

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

Central Hudson Gas & Electric Corporation  
LIPA  
New York Power Authority  
New York State Electric & Gas Corporation  
Niagara Mohawk Power Corporation  
Rochester Gas and Electric Corporation

v.

Docket No. EL04-\_\_-000

New York Independent System Operator, Inc.

**COMPLAINT REQUESTING FAST TRACK PROCESSING OF CENTRAL HUDSON  
GAS & ELECTRIC CORPORATION, LONG ISLAND POWER AUTHORITY AND  
LIPA, NEW YORK POWER AUTHORITY, NEW YORK STATE ELECTRIC & GAS  
CORPORATION, NIAGARA MOHAWK POWER CORPORATION, AND  
ROCHESTER GAS AND ELECTRIC CORPORATION AGAINST THE NEW YORK  
INDEPENDENT SYSTEM OPERATOR**

**I. INTRODUCTION**

Pursuant to Section 206 of the Federal Power Act ("FPA") (16 U.S.C. § 824e) and Federal Energy Regulatory Commission ("Commission") Rule 206 (18 C.F.R. § 385.206), Central Hudson Gas & Electric Corporation, Long Island Power Authority and its operating subsidiary, LIPA, New York Power Authority, New York State Electric & Gas Corporation ("NYSEG"), Niagara Mohawk Power Corporation, a National Grid company, and Rochester Gas and Electric Corporation ("RG&E") (collectively referred to herein as the "Complainants") hereby file a complaint against the New York System Independent System Operator, Inc. ("NYISO") concerning NYISO's administration of its Transmission Congestion Contract ("TCC") authority.

Complainants seek historic and prospective relief from the NYISO's past and ongoing significant and costly tariff violations regarding TCCs. Thus far, the NYISO has estimated that its error has caused statewide net financial harm of approximately \$35 million.<sup>1</sup> The Complainants seek Fast Track processing of this complaint and urge the Commission to act expeditiously to the maximum extent permitted under Section 205, and in the alternative Section 206, of the FPA to fully remedy the tariff violations, both retroactively and prospectively, that underlie the NYISO's TCC auctions. The Complainants recognize that the NYISO is attempting to rectify this situation, however, the Complainants have no choice but to make this filing in order to adequately protect their interests.

In support hereof, the Complainants respectfully state as follows:

## **II. IDENTITY OF THE COMPLAINANTS AND EXECUTIVE SUMMARY**

The NYISO commenced operations under the NYISO Open Access Transmission Tariff ("OATT") and NYISO Market Administration and Control Area Services Tariff ("Services Tariff") on November 18, 1999. The Complainants are each owners of transmission facilities in New York State operated by the NYISO. The complainants recover their costs of operating those facilities under the NYISO OATT and Services Tariff.

In a recent filing made in a related proceeding, Docket No. EL04-110-000, the NYISO admits that, for the last two years, it has oversold transmission capacity on its system in TCC auctions,<sup>2</sup> which is in direct contravention of its tariffs and agreements. The NYISO attributes the oversold TCCs to a data transcription error, which is believed to have first occurred in the

---

<sup>1</sup> Complainants have no independent ability to compute this figure and are instead relying on estimates provided by the NYISO. We are currently awaiting revised estimates from the NYISO and reserve the right to supplement this Complaint with any further estimates received.

<sup>2</sup> New York Independent System Operator, Inc., Docket No. EL04-110-000, NYISO Filing

Summer of 2002 and subsequently became embedded in the auction software model.<sup>3</sup> As a result of the data transcription error, 912 MW of “phantom” transmission capacity in monthly, six-month, and one-year lengths of time have been erroneously released in each TCC auction that has occurred to date.

In a June 21, 2004 joint filing in Docket No. EL04-110-000, NYSEG and RG&E conditionally supported the June 18, 2004 request by NYISO for waiver of its tariff provisions to cancel the July TCC Reconfiguration Auction. However, NYSEG and RG&E took issue with the NYISO’s failure to fully reveal and explain the magnitude of the problem presented by the persistent tariff violations at issue in this proceeding and requested relief from retrospective and prospective harm caused to them by NYISO's failure to administer the TCC auctions properly. By order dated June 22, 2004, the Commission granted NYISO the requested waiver but considered concerns about the issuance of excess TCCs and any potential remedies to be beyond the scope of that proceeding.<sup>4</sup> Complainants are requesting that the Commission institute a proceeding here to consider those issues.

In its June 18, 2004 filing in Docket No. EL04-110-000, the NYISO does not use the term “tariff violation.” Yet, significantly, the NYISO's actions allowing the oversubscription of TCCs (i) violate its tariffs and agreements due, among other things, to the requirements that outstanding TCCs not exceed the amount of transmission capability of the system and that they be simultaneously feasible; (ii) have resulted in congestion rent payments to holders of erroneously awarded TCCs; (iii) have resulted in the cost allocation of millions of dollars in erroneously calculated congestion revenue shortfalls to the Complainants and their customers; and (iv) will

---

at 5 (June 18, 2004) (hereinafter “NYISO Filing”).

