

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

THREE EMPIRE STATE PLAZA, ALBANY, NY 12223-1350

Internet Address: <http://www.dps.state.ny.us>

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Secretary

November 22, 2005

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

Re: Docket No. EL06-1-000 – Niagara Mohawk v. NYSRC and NYISO

Dear Secretary Salas:

For filing, please find the Notice of Intervention and Answer 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

Attachment

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Niagara Mohawk Power Corporation,
a National Grid Company

v.

Docket No. EL06-1-000

New York State Reliability Council, L.L.C. and
New York Independent System Operator, Inc.

NOTICE OF INTERVENTION AND ANSWER OF THE
PUBLIC SERVICE COMMISSION OF THE STATE OF NEW YORK

The New York State Public Service Commission (NYPSC) submits its Notice of Intervention and Answer pursuant to the Notice of Extension of Time (issued on October 14, 2005) and in compliance with Rule 214 of the Federal Energy Regulatory Commission's (FERC or Commission) Rules of Practice and Procedure.

I. Communications

Copies of all correspondences and pleadings should be addressed to:

Saul A. Rigberg
Assistant Counsel
Office of General Counsel
Public Service Commission
of the State of New York
Three Empire State Plaza
Albany, New York 12223-1350
sar@dps.state.ny.us

Raj Addepalli, Manager, Staff ISO Team
Office of Economic Development
and Policy Coordination
Public Service Commission
of the State of New York
Three Empire State Plaza
Albany, New York 12223-1350
rpa@dps.state.ny.us

II. Statement of Issues

The Commission should deny, without prejudice, the complaint of Niagara Mohawk Power Corporation (Niagara Mohawk) in recognition that:

- (1) the proposal is not ripe for Commission action because it is not described in sufficient detail;
- (2) it is unlikely that Niagara Mohawk's methodology, which has never been used in New York, could be implemented on short notice without disrupting the New York Installed Capacity (ICAP) Markets for the upcoming Capability Year that begins with Summer 2006;

- (3) state stakeholder processes, including further meetings of the New York State Reliability Council (NYSRC) and market participant committee meetings, with NYPSC involvement as necessary, are best able to resolve the matter for the Summer 2007 Capability Year in a fair and reasonable manner; and,
- (4) issues that directly affect the reliability of the New York Control Area (NYCA) are primarily a local matter and therefore the Commission should deny the Niagara Mohawk's complaint without prejudice. See, for example, New York v. FERC, 122 S.Ct. 1012 (2002) and Section 215(i) (3) of the Federal Power Act (FPA).

III. Argument

Niagara Mohawk asserts in its complaint that the NYSRC will use an improper methodology for calculating the statewide Installed Reserve Margin (IRM) for 2006. More specifically, Niagara Mohawk argues that the new way in which the NYSRC will establish NYCA's Minimum Installed Capacity Requirement (ICR)¹ violates Section 206 of the FPA because the practice results in upstate customers subsidizing the costs of capacity needed exclusively for reliability in the import-constrained areas of Long Island and New York City. In addition, Niagara Mohawk claims that the NYSRC's current IRM methodology allows intra-regional transmission limitations to influence the region-wide resource adequacy requirement, which increases costs to areas that do not experienced constrained imports. Niagara Mohawk believes that use of a "Free Flowing Equivalent IRM" methodology in lieu of the current IRM methodology would eliminate the impact of intra-regional transmission limitations on regional resource adequacy requirements by adjusting Locational ICAP requirements.

For several reasons, the NYPSC respectfully requests the Commission to deny without prejudice the complaint of Niagara Mohawk. First, Niagara Mohawk provides only a general description of its proposed approach. It therefore cannot be implemented without further discussion among the technical staffs of the NYSRC, NYISO, NYPSC and market participants to specify procedures.² For instance, Niagara Mohawk calls for the NYSRC to "[a]djust capacity so that the system approximates the results of a fully deliverable system on a region-wide basis... This process effectively involves increasing the assumed capacity resources located

¹ The ICR = 1 + the IRM.

² While a free-flowing methodology has been discussed in general terms at meetings of the NYSRC's Installed Capacity Subcommittee, no specific procedures have been developed and it does not comport with other methods previously developed or used by the NYSRC.

within the constrained zones so that the binding nature of actual transmission limitations is essentially eliminated."³ However, its proposal does not address constraints that often are binding in Niagara Mohawk's service territory, such as the Central-East and Leeds-Pleasant Valley constraints. It is important to design and implement a methodology that addresses all relevant factors because of the significant impact on bulk power system reliability and appropriate price signals to encourage development of new generating and transmission resources. Thus, a study of the implications should be done, as a first step. These issues can best be addressed by a careful and deliberative discussion among market participants and impartial experts who are the closest to the issue.

Second, in the event that the Commission granted the complaint expeditiously, it is unlikely that a new methodology could be implemented without disrupting the New York ICAP Markets for the 2006 Capability Year, which begins next summer. As the NYISO noted in its motion, tariff revisions may have to be developed pertaining to such areas as: (1) if the use of the Free Flowing Equivalent IRM methodology renders New York City and Long Island capacity deficient, there may be reliability issues and a need to create new rules for ICAP deficiencies; (2) ICAP demand curves; and, (3) auction rules.⁴

Third, inasmuch as Niagara Mohawk's filing is too late to implement this year, the Commission should not consider the complaint. The new method recently adopted by the NYSRC has been adopted on an interim basis subject to further review of alternate mechanisms, which could include a method similar to Niagara Mohawk's "free flowing" approach. We urge the Commission to allow the state market participants to continue to work on this issue at the NYSRC and at the NYPSC, as appropriate. In the meantime, the market participants should be allowed to continue unimpeded regarding on-going implementation of the current methodology as well as development of next year's methodology.

Finally, although Niagara Mohawk's complaint is couched in terms of alleged improper cost allocation and subsidies, the resolution it suggests would have a profound effect

³ Complaint of Niagara Mohawk Power Corporation, a National Grid Company, Requesting Fast Track Processing, October 5, 2005, at 32-33.

⁴ Motion of New York Independent System Operator, Inc. In Opposition To Request For Fast Track Processing, October 8, 2005, at 4.

on the reliability of the NYCA. Local reliability has been considered primarily a state matter,⁵ and newly enacted Section 215(i) (3) of the FPA reaffirms that view. Accordingly, it is appropriate for the Commission to withhold judgment on the complaint.

IV. Conclusion

For the reasons expressed above, the NYPSC respectfully requests that the Commission deny Niagara Mohawk's complaint without prejudice.

Respectfully submitted,

Dawn Jablonski Ryman
General Counsel

By: Saul A. Rigberg
Assistant Counsel
Public Service Commission of
the State of New York
Three Empire State Plaza
Albany, New York 12223-1350
(518) 486-2652

Dated: November 22, 2005
Albany, New York

⁵ Sections 205 and 206 (16 U.S.C. §§ 824d and 824e); New York v. FERC, 122 S.Ct. 1012 (2002).

