

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Nora Mead Brownell, and Suedeen G. Kelly.

New York Independent System Operator, Inc.     Docket Nos. ER01-3001-013 and  
ER01-3001-014

ORDER ACCEPTING INFORMATIONAL REPORT

(Issued May 18, 2006)

1.     On December 16, 2005, as corrected on December 23, 2005, the New York Independent Transmission System Operator, Inc. (NYISO) submitted, pursuant to Ordering Paragraph (B) of the Commission's October 25, 2001 Order (Initial Order),<sup>1</sup> Ordering Paragraph (C) of the Commission's July 19, 2002 Order (July 19, 2002 Order),<sup>2</sup> paragraph 5 of the Commission's September 3, 2002 Letter Order (September 3, 2002 Order),<sup>3</sup> and paragraph 7 of the October 24, 2003 Order (October 24, 2003 Order)<sup>4</sup> in this proceeding, its ninth biannual informational report on its demand response programs and the addition of new generation (NYISO Report). As discussed below, the Commission accepts this report.

**Instant Filing**

2.     In the orders cited above, the Commission directed NYISO to submit for informational purposes a semi-annual report, beginning December 1, 2001, on NYISO's progress on its demand side management program and on the addition of new generation.

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<sup>1</sup> *New York Independent System Operator, Inc.*, 97 FERC ¶ 61,095 (2001).

<sup>2</sup> *New York Independent System Operator, Inc.*, 100 FERC ¶ 61,081 (2002).

<sup>3</sup> *New York Independent System Operator, Inc.*, 100 FERC ¶ 61,243 (2002).

<sup>4</sup> *New York Independent System Operator, Inc.*, 105 FERC ¶ 61,115 (2003).

3. The NYISO Report provides that the NYISO continues to offer three demand response programs: the Emergency Demand Response Program, Installed Capacity Special Care Resources, and the Day-Ahead Demand Response Program. The NYISO Report also provides information on the status and progress of developing new generation resources in New York. The NYISO Report forecasts adequate supply for the upcoming summer, but it reiterates the need for additional supplies between 2008 and 2011. The NYISO Report also refers to the *ISO Power Trends 2005* report,<sup>5</sup> which recommended that the NYISO staff and New York stakeholders use the recently adopted comprehensive reliability planning process and other market mechanisms to ensure the development of needed generation, transmission, and demand side resources.

### **Notice, Interventions and Protests**

4. Notice of the NYISO's December 16, 2005 Filing was published in the *Federal Register*, 71 Fed. Reg. 596 (2006), and notice of the NYISO's December 23, 2005 Filing was published in *Federal Register*, 71 Fed. Reg. 1424 (2006), with interventions and protests due no later than January 13, 2006. KeySpan Corporation (KeySpan) filed a motion to intervene and comments on January 23, 2006. New York Transmission Owners<sup>6</sup> (NYTOs) filed a response to KeySpan's comments.

5. In its comments, KeySpan asserts that the NYISO Report only makes a passing reference to issues related to diverse fuel supplies, and that steps to improve market signals to encourage fuel diversity must be undertaken with greater urgency. It states that, unless fuel diversity is addressed in the market soon, the next phase of generation additions and infrastructure investments will most likely not provide the necessary fuel diversity. KeySpan seeks price subsidies to encourage natural gas-fired generation to sign firm natural gas supply and transportation contracts and to add dual-fuel capability to generating facilities.

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<sup>5</sup> NYISO's filing at 6, *citing* [http://www.nyiso.com/public/newsroom/current\\_issues/index.jsp](http://www.nyiso.com/public/newsroom/current_issues/index.jsp).

<sup>6</sup> New York Transmission Owners are: Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., LIPA, New York Power Authority, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation (collectively, NYTOs).

6. In response, the NYTOs dispute KeySpan's characterizations concerning the level of fuel diversity in New York. The NYTOs argue that KeySpan failed to provide an analysis that supports its conclusion that New York suffers from a lack of fuel diversity or that any price adjustments are needed to ensure reliability.

7. The NYTOs also state that KeySpan's first step should be to work through the New York State Reliability Council (NYSRC) to determine whether fuel diversity is a significant concern in New York and establish a standard against which the adequacy of fuel diversity can be measured. The NYTOs assert that, once the NYSRC has established such a standard, the NYISO can begin work on market or other measures to ensure that the standard is met.

## **Discussion**

### **A. Procedural Matters**

8. We will grant the motion to intervene out-of-time filed by KeySpan given its interest in this proceeding, the early stage of this proceeding, and the absence of any undue prejudice or delay.<sup>7</sup>

9. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2005), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept the answer filed in this proceeding because it has provided information that assisted us in our decision-making process.

### **B. Commission Determination**

10. The Commission finds that the NYISO Report complies with the Commission's directives in the Initial Order, the July 19, 2002 Order, the September 3, 2002 Order, and the October 24, 2003 Order. Accordingly, the Commission accepts the NYISO Report for informational purposes.

11. With regard to KeySpan's comments, the Commission finds that this is not the appropriate forum in which to address fuel diversity. The issue presented by this informational report is whether NYISO complied with the Commission's directives to report, semi-annually, on the progress of its demand side management programs and the development of new generation. We find above that NYISO has complied.

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<sup>7</sup> 18 C.F.R. § 385.214 (2005).

12. We concur with the NYTOs' comments that KeySpan should raise its concerns with the NYSRC. The NYSRC, in this regard, identified in its 2003-2004 Biennial Report that one of its future challenges is "[e]valuation of the impact of dependency of electric system reliability on a long-term and dependable supply of natural gas and petroleum based fuels."<sup>8</sup> Additionally, KeySpan may seek to raise its concerns through the NYISO stakeholder process.

The Commission orders:

The NYISO Report is hereby accepted for informational purposes.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.

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<sup>8</sup> New York State Reliability Council, 2003-2004 Biennial Report "Carrying on Our Mission of Maintaining and Enhancing Electric System Reliability" at 12, available at <http://www.nysrc.org/reports.asp>.