<sup>3</sup> NYISO Filing at 5-6.

continue to result in mounting congestion revenue shortfalls even if the monthly reconfiguration auctions are cancelled. Current NYISO estimates of the statewide impact of TCC oversubscription are over \$35 million. This estimate remains subject to revision by the NYISO.

NYISO's June 18, 2004 filing in Docket No. EL04-110-000 itself admits that the cancellation of the July TCC Reconfiguration Auction does not address or resolve the issues resulting from the TCC oversubscription. The NYISO also does not address how it will handle its obligations to conduct subsequent monthly reconfiguration auctions.<sup>5</sup>

The Complainants believe that the cancellation of the July TCC Reconfiguration Auction in and of itself is insufficient and that prompt Commission action is urgently needed and warranted. Accordingly, the Complainants respectfully request that the Commission: (1) grant the Complainants request for Fast Track processing; (2) initiate proceedings to consider the NYISO administration of its TCC authority; (3) find that the NYISO's administration of its TCC authority is unjust and unreasonable, and/or contrary to the public interest and take any and all action under Section 205 and, alternatively Section 206, of the FPA to fashion a complete remedy for the retroactive and prospective tariff violations consistent with the provisions of the tariff and TCC agreements, and revise the TCC awards accordingly; (4) if the Commission does not take action under Section 205, then establish the earliest possible refund-effective date under Section 206; (5) structure any buyback to refund to the Complainants any shortfalls incurred for the past months and completely eliminate shortfalls for the remainder of the capability period;

---

<sup>4</sup> New York Independent System Operator, Inc., 107 FERC ¶ 61,292 (2004).

<sup>5</sup> While the TCC contracts authorize the NYISO to adjust the TCC awards to correct for mistakes, the NYISO emphasizes its desire to explore "options" to resolve the issues caused by the NYISO's "error." Indeed, the NYISO expresses a "preference" to resolve the "complex" retroactive and prospective issues presented by the oversold TCCs without Commission input or involvement at this time.

(6) if a buyback does occur or if it only partially mitigates the problem, the Commission should order a downward proration of the oversold TCCs to fully mitigate the shortfall for the full summer period; and (7) issue such other and further relief as it may deem appropriate.

### **III. REQUEST FOR FAST TRACK PROCESSING OF THE COMPLAINT AND EXPEDITED COMMISSION ACTION**

Although the cancellation of the July TCC Reconfiguration Auction may help to prevent new problems, this step is wholly inadequate to address or resolve the retroactive and prospective tariff violations presented by the NYISO's actions allowing oversubscription of TCCs and their resulting financial impact on the Complainants. The oversubscribed TCCs continue to remain outstanding. It is possible, arguably very likely, in the imminent summer peak period that erroneous payments of congestion rents to TCC holders and therefore allocations of any resultant congestion rent shortfalls to the Complainants and their customers as well as to other similarly situated transmission owners could increase significantly. Moreover, because the NYISO is obligated to conduct monthly reconfiguration auctions and solely sought in its June 18, 2004 filing in Docket No. EL04-110-000 a one-time waiver to cancel the July TCC Reconfiguration Auction, the fate of future monthly auctions also must be considered and addressed -- sooner rather than later. The Commission's June 22 Order requiring the NYISO to make a filing in thirty days does not provide for adequate Commission review and resolution to ensure market integrity prior to the scheduled July reconfiguration auction for August TCCs. These circumstances justify the Complainants request for Fast Track processing and explain why expedition is necessary pursuant to Section 206(b)(11) of the Commission's regulations.

#### IV. CLARIFICATION OF THE TARIFF VIOLATIONS AND AGREEMENTS

##### A. The NYISO's Issuance of Phantom TCCs Constitutes a Clear Violation of its Tariff and the Commission Should Order the NYISO to Exercise Its Rights Under the TCC Contract to Rescind the Award Notices.

The NYISO's tariffs require it to calculate and auction TCCs that are equal to the amount of installed transmission capacity that is available on its system. Indeed, the NYISO states that "[t]he number of TCCs outstanding at any one time should not exceed the amount of installed capacity on the system." NYISO Filing at 3. Moreover, Section 9.5 of Attachment B to the NYISO's Market Administration and Control Area Services Tariff and Section 9.5 of Attachment M to the NYISO OATT are entitled, "Selection of Winning Bids and Determination of Market Clearing Price." Id. Those sections require that the "selected set of Bids be simultaneously feasible. . . ." Id. Sections 9.7 in NYISO Services Tariff Attachment B and NYISO OATT Attachment M, entitled "Simultaneous Feasibility," provide, among other things, that a "set of injections and withdrawals shall be judged simultaneously feasible if it would not cause any thermal, voltage or stability violations with the NYCA for base case conditions or any monitored contingencies." Id.

The NYISO's role, in relevant part, is described as follows. Sections 9.3 of Attachment M to the NYISO OATT and Attachment B to the Services Tariff provide that the NYISO is required to "solve Optimum Power Flows for the NYS Transmission System; properly utilize an Optimum Power Flow program to determine the set of winning Bids for each round of the Auction; and calculate the market clearing price of all TCCs at the conclusion of each round of the Auction, in the manner described in . . . [Attachment M to the NYISO OATT]." Id. Sections 9.2 of Attachment M to the NYISO OATT and Attachment B to the Services Tariff require the NYISO to "notify the Transmission Owners if: (1) the Optimal Power Flow results calculated are

inaccurate; or (2) the Optimal Power Flow is not calculated in accordance with the correct procedure." Id. In addition, those Sections 9.2 provide that the NYISO may develop Auction rules and procedures consistent with its tariffs.

