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January 23, 2006

VIA E-MAIL AND OVERNIGHT MAIL
The Honorable Jaclyn A. Brilling
Secretary
New York Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

RE: Case No. 03-E-0641 – Proceeding on Motion of the Commission Regarding Expedited Implementation of Mandatory Hourly Pricing For Commodity Service

Dear Secretary Brilling:

Amerada Hess Corporation ("Hess") respectfully submits an original and five copies of the enclosed comments pursuant to the Commission's "Order Instituting Further Proceedings and Requiring The Filing of Draft Tariffs" issued in the above-referenced proceeding on September 23, 2005. A copy of these comments is also being provided to the Active Parties List in this proceeding via e-mail.

In order to assist in our record keeping, please file stamp the extra copy and return it to me in the self-addressed stamped envelope included for that purpose. Please contact me at (732) 750-7048 if you have any questions.

Sincerely,

Jay Kooper

Jay L. Kooper
Director of Regulatory Affairs

cc: Active Parties List of Case No. 03-E-0641 (via e-mail)

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Case No. 03-E-0641 - Proceeding on Motion of the Commission Regarding Expedited Implementation of Mandatory Hourly Pricing For Commodity Service

COMMENTS OF AMERADA HESS CORPORATION

INTRODUCTION

Amerada Hess Corporation ("Hess") submits these comments on the draft tariffs filed by several New York utilities pursuant to the Commission's September 23, 2005 Order establishing further proceedings to explore expansion of mandatory hourly-priced default service ("MHP Order").[1] Hess, an active electric and natural gas marketer throughout New York, appreciates the opportunity to address several aspects of the Commission's MHP Order and the New York utilities' draft tariffs subsequently filed on November 21, 2005.

Hess commends the Commission for establishing this proceeding to implement mandatory hourly-priced default service ("MHP Service") across New York State. Hess agrees with the Commission's observation in the MHP Order that a primary benefit of expanded MHP Service will be the empowerment of customers to receive accurate market price signals that will, in turn, enable customers to adjust their demand to avoid periods of high-cost peak period electric usage.[2]

There is, however, an additional important benefit of expanded MHP Service that cannot be overlooked -- the development of robust and liquid competitive retail electric

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[1] See Case No. 03-E-0641, Order Instituting Further Proceedings and Requiring The Filing of Draft Tariffs (Sept. 23, 2005) ("MHP Order").

[2] MHP Order at 4-5.

markets. Retail competition has delivered to customers the benefits of a variety of ESCO product and service offerings where customers have the ability to choose the ESCO whose prices and products are most compatible with the customer's business needs and risk tolerance. In addition, retail competition creates more efficient pricing for consumers as ESCOs, pushed by competitive forces and the ability of customers to shop among various ESCOs, allocate resources and, therefore, prices more efficiently than in regulated markets where the default price is fixed.

The Commission's MHP Order represents an important step in the right direction as it aims to expand MHP Service that will, in turn, unlock the benefits of correct price signaling to and retail competition for consumers. Three critical elements, however, must be implemented in order for MHP Service to provide these benefits for consumers. First, the MHP Service pricing structure must be transparent so that customers are able to receive accurate price signals that will, in turn, produce increased benefits in the form of demand response programs and choice of robust competitive retail product offerings. Second, the MHP Service pricing structure must not contain cross-subsidies that mask the true costs of serving customers under MHP Service. Third, the MHP Service cost calculation formula, while reflecting local day-ahead energy market conditions, should be standard across New York.

As discussed further herein, the utility draft tariffs filed in this proceeding lack the detail and mechanisms necessary to implement these critical elements. Accordingly, these tariffs should be revised so as to provide for price transparency, eliminate cost component cross-subsidies that mask the true costs of serving customers and promote uniformity of the MHP Service cost calculation formula.

BACKGROUND

On September 23, 2005, the Commission issued the MHP Order in response to rising fuel prices in 2004 and 2005 that have driven energy prices higher in New York State. In particular, the Commission noted that electricity prices had risen rapidly because natural gas, which is the fuel frequently used by electric generation plants that operate to meet peak period demand, had substantially increased as a result of the disastrous effects of Hurricane Katrina.[3] These higher natural gas prices therefore translated into higher electric prices in the day-ahead and real-time hourly wholesale markets operated by the New York Independent System Operator ("NYISO") and, in turn, were reflected in the NYISO's location based marginal pricing ("LBMP") method for setting wholesale electric prices.[4]

Realizing that MHP Service conveys more accurate price signals to consumers, which in turn empowers consumers to respond to high peak period electric prices by reducing their usage, the Commission ordered more widespread deployment of MHP Service.[5] Specifically, the Commission ordered the Consolidated Edison Company of New York ("Con Edison"), Orange and Rockland Utilities ("O&R"), New York State Electric and Gas Corporation ("NYSEG"), and Rochester Gas and Electric Corporation ("RG&E") to file draft tariffs that would make MHP Service mandatory for their largest customer classifications that provide for service at mandatory time-of-use rates.[6] In

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[3] See MHP Order at 4.

[4] Id.

[5] See MHP Order at 5.

