

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

April 19, 2005

In Reply Refer To:
New York Independent System
Operator, Inc. and New York
Transmission Owners
Docket No. ER05-629-000

Hunton and Williams LLP
Attn: Ted J. Murphy, Esq.
Counsel for New York Independent System
Operator, Inc.
1900 K Street, N.W., Suite 1200
Washington, D.C. 20006

Dear Mr. Murphy:

1. On February 18, 2005, New York Independent System Operator, Inc. and New York Transmission Owners (collectively, NYISO) submitted a compliance filing revising tariff sheets incorporating changes to NYISO's *pro forma* Large Facility Interconnection Procedures (LFIP) and Large Facility Interconnection Agreement (LFIA)¹ contained in Attachment X of the NYISO Open Access Transmission Tariff (OATT), as directed by the Commission in Order No. 2003-B.²

2. In this letter order, we accept the compliance filing, subject to modification, as discussed below, to be effective on January 19, 2005. This order benefits customers because it ensures that the rates, terms, and conditions for interconnection service are just, reasonable, and uniform and therefore encourages more competitive markets.

¹ NYISO uses the terms "Large Facility Interconnection Procedures" and "Large Facility Interconnection Agreement" in lieu of the terms "Large Generation Interconnection Procedures" (LGIP) and "Large Generator Interconnection Agreement" (LGIA) in Order No. 2003. The terms are interchangeable.

² *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003-B, 70 Fed. Reg. 265 (Jan. 4, 2005), FERC Stats. & Regs. ¶ 31,171 (2005) (Order No. 2003-B), *reh'g pending*.

Background

3. In Order No. 2003,³ the Commission required all public utilities that own, control, or operate facilities for transmitting electric energy in interstate commerce to file revised OATTs containing the *pro forma* LGIP and LGIA by January 20, 2004.⁴ Independent Transmission Providers (such as NYISO) have flexibility under Order No. 2003 to tailor the terms of the LGIP and LGIA to their specific needs under what is called the independent entity variation.⁵ This approach recognizes that individual Regional Transmission Organizations (RTO) and Independent System Operators (ISO) may have different operating characteristics, depending on their geographic size and location, and are less likely to act in an unduly discriminatory manner than are non-independent Transmission Providers.⁶

4. On March 5, 2004, the Commission issued Order No. 2003-A, which revised the *pro forma* LGIP and LGIA.⁷ On December 20, 2004, the Commission issued Order No. 2003-B, which further revised the *pro forma* LGIP and LGIA and directed each RTO or ISO to submit either revised tariff sheets incorporating the changes contained in Order No. 2003-B, or an explanation under the independent entity variation standard as to why it is not adopting each change.⁸ The Commission directed that the required compliance filing be made within 60 days of the issuance of Order No. 2003-B.

³ See *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, 68 Fed. Reg. 49,845 (Aug. 19, 2003), FERC Stats. & Regs. ¶ 31,146 (2003) (Order No. 2003), *order on reh'g*, Order No. 2003-A, 69 Fed. Reg. 15,932 (Mar. 26, 2004), FERC Stats. & Regs. ¶ 31,160 (2004) (Order No. 2003-A), *order on reh'g*, Order No. 2003-B, 70 Fed. Reg. 265 (Jan. 4, 2005), FERC Stats. & Regs. ¶ 31,171 (2004), *reh'g pending*.

⁴ See *Notice Clarifying Compliance Procedures*, 106 FERC ¶ 61,009 (2004).

⁵ See Order No. 2003 at P 827.

⁶ *Id.*

⁷ The Commission's consideration of NYISO's compliance with Order Nos. 2003 and 2003-A, as well as a request for rehearing, is currently pending in Docket No. ER04-449.

⁸ See Order No. 2003-B at P 139.

NYISO's Filing

5. In its compliance filing, NYISO proposes to modify certain sections of the LFIP and the LFIA in Attachment X of NYISO's OATT in accordance with Order No. 2003-B.⁹ NYISO sets out a detailed description of the proposed changes to its OATT, including in certain instances the reasons why a modification specified in Order No. 2003-B was not adopted.¹⁰ According to NYISO, the three principal types of changes proposed in the compliance filing include: (1) changes to the *pro forma* LGIP and LGIA that NYISO proposes to adopt; (2) changes to the *pro forma* LGIP and LGIA that are not adopted, since they do not apply to NYISO's *pro forma* LFIP and LFIA because of regional differences or an independent entity variation that has already been approved by the Commission; and (3) changes, such as typographical corrections and other minor revisions to the *pro forma* LGIP and LGIA, as required by Order No. 2003-B, that are unnecessary since they are already in NYISO's OATT.

6. NYISO requests that its proposed revisions be made effective on January 19, 2005, the effective date required in Order No. 2003-B.¹¹

Notice of Filing and Responsive Pleadings

7. Notice of NYISO's compliance filing was published in the *Federal Register*, 70 Fed. Reg. 10,394 (2005) with interventions and protests due on or before March 11, 2005. None was filed.

Discussion

8. The Commission accepts NYISO's compliance filing, subject to the modification discussed below. NYISO requests a waiver of Rule 2010, 18 C.F.R. § 385.2010 (2004), to permit it to electronically serve a copy of the filing on the official representatives of each of its customers, on each participant in its stakeholder committees, on the New York State Public Service Commission, and on the state commissions in New Jersey and Pennsylvania.¹² In addition, NYISO states that it has posted the complete filing on its website and will provide a paper copy to any party

⁹ See Order No. 2003-B at P 139-40.

