



126 FERC P 61320, 2009 WL 853160 (F.E.R.C.)

FEDERAL ENERGY REGULATORY COMMISSION

**1 Commission Opinions, Orders and Notices

Before Commissioners: Jon Wellinghoff, Chairman; Suedeen G. Kelly, Marc Spitzer, and Philip D. Moeller.

New York Independent System Operator, Inc.

Docket No. OA08-52-003

ORDER ON REHEARING

(Issued March 31, 2009)

*62741 1. In this order, the Commission grants, in part, and denies, in part, rehearing of its October 16, 2008 Order, [FN1] which conditionally accepted New York Independent System Operator, Inc.'s (NYISO's) filing of its transmission planning process as in compliance with Order No. 890. [FN2] The Commission also accepts a revised Reliability Agreement NYISO included with its compliance filing.

I. Background

2. In Order No. 890 the Commission reformed the *pro forma* Open Access Transmission Tariff (OATT) to clarify and expand the obligations of transmission providers to ensure that transmission service is provided on a non-discriminatory basis. The Commission directed all transmission providers to develop a planning process that satisfies nine planning principles and to clearly describe that process in a new attachment to their OATTs. Regional Transmission Organizations (RTOs) and Independent System Operators (ISOs) with Commission-approved planning processes already on file were directed to either reform their planning processes or show how they were consistent with or superior to the *pro forma* OATT, as modified by Order No. 890.

3. NYISO's filing included revisions to Attachment Y of its OATT to incorporate a new economic planning process, known as the Comprehensive System Planning Process (CSPP) which contained three major components: (1) local transmission planning; (2) reliability planning, and (3) economic planning. NYISO's filing also included the Rate Mechanism for the Recovery of the Reliability Facilities Charge, to be a new Rate Schedule No. 10 to NYISO's OATT, and the revised Agreement Between the New York Independent System Operator, Inc. and the New York Transmission Owners on the Comprehensive Planning Process for Reliability Needs (Reliability Agreement).

A. October 16, 2008 Order

4. In the October 16, 2008 Order, the Commission found that NYISO's transmission planning process with certain modifications complies with each of the nine planning principles and other planning requirements adopted in Order No. 890. The Commission accepted, *inter alia*, three threshold requirements an economic project would have to satisfy in order to be eligible for cost allocation and recovery: (1) the benefit of the proposed project must exceed its costs; (2) the total capital cost of the project must exceed \$25 million; and (3) eighty percent (a

so-called “supermajority”) of the project beneficiaries must support the project by voting for it in the stakeholder process.

****2** 5. The project benefit is measured as the present value of annual New York system-wide production cost savings that would result from the ***62742** implementation of the proposed project, measured for the first ten years from the project's proposed commercial operation date. Cost is expressed as the present value of annual total revenue requirement for the project, allocated over the first ten years from the project's proposed commercial operation date. To identify beneficiaries, NYISO will measure the present value of annual Locational Based Marginal Price (LBMP) load savings for all load zones which would have a load savings, net of reductions in transmission congestion credit payments, and bilateral contracts as a result of the implementation of the proposed project.

6. In the October 16, 2008 Order, the Commission required NYISO to make a compliance filing explaining two issues related to costs and benefits: (1) whether NYISO in identifying beneficiaries would be comparing the total present value of benefits incurred over a ten-year period to the total amount of costs or whether it would be comparing the benefits and the costs for each year; and (2) an explanation of how additional metrics, to be made available for consideration by market participants funding the projects, will be calculated, weighed, and/or combined. [FN3]

7. Under the supermajority voting rule, in order for the costs of an economic based transmission project to be recovered through NYISO's tariff, the cost allocation and recovery for that specific project must be approved by a vote of 80 percent or more of the beneficiaries of that project (who will pay for the project), weighted in accordance with each beneficiary's share of the total project benefits. The Commission stated that “the ability of project beneficiaries to vote on potential projects will serve to check-and-balance the costs and benefits of projects subject to cost allocation under NYISO's tariff.” [FN4]

II. Requests for Clarification or Rehearing

8. On November 17, 2008, NYISO and the New York Transmission Owners [FN5] (NY Transmission Owners) (collectively, Joint Parties), Niagara Mohawk Power Corporation (National Grid), and the New York Regional Interconnect, Inc. (NYRI) filed requests for clarification or, in the alternative, rehearing. On December 2, 2008, as corrected on December 8, 2008, Consolidated Edison Company of New York, Inc. (Con Ed) and Orange and Rockland Utilities, Inc. and NYISO filed answers to NYRI's request for rehearing. On December 2, 2008, Public Service Electric and Gas Company (PSEG) filed an answer to NYRI's request for rehearing. On December 16, 2008, NYRI filed an answer to all of the answers.

9. On February 2, 2009, NYRI filed a motion for expedited review of its rehearing request. [FN6]

A. Procedural Matters

10. Rule 713(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.713(d) (2008), prohibits an answer to a request for rehearing. Accordingly, the answers to the requests for rehearing will be rejected. Pursuant to Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2008), and in light of the rejection of the answers to NYRI's rehearing, NYRI's answer to the answers will be dismissed.

B. Discussion

****3** 11. In the instant order, the Commission grants in part and denies in part the requests for clarification or rehearing of the October 16, 2008 Order.