[6] MHP Order at 7.

addition, the Commission, noting that the Niagara Mohawk Power Corporation d/b/a National Grid ("NIMO") had already implemented MHP Service for its largest customers, ordered NIMO to file a draft tariff that would expand MHP Service to its SC 3 customer classification.[7] Furthermore, the Commission excused the Central Hudson Gas and Electric Corporation ("Central Hudson") from filing additional draft tariffs to implement MHP Service because Central Hudson has already implemented MHP Service for all of its mandatory time-of-use customer classifications.[8]

On November 21, 2005, Con Edison,[9] O&R,[10] NYSEG[11] and RG&E[12] filed their draft tariffs with the Commission. On November 22, 2005, NIMO[13] filed its draft tariff

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[7] See MHP Order at 6.

[8] Id. at 7.

[9] Con Edison's draft tariff would implement MHP Service for customers subject to mandatory time-of-day pricing in Service Classifications 4 (large redistribution), 5 (traction), 8 (multiple dwellings – redistribution), 9 (large general service), 12 (multiple dwelling – space heating) and 13 (high tension – housing developments). These customers have a maximum demand of 1500 kilowatts ('kW") in any annual period ending on September 30.

[10] O&R's draft tariff would implement MHP Service for customers who have a maximum monthly demand equal to or greater than 1000 kW and receive electric service under Service Classifications 9 (Commercial Time of Use), 22 (Industrial Time of Use) and 25 (Standby Service). Seven customers who O&R has identified as having maximum monthly demands lower than 1,000 kW and take service in these classes would be transferred to Service Classification 3 and not subject to MHP Service.

[11] NYSEG's draft tariff would create a new Service Classification 4 (Large General Service) that would implement MHP Service to customers with a metered demand equal to or greater than 1000 kW during any 2 of the previous 12 months.

[12] RG&E's draft tariff would create a new Service Classification 15 (Large General Use) that would implement MHP Service to customers with a metered demand equal to or greater than 1000 kW during any 2 of the previous 12 months.

[13] NIMO's draft tariff would expand MHP Service to its largest Service Classification 3 customers (customers with peak demands of 500 kW and above) in 2006, evaluate the impact of this expansion and then expand MHP Service in further increments.

with the Commission and Central Hudson filed a report on additional outreach and education plans for customers eligible for MHP Service.[14]

DISCUSSION

I. THE MANDATORY HOURLY-PRICED DEFAULT SERVICE PRICING STRUCTURE SHOULD BE TRANSPARENT FOR CUSTOMERS AND MARKETERS

As the goal of expanded MHP Service is to empower customers to receive and respond to accurate price signals, it is critical for all of the cost components of the MHP Service pricing formula to be disclosed in complete detail in utility tariffs so that MHP Service is fully transparent for both customers and ESCOs. Without such disclosure, customers will be unable to receive and respond to accurate price signals and ESCOs will have a difficult time structuring products that are the most compatible with customers' needs. The utilities should therefore be required to publish in their service tariffs an MHP Service pricing formula as described below.

Currently, the real-time pricing mechanism used by the New York utilities is comprised of several energy and non-energy cost components, including: (1) the market cost of energy; (2) the market cost of capacity; (3) ancillary service charges; and (4) the New York Power Authority Transition Charge ("NTAC"). The utilities' draft tariffs, however, lack the granularity necessary for customers and ESCOs to determine how these cost components would be distributed among MHP Service customers. For example, the utilities' draft tariffs fail to articulate how items such as line losses are allocated among customers who take hourly-priced default service. Likewise, the draft

[14] Central Hudson's proposes in its report to continue additional outreach and education to its MHP customer classes through market expositions similar to the one conducted in April 2005. In addition, Central Hudson proposes to expand letter outreach to voluntary hourly-pricing customers down from a threshold of 2 megawatts ("MW") to 500 kW.

tariffs fail to ascertain how each utility plans to allocate among customers within the new MHP class the costs associated with NYISO bill corrections and re-billing.

In order to ensure that MHP pricing results in conveyance and receipt of accurate price signals, Hess proposes that the MHP pricing formula set forth for each cost component the calculation of factors that make the component transparent to customers and ESCOs. For the energy component, this means a calculation of NYISO zonal day-ahead market price, hourly load and adjustments for losses and imbalances. For capacity, this means a calculation of unforced capacity ("UCAP"), the spot auction price and purchases in excess of the NYISO demand curve. For ancillary services, this means a calculation of hourly load, adjustments for losses and certain NYISO Schedule 1 charges including Scheduling, System Control & Dispatch ("SSC&D"), local and statewide uplift costs, residual costs and adjustments, operating reserves, regulatory costs, black start costs, Voltage Supply Support ("VSS") costs and Demand Response Program ("DRP") costs. For the NTAC, this means a calculation of hourly load adjusted for losses and monthly rates.

