

122 FERC ¶ 61,290
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

New York Independent System Operator, Inc.

Docket No. ER08-560-000

ORDER ACCEPTING TARIFF SHEETS

(Issued March 28, 2008)

1. On January 31, 2008, the New York Independent System Operator, Inc. (NYISO) filed to comply with North American Energy Standards Board (NAESB) Wholesale Electric Quadrant (WEQ) Standard 011-1.6/ Wholesale Gas Quadrant (WGQ) Standard 0.3.15 with regard to communications between NYISO and interstate natural gas pipelines servicing gas-fired generators and/or power plant operators, as required by Order No. 698.¹ NYISO also filed tariff sheets² to incorporate a New York State Gas-Electric Coordination Protocol (Coordination Protocol) into its Open Access Transmission Tariff (OATT) which, in the event of a gas or electric emergency in the State of New York, establishes communication pathways between NYISO, the local gas distribution companies (LDCs) serving gas-fired generating plants, the power plant operators (PPOs) of gas-fired generating plants, the Transmission Owners (TOs),³ and the Staff of the New York Department of Public Service (DPS). NYISO states that the Coordination Protocol filed in the referenced tariff sheets goes beyond the requirements of Order No. 698 by establishing “mutual aid” procedures to prevent the loss of critical

¹ *Standards for Business Practices for Interstate Natural Gas Pipelines; Standards for Business Practices for Public Utilities*, Final Rule, 72 Fed. Reg. 38757 (July 16, 2007), FERC Stats. & Regs. ¶ 31,251 (Order No. 698), *order on reh’g*, 121 FERC ¶ 61,264 (2007).

² New York Independent System Operator, Inc., FERC Electric Tariff, Original Volume No. 1, Attachment BB, Original Sheet Nos. 1096, 1097, 1098, 1099, 1100 and 1101.

³ In Attachment BB, NYISO defines a TO as each of the electric transmission system owners in New York State or their successors. This is not the same definition that is used in the NERC Reliability Standards for a Registered Transmission Owner.

generators during an emergency. The Commission finds that NYISO has complied with NAESB WEQ Standard 011-1.6/WGQ Standard 0.3.15 and accepts the proposed tariff sheets effective February 1, 2008, as requested.

I. Background

A. Compliance with Order No. 698

2. In Order No. 698, the Commission amended parts 38 and 284 of its regulations to incorporate by reference certain standards promulgated by WGQ and WEQ of NAESB, which provide for the coordination and communication between natural gas pipelines and various electric industry operators. Order No. 698 requires Regional Transmission Organizations (RTOs), Independent System Operators (ISOs), independent transmission operators, and others to establish operational communication procedures with the appropriate transportation service provider and/or PPO. The Commission required that parties file statements by November 1, 2007 indicating that they have established the appropriate communication procedures.

3. On October 25, 2007,⁴ NYISO submitted a Statement of Partial Compliance and a Request for Extension of Time in Docket Nos. RM05-5-001 and RM96-1-027 asking for a three-month extension until February 1, 2008 to comply with one of the two NAESB standards. In that filing, NYISO stated that it was complying with one of the NAESB standards, WEQ Standard 011-1.4/WGQ Standard 0.3.14, and sought additional time to comply with NAESB WEQ Standard 011-1.6/WGQ Standard 0.3.15, which required ISOs to file a statement with the Commission indicating that they had established appropriate communications procedures with interstate pipelines and/or PPOs. NYISO stated it needed three more months to complete negotiations that were underway with LDCs, TOs, PPOs and the DPS regarding gas-electric coordination pathways which would encompass the communication procedures required by NAESB's standards, but would go beyond those standards to establish "mutual aid" procedures to avert the loss of critical generators during an electric emergency.⁵

4. NYISO states that since the October 25, 2007 filing, it has held further discussions with various groups. In discussions with the Northeast Gas Association's (NGA's) Electric/Gas Operations Committee and its interstate natural gas pipeline members which serve New York,⁶ NYISO agreed to use a gas-electric coordination protocol modeled on

⁴ In its transmittal letter, NYISO erroneously states that it filed its partial compliance filing on November 1, 2007. NYISO Transmittal Letter at 2.

⁵ NYISO Transmittal Letter at 2-3.

