

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

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April 1, 2002

Honorable Magalie R. Salas
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Room 1-A209
Washington, D.C. 20426

Re: Docket No. EL02-59-000
Response to Unauthorized Answer of
KeySpan-Ravenswood vs. NYISO

Dear Secretary Salas:

For filing please find the Response of the New York State Public Service Commission in the above-entitled proceeding. Should you have any questions, please feel free to contact me at (518) 486-2652.

Very truly yours,

Saul A. Rigberg
Assistant Counsel

Enclosures

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

KEYSPAN-RAVENSWOOD, INC.)
)
 v.)
) Docket No. EL02-59-000
NEW YORK INDEPENDENT SYSTEM)
OPERATOR, INC.)

**RESPONSE OF NEW YORK STATE PUBLIC SERVICE COMMISSION TO
UNAUTHORIZED ANSWER OF KEYSPAN-RAVENSWOOD, INC.**

On March 12, 2002, KeySpan-Ravenswood (KeySpan) filed an unauthorized Answer to the protests of four of the intervening parties in this docket, including the New York State Public Service Commission (NYPSC), regarding KeySpan's proposed modification of the rules pertaining to the unforced capacity (UCAP) market in New York City (in-City).¹

KeySpan contends that its unauthorized Answer is justified "to clarify allegations made in the answers to its Complaint."² Such a standard, if adopted, would make all unauthorized answers

¹ Answer of KeySpan-Ravenswood, Inc. to comments of the New York Independent System Operator, Inc., Consolidated Edison Company of NY, Inc., the New York Public Service Commission, and the City of New York (Answer).

² Answer at 1, n.2.

appropriate.³ In any event, KeySpan's Answer should be rejected because it is procedurally improper and substantively provides no new information or analysis.

If the Commission accepts KeySpan's Answer, the NYPSC respectfully requests that good cause exists for the Commission to grant waiver of Rule 213(a)(2) regarding the filing of Answers to Answers. A response is needed to correct KeySpan's erroneous contentions.

DISCUSSION

KeySpan's claim that without its proposed changes, generators will be discouraged from adding new capacity is undermined by its own pleading. On page 4 of the Answer, KeySpan notes its pride in the way it has operated and maintained the Ravenswood facility, pointing to operating improvements since it acquired the plant from Con Edison. Under the market mitigation rules now in place, the financial benefit of those efficiencies accrue to KeySpan. On page 12 of the Answer, KeySpan further notes that "Orion has added new capacity to the market and Ravenswood is in the process

³ The Commission has accepted answers when the responsive pleading would assist in the Commission's analysis, provide useful and relevant information, or would otherwise facilitate a full and complete record upon which the Commission can base its decision. See, e.g., *East Tennessee Natural Gas Co.*, 81 FERC ¶ 61,219 at n.4 (1997); *National Gas Pipeline Co. of America*, 81 FERC ¶ 61,216 at n.3 (1997); *Pacific Interstate Transmission Co.*, 81 FERC ¶ 61,369 at n.2 (1997); *Florida Gas Transmission Co.*, 79 FERC ¶ 61,147 at n.7 (1997).

of constructing new generation." New capacity is being added despite KeySpan's claim that it is uneconomic to do so with the current mitigation measures in place.

Although KeySpan acknowledges, moreover, that the in-City market is not workably competitive,⁴ its arguments assume adequate competition in New York City. For instance, it suggests that there is enough excess capacity to prevent a physical withholding strategy from being successful. But if there were adequate excess capacity so that no generator functioned as a pivotal player, there would be no prospect of UCAP market clearing prices approaching the deficiency charge; KeySpan would, therefore, not benefit from removal of the price cap because market clearing prices would not exceed the bid cap.

CONCLUSION

It is not in the public interest to change one or two elements of a carefully crafted and complicated mitigation scheme that is working as designed. KeySpan has not provided any evidence that the revenues it receives from UCAP are inadequate, and it has failed to show that any immediate changes are needed to the current in-City mitigation measures for UCAP. For these

⁴ Answer, at 11. Despite this acknowledgment that at times there is no UCAP "market," KeySpan argues that some of the rules that prevent market power abuse are improper because "they interfere with the ability of the marketplace to define the market value of the product." Id. at 12; emphasis in original.

reasons and those discussed in our Protest and in the Response of Consolidated Edison, the complaint of KeySpan should be dismissed.

Respectfully submitted,

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of the State of New York
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Dated: April 1, 2002
Albany, New York

CERTIFICATE OF SERVICE

I, Karen Houle, do hereby certify that I will serve on April 1, 2002, the foregoing Response of the Public Service Commission of the State of New York by depositing a copy thereof, first class postage prepaid, in the United States mail, properly addressed to each of the parties of record, indicated on the official service list compiled by the Secretary in this proceeding.

Date: April 1, 2002
Albany, New York

Karen Houle