Hess therefore proposes that the utilities incorporate into their draft tariffs the following cost component calculations for MHP Service pricing:

<u>*Energy*</u> = *Day-Ahead Energy x Hourly Load x (1 + Losses) + Imbalance Cost*

<u>*Capacity*</u> = *UCAP x Spot Auction Price + Excess Demand Curve Purchase*

<u>*Ancillary Service*</u> = *Hourly Load x (1 + Losses) x (SSC&D, Local Uplift, Statewide Uplift, Residuals, Adjustments, Operating Reserves + Regulation + Black Start + VSS costs + DRP costs).*

<u>*NTAC*</u> = *Hourly Load x (1 + Losses) x Monthly Rate.*

II. MANDATORY HOURLY-PRICED DEFAULT SERVICE RATES CANNOT CONTAIN COST COMPONENTS WITH CROSS-SUBSIDIES THAT MASK THE TRUE COSTS OF SERVING CUSTOMERS

As with transparency, it is critical that all MHP Service cost component cross-subsidies that socialize costs across a customer class be eliminated because it masks the true costs of serving customers and therefore inhibits customer receipt of accurate price signals. This is particularly true for capacity, ancillary services and other non-energy cost components of the MHP pricing mechanism that incorporate class average cost data rather than customer-specific costs.

One example of the type of cross-subsidization that the Commission should move MHP pricing away from involves the UCAP cost component. Currently, UCAP costs are socialized across customer classes by way of class average cost data. This mechanism masks the accurate price signal from the customer because it does not reveal the true costs of providing MHP Service to the customer. In order to ensure that such a masking of price signals does not take place, a mechanism for assigning UCAP costs to customers based on the customer's individual actual costs or contribution to peak must be established.

Another example of cross-subsidization that prevents accurate price signaling involves ancillary services, which are market-based services. Currently, ancillary services are, despite the fact they are market-based services, charged to customers by the utility and then reimbursed to the ESCO based on customer class averages. This mechanism results in both prevention of accurate price signaling to the customer and losses for the ESCOs who do not fully recover the true costs of providing ancillary services to customers under this less-than-efficient class average costing methodology.

In order to enable customers to receive the twin benefits of MHP pricing -- viable demand response opportunities and increased choice through robust retail competition -- the practice of having utilities collect the market-based ancillary services charge in their own rates and then reimbursing ESCOs based on a socialized class average cost data methodology must end. As such, the supply costs associated with ancillary services should be located in the supply side of the utility's rate for MHP Service and, where practicable, assigned to the individual customer rather than priced through a socialized class average methodology.

This new mechanism will empower customers to receive accurate price signals based on the true costs of providing MHP Service to that customer and also increase the benefits provided by demand response programs. Specifically, because ancillary services under this mechanism will be a pure market-based component that will transparently fluctuate with the market, customers who will be exposed to increased ancillary services in a rising market will be able to at least partially offset this exposure through participation in a demand response program that empowers the customers to avoid peak usage. It is therefore imperative for the utilities to implement in their MHP Service tariffs a pricing mechanism that eliminates the current ancillary service charge collection practice where ESCOs are reimbursed by the utilities based on a socialization of costs by class average data rather than actual costs of serving the customer.

III. THE MANDATORY HOURLY-PRICED DEFAULT SERVICE COST STRUCTURE SHOULD BE STANDARD ACROSS NEW YORK

In providing expanded MHP Service to customers, it is Hess' position that while certain MHP cost components should continue to reflect local market conditions (e.g., cost components that reflect NYISO zonal day-ahead energy prices), the MHP Service cost formula itself should be uniform across New York. With respect to the calculation of the MHP Service cost formula, Hess is concerned that the balkanization of different MHP cost formula calculations across the different New York utility service territories will create barriers to entry by preventing ESCOs from benefiting from economies of scale. In addition, balkanization of the MHP Service cost calculation will impede the further development of competitive retail electric markets by imposing additional costs on the ESCOs' ability to conduct business in the various New York utility service territories.

One example of Hess' concern is the current calculation of ancillary services. Currently, the New York utilities have different methods for calculating the cost of ancillary services. The calculation of this MHP Service cost component should be standard across the New York utility service territories and, as already discussed, should be calculated as a transparent and non-subsidized cost component as proposed by Hess.

Again, while MHP Service prices should reflect the market conditions prevalent in each NYISO zone, the calculation of the MHP Service cost formula should reflect transparency, eliminate cross-subsidization that masks accurate price signaling and should be uniform across New York.

CONCLUSION

Hess believes that the Commission has taken an important step in the right direction in proposing expanded MHP Service. However, as Hess has outlined in these comments, the draft compliance tariffs filed by the New York utilities require more detail and granularity as to how MHP Service costs are to be calculated. It is essential for both customers and ESCOs that the pricing for the expanded MHP Service be made transparent and eliminate cross-subsidies that inhibit the ability of customers to receive accurate price signals reflecting the total costs of serving the customer. It is equally important that the calculation of the MHP Service cost formula be uniform across New York and to not have different calculation methodologies of essential cost components such as ancillary services utilized by each New York utility. Hess looks forward to continued participation in this proceeding to ensure that the New York utilities' compliance tariffs are modified so as to ensure that customers are able unlock the benefits of demand response and retail competition as envisioned in the Commission's MHP Order.

Dated: January 23, 2006
Woodbridge, New Jersey

Respectfully submitted

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