiary hearing. That hearing, the final phase of this proceeding, is scheduled for July 25, 2000.

On November 17, 1999, Niagara Mohawk and Rochester Gas and Electric Corporation (“Rochester G&E”), another of the Member Systems, filed to amend four additional contracts. In a January 12, 2000 Order, the Commission accepted and suspended the November 17, 1999 filing, subject to refund, and made it effective as of the effective date of the NYISO.

A settlement was filed on March 24, 2000, by the Member Systems and the NYISO with PGET.

### **THE PROPOSED SETTLEMENT**

The parties agree that this agreement will resolve all issues in the proceeding regarding PGET's TSA. PGET will withdraw its protest and motion to intervene, and the Member Systems will withdraw those parts of its February 25 Motion for Summary Judgment that apply to PGET, within five days of approval of the settlement. The parties intend that approval of the settlement constitute approval of the proposed amendments to PGET's TSA, with the provision that PGET will execute the appropriate service agreements with the NYISO to implement this settlement. In exchange, the NYISO will give a credit of \$25,000 to PGET as a discount for the first bill under the OATT. Finally,

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<sup>2</sup> In addition to the instant Settlement, an agreement was reached between NYSEG, Niagara Mohawk and AES NY, LLC and filed on December 22, 1999. I certified that settlement to the Commission on February 7, 2000. A settlement was filed February 4, 2000 between Niagara Mohawk, NYSEG, the Member Systems, and Multiple Intervenors and was certified to the Commission on April 3, 2000. A third settlement was filed on March 9, 2000, between AES, Niagara Mohawk, and NYSEG, and certified to the Commission on May 11, 2000.

the parties agree that the resolution of the real time congestion cost issue, which has been reserved for litigation by other parties, will be applied to PGET, except that any impact of

the Mobile-Sierra doctrine on the resolution of the issue, with respect to PGET, will be determined by the specific language of PGET's TSA.

### **INITIAL COMMENTS ON THE SETTLEMENT AGREEMENT**

Comments were filed by the Commission Trial Staff ("Staff") on April 13, 2000. Staff supported the instant offer of settlement as fair, reasonable and in the public interest. Staff noted that the settlement provided that PGET's \$25,000 credit will ultimately be collected from Schedule 1 ratepayers, but did not express any opposition to this provision. Nor did any other party express opposition to this element of the settlement. Staff pointed out that the instant settlement would end PGET's participation in this litigation, thus freeing up the other parties to resolve the remaining ISO issues.

### **REPLY COMMENTS**

Reply comments were not submitted by any party.

### **DISCUSSION AND CONCLUSION**

The proposed Settlement Agreement provides a reasonable resolution of the issues in this case. The settlement as presented appears to be fair and reasonable and in the public interest. It is uncontested by any of the parties. For these reasons, I recommend that this settlement be approved by the Commission.

### **CERTIFICATION**

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

- (1) The Stipulation and Agreement constituting an Offer of Settlement among the Member Systems, NYISO, and PGET, filed March 24, 2000;
- (2) The Explanatory Statement filed March 24, 2000;
- (3) Commission Trial Staff's Initial Comments supporting the settlement, filed April 13, 2000;

- (4) All pleadings, orders and other documents of record in this proceeding.
- (5) The draft letter order of the Commission approving the Settlement Agreement attached to this certification.

**William J. Cowan**  
**Presiding Administrative Law Judge**

**DRAFT**

**FEDERAL ENERGY REGULATORY COMMISSION**

**In Reply Refer To:**

**Dockets No. ER97-1523-034**

**OA97-470-032**

**ER97-4234-030**

**ER00-556-003**

LeBoeuf, Lamb, Greene & MacRae, L.L.P.

ATTN: Elias G. Farrah, Esq.  
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Owners Committee of the Energy Association  
of New York State

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Dear Mr. Farrah:

On March 24, 2000, you filed a settlement among the Member Systems, the New York Independent System Operator, Inc. and PG&E Energy Trading-Power, L.P. in the above-referenced dockets. On April 13, Staff submitted comments in support of the settlement. On May 16, 2000, the presiding administrative law judge certified the uncontested partial settlement to the Commission.

The subject settlement is in the public interest and is hereby approved. The Commission's approval of this 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.

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This letter terminates Dockets No. ER97-1523-034, OA97-470-032, ER97-4234-030, and ER00-556-003.

By direction of the Commission.

Secretary

cc: To All Parties

Niagara Mohawk Power Corporation  
Docket No. ER97-1523-034  
Rate Schedule Designation  
Effective Date: November 18, 1999

Designation

Description

Supplement No. 1 to Service  
Agreement No. 174 under FERC  
Electric Tariff, Original Volume  
No. 3

Stipulation and Agreement for  
settlement with PG&E Energy  
Trading Power L.P.