¹⁰ See NYISO's February 18, 2005 compliance filing, Attachment III.

¹¹ Order No. 2003-B at P 148.

¹² Rule 2010(f) provides that service of any document must be made (1) by U.S. mail, first-class or better; (2) by delivery in a manner that, and to a place where, the person on whom service is required may reasonably be expected to obtain actual and timely receipt; or (3) by electronic means to participants who have agreed to receive service via the specified electronic means. 18 C.F.R. § 385.2010(f) (2004).

that requests one. NYISO states that copies of the filing are being served on all parties designated on the official service list maintained by the Commission in Docket No. ER04-449-000.

9. The Commission will grant the waiver. NYISO's request is consistent with the Commission's Order No. 653,¹³ which revises Rule 2010(f), 18 C.F.R. § 385.2010(f) (2004), to require senders and recipients to serve documents upon one another by electronic means, with the exception of those who are unable to receive such service, unless the parties agree otherwise.¹⁴

10. NYISO states that it has not adopted certain changes to the *pro forma* LGIP and LGIA made by Order No. 2003-B. NYISO states that these changes do not apply to NYISO's *pro forma* LFIP and LFIA because of regional differences or an independent entity variation that has previously been approved by the Commission. The Commission accepts all of these variations as independent entity variations because these changes made by Order No. 2003-B do not apply to NYISO as a result of the Commission's August 6, 2004 Order conditionally accepting NYISO's Order Nos. 2003 and 2003-A compliance filings.¹⁵

11. In addition, Order No. 2003-B required LGIP section 3.2.2.2 to be amended to add the following language:

The Transmission Provider may also study the Transmission System under non-peak load conditions. However, upon request by the Interconnection Customer, the Transmission Provider must explain in writing to the Interconnection Customer why the study of non-peak load conditions is required for reliability purposes.

¹³ *Electronic Notification of Commission Issuances*, Order No. 653, 70 Fed. Reg. 8,720 (Feb. 23, 2005), FERC Stats. & Regs. ¶ 31,176 (2005) (Order No. 653).

¹⁴ Since NYISO's filing was submitted on February 18, 2005, before the March 21, 2005 effective date of Order No. 653, NYISO requests waiver of the *then* effective requirements of 18 C.F.R. § 385.2010(f) (2004).

¹⁵ *New York Indep. Sys. Operator, Inc.*, 108 FERC ¶ 61,159 (2004). On September 7, 2004, NYISO requested rehearing of the Commission's August 6, 2004 order, and on October 5, 2004, NYISO submitted a compliance filing to that order, both of which are still pending in Docket No. ER04-449.

12. NYISO asserts that Order No. 2003-B clarifies that this provision only refers to non-independent entities.¹⁶ Since this issue is still pending in NYISO's Order Nos. 2003 and 2003-A compliance proceedings, the Commission will accept NYISO's statement that this provision does not apply to NYISO, subject to the outcome of the compliance proceedings in Docket No. ER04-449.

13. NYISO states that changes such as typographical corrections and other minor revisions made by Order No. 2003-B are unnecessary because the changes are already in NYISO's OATT. The Commission acknowledges that all revisions necessitated by typographical errors were previously made by NYISO except the change listed below.

14. Order No. 2003-B required changing "policies" to "policies" in the first sentence of LGIA Article 18.3.6. NYISO states that this change was already made in a previous filing. However, "policies" still remains in the first sentence of NYISO's LFIA Article 18.3.6.¹⁷ NYISO is directed to make this change within 30 days from the date of the issuance of this order and submit a revised tariff sheet.

15. Our acceptance of NYISO's Order No. 2003-B compliance filing is subject to the outcome of NYISO's Order Nos. 2003 and 2003-A request for rehearing and compliance filings, pending in Docket No. ER04-449.

By direction of the Commission.

Linda Mitry,
Deputy Secretary.

¹⁶ See NYISO's February 18, 2005 compliance filing, Attachment III (citing Order No. 2003-B at P 71).

¹⁷ See NYISO OATT, Second Revised Sheet No. 917.

Enclosure

New York Independent System Operator, Inc.
 Docket No. ER05-629-000
Rate Schedule Designations

The revised tariff sheets listed below revise the NYISO's *pro forma* LFIP and LFIA in Attachment X of FERC Electric Tariff, Original Volume No. 1.

	<u>Designation</u>	<u>Supersedes</u>	<u>Effective Date</u> ¹⁸
1.	Second Revised Sheet No. 780	First Revised Sheet No. 780	January 19, 2005
2.	Second Revised Sheet No. 785	First Revised Sheet No. 785	January 19, 2005
3.	Second Revised Sheet No. 789	First Revised Sheet No. 789	January 19, 2005
4.	Second Revised Sheet No. 790	First Revised Sheet No. 790	January 19, 2005
5.	Second Revised Sheet No. 810B	First Revised Sheet No. 810B	January 19, 2005
6.	Second Revised Sheet No. 879	First Revised Sheet No. 879	January 19, 2005
7.	Second Revised Sheet No. 886	First Revised Sheet No. 886	January 19, 2005
8.	Second Revised Sheet No. 919	First Revised Sheet No. 919	January 19, 2005
9.	Second Revised Sheet No. 923	First Revised Sheet No. 923	January 19, 2005
10.	Second Revised Sheet No. 931	First Revised Sheet No. 931	January 19, 2005
11.	Second Revised Sheet No. 917		Rejected

¹⁸ The revised tariff sheets that are accepted are effective January 19, 2005, subject to Commission action in Docket No. ER04-449.