⁶ *Id.* at 3

the one that has been in effect for the interstate pipelines of New England and the ISO-New England (ISO-NE) since 2004.⁷ NYISO states that because the “NYISO & Interstate Pipeline Companies Serving New York State/Gas Operations Communications Protocol” became effective on January 23, 2008, it has fully complied with NAESB’s WEQ Standard 011-1.6/WGQ Standard 0.3.15.

B. Coordination Protocol

5. NYISO states that it also has held numerous additional meetings and conference calls involving both downstate and upstate stakeholders. NYISO states that after an upstate stakeholder meeting on January 4, 2008, NYISO and the stakeholders decided to combine the upstate and downstate protocols into a single, state-wide protocol and circulated it for comment. NYISO states that amendments were made to the protocol following a Business Issues Committee meeting on January 16, 2008 and an Operating Committee meeting on January 17, 2008. NYISO states that the tariff sheets submitted in the instant filing incorporate all but one of the changes requested by all of the stakeholders in this process.⁸ NYISO explains that the Coordination Protocol (i.e., Attachment BB) requires additional communications among affected parties during a gas or electric emergency affecting reliability on the New York bulk power system. It also provides a process under which LDCs may provide natural gas to a “Critical Generator”⁹ to avoid the loss of firm electric load, or to modify an Operational Flow Order (OFO). NYISO states that the Coordination Protocol builds on existing communications pathways that have been in effect since before the creation of NYISO.

6. NYISO states that there are three situations¹⁰ in which the Coordination Protocol would be followed: (1) when an LDC issues an OFO; (2) in the event of a Level 2 or Level 3 Energy Emergency Alert (EEA) due to a capacity shortage affecting the bulk power system;¹¹ and, (3) when a Gas System Event (GSE)¹² requires a PPO to derate a

⁷ ISO New England Inc. & Northeast Gas Association Electric/Gas Operations Committee, *Communications Protocol* (September 27, 2007).

⁸ NYISO Transmittal Letter at 3.

⁹ A “Critical Generator” is one that is needed by either the NYISO or a TO to operate in order to avoid shedding firm electric load on either the bulk power system or on a local power system. NYISO Transmittal Letter at 6.

¹⁰ NYISO Transmittal Letter at 4.

¹¹ See NERC Reliability Standard EOP-002-2, Capacity and Energy Emergencies, Attachment 1.

generator. NYISO states that in the first situation, under the Coordination Protocol, LDCs will also notify TOs and NYISO when they issue an OFO (and not just the DPS and PPOs affected by the OFO, as is currently the case). In the second situation, NYISO states that it will also notify the LDCs serving gas-fired generators directly of an EEA Level 2 or Level 3 (and not just the TOs, as is currently required).

7. Finally, in the third situation, NYISO states that the TO will now be designated as the communications link between NYISO and the LDCs with regard to reliability issues related to natural gas. NYISO states that the TO is the critical link in the communications chain regarding the impact of a generator derate on the local reliability system and that it passes that information on to the NYISO to do its assessment of the generator derate on the bulk power system. NYISO states that such a communication path follows from the established pathway of generators notifying NYISO of deratings through the relevant TO for reliability purposes.

8. NYISO further explains that the Coordination Protocol goes beyond the NAESB standards and provides a mechanism for “mutual aid” between itself, the PPOs, the TOs and the LDCs in the event of a GSE. NYISO states that currently, if a generator is derated for any reason after being scheduled to run, both the TO and NYISO perform reliability assessments of local and bulk power system reliability and inform each other of their findings. When the derate is due to gas being unavailable for a Critical Generator, the Coordination Protocol provides a way to seek additional assistance from LDCs. NYISO states that under the Coordination Protocol, once a Critical Generator has been identified and an assessment has been made of the amount of electric energy needed to maintain system reliability, the TO is required to notify the PPO (of the Critical Generator) of the results of the assessment and to alert the LDC regarding the amount of natural gas that is required by the Critical Generator to produce the amount of electric energy required to maintain system reliability.¹² The PPO then attempts to locate sources of natural gas, and if successful, notifies the LDC, which determines whether it can accommodate the delivery of the gas and informs the PPO of its determination. If the PPO still needs additional gas supply for its Critical Generator, the LDC determines whether it can feasibly provide the needed gas volumes. The PPO then lets the TO know that gas supply has been made available and that the derate can be modified to reflect the generator’s capability. The TO in turn notifies NYISO of the availability of the affected generators, as is currently required.

