

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
William L. Massey, and Nora Mead Brownell.

New York Independent System
Operator, Inc.

Docket Nos. ER03-13-003 and
ER03-13-004

ORDER ON COMPLIANCE AND DENYING REHEARING

(Issued July 10, 2003)

1. In this order the Commission denies Dynegy's¹ request for rehearing of the order issued on April 11, 2003.² Our determination ensures that requests for rehearing of previous orders must be within the scope of those proceedings.

Background

2. On November 22, 2002, the Commission accepted, with modifications the New York Independent System Operator, Inc.'s (NYISO) revised Market Administration and Control Area Services Tariff (Services Tariff), implementing unforced capacity deliverability rights (UDRs) in the NYISO markets.³

3. The April 11 Order accepted, with modification, NYISO's compliance filing to the November 22 Order, and directed NYISO to: (1) "modify the [Services] tariff such that external ICAP resources, when combined with UDRs, are subject to substantially the same level of deliverability as that required of NYISO ICAP resources when combined

¹Dynegy Power Marketing, Inc., Dynegy Midwest Generation, Inc., and Dynegy Energy Services, Inc.

²New York Independent System Operator, Inc., 103 FERC ¶ 61,037 (2003) (April 11 Order).

³New York Independent System Operator, Inc., 101 FERC ¶ 61,216 (2002) (November 22 Order).

with UDRs;"⁴ and (2) "provide more precise standards for . . . external ICAP resources to qualify to use UDRs for delivery of ICAP into a designated area."⁵

4. Dynegy requests the Commission to clarify that "no external resources can be accepted or certified as ICAP or awarded ICAP payments in either the NYISO strip, monthly or deficiency auctions unless and until the NYISO submits and the Commission . . . approves appropriate standards for establishing the deliverability of external resources."⁶ NYISO and New York Transmission Owners (Transmission Owners) filed answers to Dynegy's request for rehearing.

5. NYISO also has submitted a compliance filing to the April 11 Order. Notice of NYISO's compliance filing was published in the Federal Register, 68 Fed. Reg. 33,927 (2003), with comments, protests and interventions due on or before June 13, 2003. Dynegy and NRG Companies filed timely protests and the Long Island Power Authority and LIPA have filed comments in support of the compliance filing. The Transmission Owners filed an answer to the protests.

Discussion

A. Procedural Matters

6. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2003), prohibits the filing of an answer to a request for rehearing or a protest unless permitted by the decisional authority. NYISO's and Transmission Owners' answers do not assist us in the decision-making process. Accordingly, the answers are rejected.

B. Analysis

7. We deny Dynegy's request for rehearing. The April 11 Order addressed the implementation of UDRs in the NYISO market and the deliverability of external ICAP resources combined with UDRs. Dynegy's request, if granted, would prohibit all external resources from being accepted or certified as ICAP resources until deliverability standards are first adopted. Accordingly, we find Dynegy's request to be beyond the scope of the April 11 Order, and it will be denied.

⁴103 FERC ¶ 61,037 at P 14 (citation omitted).

⁵Id.

⁶Dynegy Request at p. 2.

8. NYISO's compliance filing deletes the "after the fact" demonstration of ICAP deliverability when associated with UDRs, and in its place states that external ICAP resources associated with UDRs are subject to the same deliverability requirements as internal ICAP resources when associated with UDRs. Further, NYISO adds to the Operating Data Requirements language that requires external ICAP resources associated with UDRs to meet the same data submission requirements as internal ICAP resources. NYISO's compliance filing removes the need for establishing separate standards for deliverability for external and internal resources.

9. Dynegy and NRG protest that NYISO's compliance filing lacks sufficient specificity and thus fails to respond to the Commission's orders. Both protests would have NYISO provide specific requirements for external ICAP to demonstrate deliverability when associated with UDRs. LIPA responds that the requirements imposed on external ICAP resources, as stated in the compliance filing, are equivalent to those placed on internal ICAP resources.

10. The Commission will accept NYISO's compliance filing. The Commission's concern for deliverability arose from the original proposal which, on its face, would have resulted in internal ICAP resources potentially having to meet more stringent requirements than external ICAP resources when associated with UDRs to meet local ICAP requirements. NYISO's compliance filing treats the two comparably.

The Commission orders:

- (A) Dynegy's request for rehearing is hereby denied.
- (B) NYISO's compliance filing is hereby accepted.

By the Commission.

(S E A L)

Linda Mitry,
Acting Secretary.