

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 No. ER01-3001-006

ORDER ACCEPTING SEMI-ANNUAL COMPLIANCE REPORT
AND DIRECTING FURTHER COMPLIANCE FILING

(Issued October 24, 2003)

I. Introduction

1. In this order, the Commission accepts a semi-annual compliance report on Demand Response Programs and the Addition of New Generation filed by the New York Independent System Operator, Inc. (NYISO) and directs NYISO to submit additional information in a further compliance filing. This order benefits customers by encouraging the addition of electrical generating facilities in the New York Control Area, thus encouraging increased power supply and protecting reliability.

II. Background

2. On June 2, 2003, NYISO submitted, pursuant to Ordering Paragraph (B) of the Commission's October 25, 2001 order (October 25 Order),¹ Ordering Paragraph (C) of the Commission's July 19, 2002 order (July 19 Order),² and Paragraph 5 of the Commission's September 3, 2002 Letter Order (September 3 Letter Order) in this proceeding,³ its third compliance report for informational purposes. The October 25 Order directed NYISO to file a semi-annual report beginning December 1, 2001. The compliance report provides information on (i) NYISO's existing demand response

¹ New York Independent System Operator, Inc., 97 FERC & 61,095 (2001).

² New York Independent System Operator, Inc., 100 FERC & 61,081 (2002).

³ New York Independent System Operator, Inc., 100 FERC & 61,243 (2002).

programs,⁴ the status of real-time demand response mechanisms, and (ii) the addition of new generation resources in the New York Control Area.

3. Notice of NYISO's June 2, 2003 compliance report was published in the Federal Register, 68 Fed. Reg. 35,394 (2003), with comments, protests, and motions to intervene due on or before June 23, 2003. The New York Transmission Owners⁵ filed a timely motion to intervene, raising no substantive issues. Timely motions to intervene and comments were filed by Multiple Intervenors,⁶ and KeySpan-Ravenswood, LLC (Ravenswood).

4. Multiple Intervenors generally praise NYISO's demand response programs, stating that customer participation in the demand response programs enhances reliability and reduces overall market costs to all customers. However, Multiple Intervenors argue that participation in the day-ahead demand response program is lagging compared to the other demand response programs. They assert that there needs to be an extensive outreach campaign, sponsored by NYISO and New York's transmission owners, to educate customers about the program. Further, they argue that the Commission should require NYISO to address concerns raised in a study concerning the level of participation in the

⁴ The compliance report addresses the three major demand response programs that NYISO used in Summer 2002. They are: (1) the day-ahead demand response program, which permits demand resources to submit demand reduction bids in the day-ahead market; (2) the emergency demand response program, under which qualified demand resources are paid for reducing their energy consumption when NYISO declares that an operating reserves deficiency or major emergency exists; and (3) the Installed Capacity/Special Case Resource program, under which retail electricity customers are paid in advance for agreeing to curtail usage during times when the reliability of the grid could be jeopardized.

⁵ The New York Transmission Owners are: Central Hudson Gas & Electric Corporation; Consolidated Edison Company of New York, Inc.; LIPA; New York Power Authority; New York State Electric & Gas Corporation; Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation; and Niagara Mohawk Power Corporation.

⁶ Multiple Intervenors state that they are an unincorporated association of approximately 55 large commercial and industrial energy consumers with manufacturing and other facilities in the State of New York.

program by end users.⁷ They assert that until the day-ahead demand response program is fully vital, the NYISO energy markets will not be workably competitive and market protective measures, such as the \$1,000 bid cap and Automated Mitigation Procedures, will continue to be integral parts of the market design. Finally, Multiple Intervenors laud NYISO's efforts to allow end users to participate in NYISO's ancillary services market.

5. Ravenswood believes that NYISO's compliance reports could be significantly and easily improved through the use of readily available and more current information regarding the viability of generation development within NYISO. Concerning NYISO's position that it would not be useful to speculate whether particular developers are likely to miss their target dates or abandon their projects, Ravenswood criticizes the lack of analysis in NYISO's compliance report and suggests that NYISO could, without identifying specific projects, estimate the amount of megawatts that could be expected on-line in the near future.⁸ Ravenswood argues that NYISO should make its semi-annual compliance reports less ministerial in nature and more comprehensive in order to provide a more accurate picture of the prospects for generation in New York. Further, Ravenswood argues that NYISO's report fails to inform the Commission of the difficulties generation project developers face when trying to interconnect their new

⁷ Multiple Intervenors cite a study released by NYISO that was conducted by Neenan Associates and the Consortium for Electric Reliability Solutions. See "How and Why Customers Respond to Electricity Price Variability: A Study of the NYISO and NYSERDA 2002 PRL [Price Responsive Load Program] Performance," (January 2003) (PRL Study). According to Multiple Intervenors, that study found that: (1) the level of awareness of the day-ahead demand response program is low among end users, even among end users who participate in the other demand response programs; and (2) many end users that are aware of the program choose not participate for a variety of reasons, e.g., inability to shift or curtail load at times, the belief that their compensation is inadequate, penalties for non-performance, and being uncomfortable with bidding on a daily basis.