¹² A GSE is defined as any situation in which gas becomes unavailable to a generator that uses natural gas as a fuel, but excludes a situation in which a generator was derated for economic reasons after being scheduled to run.

¹³ NYISO Transmittal Letter at 6.

II. Notice of Filings and Responsive Pleadings

9. Notice of NYISO's January 31, 2008 filing was published in the *Federal Register*, 73 Fed. Reg. 10,020 (2008), with comments, interventions, and protests due on or before February 21, 2008. On February 21, 2008, Consolidated Edison Company of New York, Inc. (ConEd) and Orange & Rockland Utilities, Inc. (O&R, collectively, the Companies) filed comments.¹⁴ On March 7, 2008, NYISO filed an answer to the Companies' Comments. Also on March 7, 2008, Astoria Generating Company, LP (Astoria) filed a motion for leave to respond and response to the Companies' Comments.

10. In addition, the Companies, the New York Transmission Owners,¹⁵ the New York State Public Service Commission, National Fuel Gas Distribution Corporation, and Astoria filed timely motions to intervene.

III. Comments

11. The Companies request that the Commission: (1) modify the Coordination Protocol to require generators to exhaust their fuel supply options prior to seeking action by an LDC; (2) modify the Coordination Protocol to make NYISO responsible for communicating with LDCs; (3) accept the Coordination Protocol, as modified consistent with its comments, on an interim basis until September 30, 2008; and (4) order NYISO to establish a stakeholder process to modify the communications between the generators and NYISO in order to minimize the use of the TO as a communications conduit, with a requirement that NYISO make a revised Coordination Protocol filing effective September 30, 2008 with such new communication channels in place.

12. The Companies express concerns over the additional responsibilities placed on LDCs and TOs by the Coordination Protocol and the effects of those changes. The Companies argue that the Coordination Protocol should be modified to require that generators exhaust all of their fuel supply resources prior to seeking action from their LDC because such a reliance on the LDC for gas or modification of an OFO to deal with fuel shortages could impact the reliability of gas service to the LDC's firm customers. The Companies assert that generators should seek aid from their LDCs as a last resort and not as a normal course of action.

¹⁴ Although the Companies' filing is referred to as "comments," based on their opposition to NYISO's filing, we will treat the Companies' filing as a protest.

¹⁵ The New York Transmission Owners include Central Hudson Gas & Electric Corporation, Long Island Power Authority, New York Power Authority, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation, and Rochester Gas and Electric Corporation.

13. The Companies also argue that NYISO has unnecessarily and improperly required the TO to act as a conduit for communications between NYISO and an LDC when these communications should be the responsibility of NYISO. The Companies contend that NYISO fails to articulate why a TO's involvement is required when additional intermediaries can only serve to degrade reliability. The Companies assert that the extra layer of communications is inefficient and risks NYISO's message being relayed in a manner that is not exactly as NYISO intended. Finally, the Companies argue that NYISO and its stakeholders should reconsider the existing communications channels and take more responsibility for operating communications with generators to protect reliability. The Companies contend that in a competitive market, the coordination of generation under the Coordination Protocol is largely the responsibility of NYISO with input from the TOs on local reliability needs. The Companies recommend that should the Commission accept the Coordination Protocol, it should do so only with the adoption of its modifications and, with respect to communications between NYISO and generators, on an interim basis until a stakeholder process can further evaluate communications channels for the Coordination Protocol.

IV. NYISO's Answer

14. On March 7, 2008, NYISO filed an answer in response to the Companies' comments. NYISO argues that requiring generators to exhaust alternative fuel options before availing themselves of the "mutual aid" provisions of the Coordination Protocol would undercut a key provision of the Coordination Protocol, the purpose of which is to prevent the loss of firm electric load in an emergency situation in which natural gas supply to a gas-fired generator has been interrupted.¹⁶ NYISO highlights that the Coordination Protocol prohibits the use of the "mutual aid" provision if the generator has been derated for economic reasons, is triggered only when a generator has been determined by NYISO or a TO to be a "Critical Generator," and requires the PPO of a Critical Generator to attempt to find alternative natural gas supplies before seeking the assistance of the LDC. NYISO notes that the Coordination Protocol specifically provides that LDCs are under no obligation to provide the requested assistance to the generator.

