

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. ER01-2230-003

ORDER DISMISSING REHEARING

(Issued September 1, 2006)

1.      On March 16, 2006, the Commission accepted a New York Independent System Operator, Inc. (NYISO) compliance filing specifying the treatment of Wheeling Revenues in the determination of a transmission owner's monthly Wholesale Transmission Service Charge (Wholesale TSC) under the NYISO's Open Access Transmission Tariff (OATT), as amended, and directed one of the transmission owners, specifically, Niagara Mohawk Power Corporation (Niagara Mohawk), to make refunds and file a refund report.<sup>1</sup> In this order, the Commission dismisses Municipal Electric Utilities Association of New York's (MEUA) request for rehearing of the Commission's March 2006 Order as moot.

**Background**

2.      Earlier in this proceeding, the Commission approved NYISO's and its transmission owners' proposal to employ their existing transmission revenue requirements in designing their Wholesale TSC rates under NYISO's OATT, and set for hearing and settlement judge procedures the appropriate billing units divisor to use in that rate design.<sup>2</sup> Subsequently, the parties agreed to a settlement that would allow the

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<sup>1</sup> *New York Independent System Operator, Inc.*, 114 FERC ¶ 61,267 (2006) (March 2006 Order).

<sup>2</sup> *Central Hudson Gas & Electric Corporation*, 86 FERC ¶ 61,062 at 61,212 (1999).

transmission owners to increase their Revenue Requirement<sup>3</sup> to reflect costs related to pre-NYISO-OATT grandfathered arrangements,<sup>4</sup> as long as any revenues related to these arrangements were included as revenue credits in the so-called Wheeling Revenue or WR component of the formula (Wholesale TSC Settlement).<sup>5</sup> Under the Wholesale TSC Settlement, NYISO was to make an informational filing describing the operation of the Wholesale TSC formula after NYISO had been operational for fifteen months. NYISO made the informational filing on June 1, 2001. MEUA, a Niagara Mohawk customer, filed a protest to the informational filing challenging Niagara Mohawk's proposed adjustment to its Revenue Requirement. In response to MEUA's protest, NYISO and the transmission owners, including Niagara Mohawk, amended the filing on November 30, 2001. The amendment included a proposal by Niagara Mohawk to refund through prospective adjustment the Wheeling Revenues component \$7,055,186.70 plus \$650,147.55 in associated interest.<sup>6</sup>

3. In the March 2006 Order, the Commission accepted NYISO's and the transmission owners' informational filing, as amended. The Commission agreed with NYISO and the transmission owners that the adjusted Revenue Requirements of the Wholesale TSCs would not need to be revised if, and when, grandfathered agreements terminate and customers convert to service under NYISO's OATT. The Commission

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<sup>3</sup> The Wholesale TSC =  $\{(RR/12) + (CCC/12) + (LTPP/12) - SR - ECR - CRR - WR\}/BU/12$  where: "RR" is the Annual Transmission Revenue Requirement; "CCC" is the Scheduling, System Control and Dispatch Costs of the transmission owner; "LTPP" is the transmission owner's annual Net LBMP (Locational Based Marginal Price) Transition Period Payment; "SR" is Sales Revenue from Transmission Congestion Contracts (TCCs); "ECR" is the transmission owner's revenues (positive) or costs (negative) from the allocation of Excess Congestion Rents (Congestion Rents collected by NYISO, less Congestion Payments); "CRR" is the transmission owner's Congestion Payments received from Grandfathered TCCs and Imputed Revenues from Grandfathered Rights from Existing Transmission Agreements, the expenses for which are included in the transmission owner's RR; "WR" is the Wheeling Revenues received from certain grandfathered agreements; and "BU" is the transmission owner's Billing Units (annual MWh) for the Transmission District adjusted upward to include sub-transmission and distribution losses.

<sup>4</sup> There are two types of pre-NYISO OATT grandfathered transmission agreements: (1) agreements under each transmission owner's OATT that pre-date the existence of NYISO, and (2) agreements that were entered into before the existence of any transmission owner's OATT.

<sup>5</sup> See FERC Electric Tariff, Original Volume No. 1, Original Sheet No. 394.

<sup>6</sup> See March 2006 Order at P 13.

also concluded that Niagara Mohawk's response addressed the concerns raised in MEUA's protest. The Commission, therefore, directed Niagara Mohawk to make the refunds it proposed in its response, and directed NYISO and Niagara Mohawk to file a refund report with the Commission within 30 days after making the refunds.

### **MEUA's Rehearing Request**

4. MEUA recognizes that Niagara Mohawk proposed to make prospective adjustment to its WR component along with interest that would be calculated from the time the money would have been included in the TSC rate calculation forward. MEUA points out, however, that the spreadsheet attached to Niagara Mohawk's response calculated interest from the November 1999 billing period through November 2001 only. MEUA points out, further, that, while the Commission's March 2006 Order directed Niagara Mohawk to make the refunds with associated interest, the Commission did not specifically state that the interest should be calculated from the November 1999 billing period until the date refunds would be made. MEUA, therefore, requests the Commission to issue an order that provides for updated interest calculations to include the time that elapsed between Niagara Mohawk's filing of its refund proposal and the time refunds will be made.

5. Niagara Mohawk<sup>7</sup> subsequently responded that it agrees with MEUA that interest on the WR component credit should be included through the date of the WR component adjustment. Niagara Mohawk agrees, further, that it will reflect the additional interest in its refund report that it will file within thirty (30) days following the completion of the WR component adjustment, as directed by the Commission in the March 2006 Order.

### **Commission Determination**

6. It is Commission practice that, when a public utility refunds amounts to its customers, interest will be assessed and computed from the time of collection (or withholding of credit) until the time the refunds are made.<sup>8</sup> Niagara Mohawk has agreed to make refunds with interest. The Commission, therefore, dismisses MEUA's request for rehearing as moot.

7. As directed in the March 2006 Order, Niagara Mohawk must make refunds to MEUA, and NYISO and Niagara Mohawk must file a refund report with the Commission within 30 days after making the refunds.

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<sup>7</sup> Now doing business as National Grid.

<sup>8</sup> 18 C.F.R. § 35.19(a)(2) (2006); *accord, e.g., Northeast Utilities Service Co.*, 76 FERC ¶ 61,237 at 62,151 (1996).

The Commission orders:

MEUA's request for rehearing is hereby dismissed, as discussed in the body of this order, and Niagara Mohawk is hereby directed to make refunds and NYISO and Niagara Mohawk are hereby directed to file a refund report, as discussed in the body of this order.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.