⁸ For example, Ravenswood, cites NYISO's "Power Alert III: New York's Energy Future." (Power Alert III is available on the NYISO website at http://www.nyiso.com/topics/articles/news_releases/2003/pa3.pdf.) Ravenswood contends that the level of insight and detail reflected in Power Alert III shows that NYISO is able to provide useful qualitative analysis to the Commission with respect to the progress of new generation. Further, Ravenswood contends that facilities scheduled to come on-line within the next few months are necessarily in the final stages of construction, and NYISO must or should be well into its analysis of whether its transmission system can accommodate the new generation. Ravenswood Comments at 5-7.

facilities. Ravenswood further asserts that NYISO's compliance report fails to correlate in sufficient detail the relationship, if any, between the day-ahead demand response program and the wholesale price of electricity within NYISO.

III. Discussion

6. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,⁹ the timely motions to intervene serve to make those who filed them parties to this proceeding.

7. We find that NYISO's compliance report generally meets the requirements of the Commission's prior orders in this proceeding, except in one respect. Whereas NYISO's previous compliance report included detailed analyses of estimated price effects of the demand response program,¹⁰ the instant compliance report does not include information correlating a potential relationship between the demand response program and the wholesale price of electricity within NYISO. NYISO acknowledges that the Commission required this information,¹¹ but the compliance report is otherwise silent on the matter. Accordingly, we will direct NYISO to submit this information in a compliance filing within 30 days of the date of this order. Further, we agree with Ravenswood that future compliance reports could easily be significantly improved by using more current publicly available information, particularly from other NYISO public documents,¹² regarding the progress of generation development within NYISO, and we will require NYISO to do so in future reports, beginning with its next semi-annual compliance report.

8. We deny Multiple Intervenors' request that we direct NYISO to sponsor an outreach campaign, and we deny their request that we direct NYISO to address the the PRL Study concerning the level of end user participation in the day-ahead demand response program. NYISO's compliance report demonstrates that it is engaged in

⁹ 18 C.F.R. § 385.214 (2003).

¹⁰ See NYISO's Compliance Report, Docket No. ER01-3001-004, Att. I, pp. 2-16 (Dec. 2, 2002).

¹¹ NYISO's Transmittal Letter at 3. See also July 19 Order, 100 FERC ¶ 61,081 at P 18 ("[A]nalyzes of the effect of NYISO's demand response programs on wholesale prices is important to our evaluation of the effectiveness of the programs as NYISO gains experience with them. We therefore require NYISO to submit these analyses in its future reports.").

¹² See, e.g., NYISO's Power Alert III: New York's Energy Future," supra note 7.

outreach efforts to end users, such as the four workshops on demand response that it conducted in collaboration with the New York Public Service Commission and New York State Energy and Research and Development Authority.¹³ NYISO further states that NYISO personnel have also taken part in other outreach meetings sponsored by various load serving entities. We believe that such outreach efforts by NYISO are sufficient. Moreover, Multiple Intervenors do not explain how an outreach campaign conducted in collaboration with transmission owners would be more effective than the outreach efforts that NYISO has conducted in collaboration with state authorities and load serving entities.

9. We also deny Ravenswood's request for the NYISO to provide an analysis in the compliance reports of the difficulties generation project developers face when trying to interconnect their new facilities, because the September 3, 2002 Letter Order did not require that NYISO's compliance reports do so. Thus, this matter is beyond the scope of this compliance proceeding.

10. In conclusion, we will accept NYISO's June 2, 2003 compliance report, and we will direct NYISO to submit, within 30 days of the date of this order, a further compliance report concerning the correlation between the demand response program and the wholesale price of electricity within NYISO, as ordered below.

The Commission orders:

(A) NYISO's June 2, 2003 compliance report is hereby accepted, subject to the requirement in Ordering Paragraph (B) below.

(B) NYISO is hereby directed to submit, within 30 days of the date of this order, a further compliance report concerning the correlation between the demand response program and the wholesale price of electricity within NYISO, as discussed in the body of this order.

By the Commission.

(S E A L)

Linda Mitry,
Acting Secretary.

¹³ NYISO's Compliance Report, Att. I, p. 4 (June 2, 2003).