15. NYISO further argues that nothing in the Companies' comments justifies ordering immediate revisions to the Coordination Protocol. NYISO contends that making the changes requested by the Companies without a thorough examination of the consequences and without giving other stakeholders an opportunity for comment and review would invalidate NYISO's stakeholder process. Further, NYISO believes that such changes could upset the balance reached by the majority of stakeholders and undo the work of over a year of negotiations. NYISO asserts that it is unnecessary for the Commission to require NYISO to establish a stakeholder committee to address the

¹⁶ NYISO Answer at 2.

communications path between TOs and generators, as requested by the Companies, because the Operating Committee established a new task force chaired by ConEd to engage that very issue. According to NYISO, the new task force will be reviewing various issues, including whether TOs would continue to communicate with generators on local reliability issues, the type of infrastructure needed to create direct NYISO-generator communications, whether there are cost-justified benefits to such new communication pathways, and whether NYISO's budget and staff should be increased to accommodate the new responsibilities.¹⁷

16. Additionally, NYISO asserts that the Companies' suggestions undermine the effectiveness of the new coordination procedures. NYISO argues that the Companies' proposed changes to the Coordination Protocol are inconsistent with longstanding practice and would undermine local and bulk power system reliability.¹⁸ According to NYISO, the Coordination Protocol builds on 40 years of communications experience and is inextricably intertwined with the TOs' current obligation to interact with the PPOs. NYISO argues that to have all other communications (for both emergencies and non-emergencies) go through one set of channels but to use another channel for only one aspect of an emergency protocol – in this case, having NYISO suddenly contacting the LDC rather than the TO – is to invite confusion and risk misunderstanding. According to NYISO, changing customary pathways in the middle of upgrading communications, while a stakeholder process is underway, makes no sense and would undermine reliability.

17. Further, NYISO argues that the Commission has made it clear that communications between the gas and electric side of the same company are not only allowed, but encouraged during an emergency to avoid outages on the electric and gas systems. NYISO asserts that requiring it to interpose itself in communications between the electric and gas operations of the same company is highly inefficient and could threaten reliability by delaying communications critical to avoiding blackouts. NYISO notes that the Coordination Protocol requires only minimal interaction between the TOs and the LDCs and that the Companies, therefore, cannot claim that having to contact their own gas divisions puts an undue burden upon them.

V. Astoria's Answer

18. On March 10, 2008, Astoria filed an answer requesting that the Commission reject the Companies' comments and approve the Coordination Protocol as filed by NYISO. Astoria opposes the Companies' proposed modifications as inconsistent with public policy, reducing reliability, and unnecessarily imposing higher costs on consumers.

¹⁷ *Id.* at 9.

¹⁸ *Id.* at 5.

Astoria argues that the Companies' proposed modifications to have PPOs switch to oil-firing before asking the LDCs if they have any Feasible Natural Gas (i.e., natural gas supplies that can be made available and delivered to the PPOs) is contrary to public policy initiatives concerning air emissions because the combustion of oil produces more (and different) air emissions than the combustion of natural gas. Astoria argues that requiring PPOs to drain their back-up fuel supplies before determining whether the LDCs have any Feasible Natural Gas and when they could make it available may threaten the reliability of the electric system. Finally, Astoria argues that requiring PPOs to burn oil when cheaper natural gas may be available will cause energy prices to increase.

19. Astoria also contends that TOs are in the best position to act as the central point of communications between NYISO and the LDCs. Astoria claims that, as noted by NYISO, some of the notification procedures date back to the creation of the New York Power Pool. Astoria argues that the Companies exaggerate the "complexity" and delay their involvement adds to the communications chain because it omits or ignores the fact that often, the TOs to which the PPO's generating facilities are interconnected are the same companies as the LDCs that provide gas service to the facilities. Thus, according to Astoria, the communications about which the Companies are concerned occur between employees of the same company. Astoria asserts that, even in situations where the TO and the LDC are separate companies, there are direct lines of communications and frequent communications between the control room operators for the two companies.

