

135 FERC ¶ 61,014
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
John R. Norris, and Cheryl A. LaFleur.

New York Independent System Operator, Inc.

Docket No. ER11-2842-000

ORDER ON TARIFF REVISIONS

(Issued April 8, 2011)

1. On February 7, 2011, pursuant to section 205 of the Federal Power Act,¹ the New York Independent System Operator, Inc. (NYISO) submitted proposed revisions to the Standard Large Facility Interconnection Procedures contained in Attachment X to the NYISO Open Access Transmission Tariff (Tariff) and proposed revisions to the Small Generator Interconnection Procedures contained in Attachment Z to the NYISO Tariff. NYISO requests waiver of the notice requirements to permit an effective date of March 1, 2011. As discussed below, we grant waiver and accept the proposed tariff revisions effective March 1, 2011, as requested, subject to a compliance filing.

I. Background

2. The Commission has required standardization of interconnection study procedures and agreements for both large and small facilities through Order No. 2003,² and Order No. 2006.³ The Tariff contains the procedures for processing the Interconnection

¹ 16 U.S.C. § 824d (2006).

² *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. ¶ 31,146 (2003), *order on reh'g*, Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160, *order on reh'g*, Order No. 2003-B, FERC Stats. & Regs. ¶ 31,171 (2004), *order on reh'g*, Order No. 2003-C, FERC Stats. & Regs. ¶ 31,190 (2005), *aff'd sub nom. Nat'l Ass'n of Regulatory Util. Comm'rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007), *cert. denied*, 552 U.S. 1230 (2008).

³ *Standardization of Small Generator Interconnection Agreements and Procedures*, Order No. 2006, FERC Stats. & Regs. ¶ 31,180, *order on reh'g*, Order

(continued...)

Requests of Large Generating Facilities and Merchant Transmission Facilities proposing to interconnect to the New York State Transmission System. The NYISO Tariff requires a study of each proposed project to assess its feasibility, evaluate its impact on system reliability, and identify the facilities needed for its reliable interconnection. These studies include the Interconnection Feasibility Study, the Interconnection System Reliability Impact Study, and the Class Year Study. The annual Class Year Study is conducted to identify a transmission owner's Attachment Facilities and the System Upgrade Facilities needed to reliably interconnect all the projects in the Class Year. The Class Year is comprised of projects that have met specified eligibility requirements by the time the combined group study begins. Each annual Class Year Study allocates the cost of System Upgrade Facilities identified in the study among the projects in the Class Year in accordance with the cost allocation methodologies set forth in Attachment S to the Tariff.

3. Small Generating Facilities that require a System Upgrade Facility to interconnect are placed in the next Class Year, and cost responsibility is allocated to the Small Generating Facility in accordance with the procedures and methodologies in Attachment S. Class Year Study costs fall into three categories: the study of transmission owner Attachment Facilities; the study of local System Upgrade Facilities necessary to facilitate the direct connection of the proposed project to the existing system; and study of more systemic System Upgrade Facilities that are identified through analysis such as power flow, short circuit, or stability. Costs associated with the study of Attachments Facilities are assigned to the individual project being studied, while costs associated with the study of System Upgrade Facilities are divided equally among projects being studied. The study of local System Upgrade Facilities is assigned to specific projects.

II. NYISO Filing

4. NYISO proposes a revision to Tariff Attachment X to more equitably allocate the study costs from the Class Year Interconnection Facilities Study among the projects comprising a Class Year group of projects electing to be evaluated for Energy Resource Interconnection Service.⁴ NYISO also proposes a revision to Tariff Attachment Z designed to limit the circumstances under which, beginning with Class Year 2011, a Small Generator is required to pay for costs of Interconnection Studies.

No. 2006-A, FERC Stats. & Regs. ¶ 31,196 (2005), *order granting clarification*, Order No. 2006-B, FERC Stats. & Regs. ¶ 31,221 (2006).

⁴ Energy Resource Interconnection Service is the service provided by NYISO to interconnect the Generating Facility or Merchant Transmission Facility to the New York State Transmission System in accordance with the NYISO Minimum Interconnection Standard.

