

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

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July 15, 2008

VIA ELECTRONIC FILING

Kimberly D. Bose, Secretary

Federal Energy Regulatory Commission

888 First Street, N.E.

Room 1-A209

Washington, D.C. 20426

Re: Docket No. EL08-39-000 - New York Regional
Interconnect, Inc.

Dear Secretary Bose:

For filing, please find the Answer of the New York State Public Service Commission in Opposition to the Motion filed by New York Regional Interconnect, Inc., in the above-entitled proceeding. Should you have any questions, please feel free to contact me at (518) 473-8178.

Very truly yours,

David G. Drexler
Assistant Counsel

Attachment

cc: Service List

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

New York Regional Interconnect, Inc.) Docket No. EL08-39-000

ANSWER OF THE PUBLIC SERVICE COMMISSION
OF THE STATE OF NEW YORK
IN OPPOSITION TO THE MOTION FILED BY
NEW YORK REGIONAL INTERCONNECT

INTRODUCTION

On June 30, 2008, New York Regional Interconnect, Inc. (NYRI) filed a Motion to Lodge the New York Independent System Operator, Inc. (NYISO) Management Committee's decision approving the NYISO's System Reliability Impact Study (SRIS) for the NYRI Project (June 30 Motion).¹ The New York State Public Service Commission (NYPSC) hereby submits its Answer in Opposition to NYRI's June 30 Motion, in accordance with Rule 213(d) of the Federal Energy Regulatory Commission's (FERC or Commission) Rules of Practice and Procedure.²

¹ On February 12, 2008, NYRI filed a Petition for Declaratory Order for Incentive Rate Treatment (February 12 Petition) with respect to its intended construction of a 400 kV transmission line, with a rated power flow of 1,200 MW, extending approximately 190 miles from Marcy, New York to New Windsor, New York (the Project). NYRI estimates the Project will require an investment of approximately \$1.8 to \$2.1 billion.

² The NYPSC submitted a timely Notice of Intervention and Comments on March 13, 2008, as well as Supplemental Comments on June 18, 2008.

DISCUSSION

NYRI's June 30 Motion seeks to include within the record the NYISO Management Committee's decision approving the SRIS in order to "establish[] that the NYRI Project will reduce transmission congestion by increasing key transfer limits on highly constrained interfaces without adversely affecting system reliability."³ The NYPSC opposes NYRI's June 30 Motion because the information NYRI seeks to include within the record places inappropriate information before the Commission that is under consideration in the NYPSC's siting process, and should be vetted there before it is submitted to the Commission. In addition, the information submitted fails to establish the proposition for which it is presented (i.e., the Project will reduce congestion).

The NYPSC has consistently maintained to FERC that NYRI's Petition for Incentive Rate Treatment is premature because NYRI intends to make one of the prerequisite findings for incentive rates (i.e., the Project will ensure reliability or reduce the cost of delivered power through reducing transmission congestion) within the NYPSC's siting proceeding,

³ June 30 Motion at p. 1.

which has not yet been completed.⁴ Notwithstanding NYRI's avowed intent and clear statement that it is not seeking a Commission determination regarding those findings, NYRI's June 30 Motion presents the same information and issues to the Commission that will be addressed within the NYPSC's siting proceeding.⁵ As such, the June 30 Motion attempts to inappropriately include on the record material that will prejudice the NYPSC's siting decision.

Moreover, contrary to NYRI's assertion, the SRIS approved by the NYISO Management Committee did not establish that the Project will necessarily reduce transmission congestion. Rather, the SRIS merely evaluated the impact of the Project on the "safety and reliability of the New York State [NYS] Transmission System" and established what facilities are needed for the Project to connect to the NYS Transmission System in a reliable manner.⁶ In other words, the SRIS indicated what facility upgrades are necessary to meet the minimum

⁴ Under the Commission's regulations, NYRI is only eligible for incentive rates if it demonstrates, among other matters, that the Project will ensure reliability or reduce the cost of delivered power through reducing transmission congestion. The Commission applies a rebuttable presumption that a project is "needed to ensure reliability or reduces the cost of delivered power by reducing congestion" in situations where an appropriate state siting authority has evaluated these issues.

⁵ NYRI seeks incentive rates "conditioned upon NYRI obtaining siting approval and, thus, satisfying the rebuttable presumption under Order 679." February 12 Petition at p. 7.

⁶ NYISO OATT, Attachment S, Sheet 656A.

interconnection standard, so that the Project does not degrade or impair the reliability of the NYS Transmission System. The SRIS was not intended or designed to reach conclusions on the Project's ability to reduce congestion. In fact, there may be transfer limits that decrease as result of NYRI's Project, which may outweigh increases in other transfer limits, thereby eliminating any purported benefits of reducing congestion. Therefore, it cannot be concluded, based on the SRIS, that NYRI's Project will reduce overall congestion.

CONCLUSION

For the reasons discussed above, the Commission should deny NYRI's June 30 Motion.

Respectfully submitted,



Peter McGowan
Acting General Counsel
Public Service Commission
of the State of New York

By: David G. Drexler
Assistant Counsel
3 Empire State Plaza
Albany, NY 12223-1305
(518) 473-8178

Dated: July 15, 2008
Albany, New York

CERTIFICATE OF SERVICE

I, David Drexler, do hereby certify that I will serve on July 15, 2008, the foregoing Answer of the New York State Public Service Commission in Opposition to the Motion filed by New York Regional Interconnect, Inc., upon each of the parties of record indicated on the official service list compiled by the Secretary in this proceeding.


David Drexler

Dated: July 15, 2008
Albany, New York