20. Additionally, Astoria argues that it is appropriate for the TOs to act as the central point of communications between NYISO and the PPOs. Astoria reiterates that the Coordination Protocol is based on communications pathways that were in place prior to NYISO's existence. Astoria questions whether and how the changes that the Companies seek could be realistically achieved, especially when the detailed information regarding, for e.g., ConEd's transmission system, is largely visible only to the local ConEd operators working within ConEd's control center. Finally, Astoria contends that, contrary to the Companies' claims, ConEd is fully aware of and closely monitors the PPOs' fuel supply situation and routinely communicates with the PPOs when their fuel supply consumption patterns deviate from reliability rule requirements.

VI. Discussion

A. Procedural Matters

21. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.214 (2007)), all timely filed motions to intervene and any motions to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties.

22. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2007) prohibits an answer to an answer or protest unless otherwise ordered by the decisional authority. We will accept NYISO's and Astoria's answers as they have provided us with information that has assisted us in our decision-making process.

B. Commission Determination

23. We find that NYISO's filing complies with the requirements of Order No. 698, under which RTOs and ISOs must establish operational communication procedures with appropriate PPOs and/or transportation service providers. NYISO states that because the NYISO & Interstate Pipeline Companies Serving New York State/Gas Operations Communications Protocol became effective on January 23, 2008, it is now in compliance with NAESB's WEQ Standard 011-1.6/WGQ Standard 0.3.15, which was incorporated by reference into Order No. 698.¹⁹ We agree and find that NYISO meets this requirement of Order No. 698.

24. The Commission accepts NYISO's proposed Coordination Protocol to be a just and reasonable set of procedures for dealing with emergency situations. The Coordination Protocol reflects a consensus of NYISO stakeholders that resulted from over two years of stakeholder meetings in which feedback and comments were requested and changes made to accommodate concerns and issues raised by participants.

25. The Companies' object to the provision of the Coordination Protocol that requires TOs to be a critical link in the communications chain. No party disputes that the use of TOs in the communication path is consistent with current and historical practice (going back to the creation of the NYISO's predecessor, the New York Power Pool), and has worked effectively without any problems to maintain bulk power system reliability. Although the Companies assert that the TO's involvement may degrade reliability and is inefficient, they offer no evidence that it has done either. Inclusion of the TOs in the communication procedures will provide enhanced information to parties that may be affected by emergencies and we, therefore, cannot find that inclusion of the TOs in the communication loop is unjust and unreasonable.

26. Further, we agree with NYISO that making the changes requested by the Companies without an examination of the consequences, and without giving other stakeholders an opportunity for comment, would inappropriately circumvent NYISO's stakeholder process and could undermine reliability. Although the Companies believe that the proposed methods could be further enhanced by reducing reliance on TOs, it will have an opportunity, through the currently ongoing stakeholder process, to appropriately address this issue and further pursue its views.

¹⁹ NYISO Transmittal Letter at 3.

27. The Companies maintain that we should not accept the Coordination Protocol without requiring generators to exhaust all fuel resources prior to seeking aid from their LDC in an emergency situation. Contrary to the Companies' assumptions that the LDC would have to provide aid to generators "as a normal course of action"²⁰ under NYISO's filing, generators may ask for aid from LDCs only in specific circumstances and after there has been "an attempt to find alternative natural gas supplies before seeking the assistance of the LDC."²¹ Additionally, LDCs are under no obligation to provide the requested assistance to generators. Thus, the assertion by the Companies that the LDC's provision of gas to its firm customers would be threatened under NYISO's proposal is unfounded. Moreover, the Companies' proposed alternative that generators exhaust their fuel supply resources before seeking aid from LDCs could limit the supplies available to generators and weaken the generators' abilities to maintain firm electric load and to maintain system integrity and reliability. We therefore will reject the Companies' protest.

28. Therefore, we will accept NYISO's proposed tariff sheets containing its Coordination Protocol effective February 1, 2008, as proposed.

The Commission Orders:

(A) NYISO's filing is accepted as in compliance with Order No. 698 as discussed in the body of this order.

(B) NYISO's tariff sheets establishing a Coordination Protocol are accepted effective February 1, 2008 as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

²⁰ Companies Comments at 4.

²¹ NYISO Answer at 4-5.