5. NYISO proposes to add a definition for Local System Upgrade Facilities to both Attachment X and Attachment Z. NYISO states that the current tariff language does not differentiate between study costs for the different types of System Upgrade Facilities, and that Attachment X does not account for the fact that study costs associated with local System Upgrade Facilities, which are performed individually for each project in a Class Year, are highly variable and dependant upon the circumstances of each project. NYISO states that by defining Local System Upgrade Facilities, it allows them to differentiate between Local System Upgrade Facilities necessary to facilitate the direct connection of the proposed project to the existing system and more systemic System Upgrade Facilities that are identified through analysis such as power flow, short circuit, or stability. Further, NYISO states that there will be significant cost savings to projects whose proposed interconnection do not require extensive study of Local System Upgrade Facilities.⁵ NYISO states that it and stakeholders believe that proposed Tariff revisions would implement improvements to the interconnection study process.⁶

6. NYISO requests that the proposed Tariff revisions become effective March 1, 2011.⁷ NYISO states that there is good cause to waive the prior notice requirement to permit a March 1, 2011 effective date because NYISO's evaluation of Class Year 2011 begins March 1, 2011, and the proposed Tariff revisions are intended to apply to Class Year 2011.⁸ It states that if these proposed revisions do not apply to Class Year 2011, it would be one full year -- Class Year 2012 -- until market participants would be able to reap the benefit of these Tariff revisions.

III. Notice and Comments

7. Notice of NYISO's filing was published in the *Federal Register*, 76 Fed. Reg. 9011 (2011), with interventions, comments, and protests due on or before February 28, 2011.

⁵ Transmittal to NYISO February 7, 2011 Filing at 6.

⁶ Transmittal to NYISO February 7, 2011 Filing at 5.

⁷ NYISO requests waiver of the 60 day prior notice requirement. *Id.* at 8. NYISO states that parties affected by the revisions have been on notice that NYISO intended to make this filing and apply it to Class Year 2011 since the October 19, 2010 Interconnection Issues Task Force Meeting. *Id.* at 9. *See* 18 C.F.R. §§ 35.3 and 35.11 (2010).

⁸ *Id.* at 8.

8. No party protested the proposed Tariff revisions. Fulton County, New York (Fulton County) submitted a request that relates to the proposed revisions for small generating facilities. Fulton does not object to the proposed Tariff revisions, but requests a retroactive exemption from the allocation of 2009 Class Year study costs. Niagara Mohawk Power Corporation (Niagara Mohawk) filed a motion to intervene out of time and an answer in opposition to the pleading of Fulton County. NYISO requested leave to comment in response to the pleading of Fulton County.

IV. Commission Determination

9. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure,⁹ the Commission will grant the late-filed motion to intervene of Niagara Mohawk, given the absence of undue prejudice or delay, the party's interest, and the early stage of the proceeding.

10. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure prohibits an answer to a protest unless otherwise ordered by the decisional authority.¹⁰ We are not persuaded to accept the answers of NYISO and Niagara Mohawk and, therefore, reject them.

11. We find good cause to waive the 60-day notice requirement¹¹ and accept the proposed Tariff revisions to be effective March 1, 2011, as requested, subject to condition. We find that the proposed Tariff revisions will improve the interconnection study process, and are just and reasonable. However, NYISO's intent that they apply to Class Years beginning with Class Year 2011 is only expressly reflected in Tariff language in section 30.13.3.1. We require NYISO to submit a compliance filing with revised Tariff records for each of the other proposed revisions to reflect that the proposed revisions apply to Class Year 2011 and later, within 30 days of the date of this order.

12. We also find that Fulton County's request for a retroactive exemption for the 2009 Class Year study is unrelated to the merits of NYISO's proposed Tariff revisions, which

⁹ 18 C.F.R. § 385.214(d) (2010).

¹⁰ 18 C.F.R. § 385.213(a)(2) (2010).

¹¹ Because parties were aware of the proposed revisions as early as October 2010 and have not protested them, and the proposed March 1, 2011 effective date is necessary for the proposed provisions to apply to Class Year 2011, we find good cause to grant a waiver of the 60 day prior notice requirement, as requested. *See Central Hudson Gas & Electric Corp.*, 60 FERC ¶ 61,106, at 61,338; *reh'g denied*, 61 FERC ¶ 61,089 (1992).

Fulton County does not protest and which only have prospective effect beginning with Class Year 2011. Accordingly, we deny Fulton County's request, without prejudice to Fulton County's filing a fully supported request for waiver related to Class Year 2009 requirements.

The Commission orders:

(A) The proposed revisions to Attachments X and Z to the NYISO Tariff are hereby accepted to be effective March 1, 2011, subject to a compliance filing, as discussed in the body of this order.

(B) NYISO is required to submit a compliance filing within 30 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.