In accordance with its tariffs, the NYISO utilizes form agreements for the purchase and sale of TCCs. Significantly, Section 2(f) of the "Binding Offer to Purchase Transmission Congestion Contracts in the Initial Spring 2004 TCC Auction and the Summer 2004 TCC Reconfiguration Auction" provides:

If a mistake is discovered in the calculation of information provided in an Award Notice after its delivery, the ISO reserves the right to revise the Award Notice and the information therein, and the Offeror acknowledges that it will be obligated to make arrangement for payment or receipt of payment in accordance with the revised Award Notice.

Id. Section 2(g) of the "Binding Offer to Sell Transmission Congestion Contracts in the Initial Spring 2004 TCC Auction and the Summer 2004 TCC Reconfiguration Auction" contains an identical provision. Id.

The NYISO's June 18, 2004 filing in Docket No. EL04-110-000 avoids any mention that tariff violations have occurred. In its filing, the NYISO admits to having "erroneously awarded TCCs" that purportedly stemmed from the NYISO's "error" or failure to classify a single 912 MW transmission contract into New York City as a grandfathered contract that was reserved and unavailable for release in TCC auctions. NYISO Filing at 5 and 9. As a result, from Fall of 2002 through April 2004, the NYISO released the 912 MW into the auctions for sale as monthly, six-month and one-year TCCs while simultaneously being classified as a grandfathered TCC. Thus, the NYISO oversold the actual available transmission capacity on its system. NYISO Filing at 5. Based on the foregoing tariff provisions, the NYISO had an obligation under the tariff to ensure

that outstanding TCCs did not exceed the amount of transmission capability of the system and that they were simultaneously feasible. The NYISO failed to do so and, as a result, phantom TCCs were issued in direct contravention of the NYISO's tariffs and auction revenues were inappropriately paid to transmission owners.

The NYISO's issuance of the phantom TCCs has had pervasive and costly consequences, which will continue to exist even with cancellation of the July TCC Reconfiguration Auction. TCC holders erroneously awarded the phantom TCCs have received and will continue to collect congestion rents. Because TCCs in New York are fully funded, deficiencies in congestion rent payments to those TCC holders are collected from transmission owners (including the Complainants) and their customers. Under the tariffs, these phantom TCCs should never have been awarded and the payments related thereto are unlawful. The tariff violation combined with cost allocation formulas outlined in Attachment N of the tariff could cause further financial burden to transmission owners scheduling outages to perform routine or emergency maintenance.

The Complainants are puzzled by certain of the statements in the NYISO's June 18, 2004 filing in Docket No. EL04-110-000 which seem to indicate that it is questionable as to whether the NYISO can correct the mistakenly awarded TCCs. As noted above, purchasers of mistakenly awarded TCCs are contractually obligated to act to make or receive payments in accordance with revised awards. The Commission should make clear that failure to act in accordance with the TCC Contract which authorizes the NYISO to correct the mistaken phantom TCC Awards once known also would constitute a breach of the TCC agreement. Among other things, Complainants recommend that the Commission swiftly direct the NYISO to rescind the phantom TCCs and return to the purchasers the payments for the TCCs less any congestion revenues received by the purchasers to date under these contracts.

The NYISO's June 18, 2004 filing in Docket No. EL04-110-000 explains that there is a difference in the way that the revenues from the sale of TCCs and any congestion rent shortfalls are allocated among transmission owners. NYISO Request at 3. Unfortunately, the NYISO does not explain how this difference relates to the tariff violations, and more importantly, how this problem will continue to cause the impact of the violations to be inappropriately distributed among transmission owners.

The Complainants have experienced, and will continue to experience, absent Commission action a significant difference between the revenues received from the phantom TCCs and their allocated share of resulting congestion rent shortfalls. To the extent that the Complainants and their customers are allocated congestion rent shortfalls resulting from the issuance of these phantom TCCs (and their continued existence in the market over the upcoming peak summer period) when they did not receive the benefit of the revenues from the issuance of the TCCs, the Complainants will continue to shoulder a disproportionate percentage of the continuing harm resulting from the tariff violation.

There is no reason to allow this to continue to occur and the Commission should take appropriate action to remedy this issue by ordering the NYISO to exercise its rights under its TCC Agreements and by requiring the NYISO to rescind the phantom TCCs and return to the purchasers the payments for the TCCs less any congestion revenues received by the purchasers to date under the contracts.

**B. Discussions with NYISO Regarding Possible Remedies**

Complainants have not used the Commission's Enforcement hotline for this matter and does not believe it is the type of Complaint that is likely to be resolved in such a matter.

Complainants and the NYISO have not agreed upon a particular process for resolving the

issues raised in this complaint. Nor do the Complainants believe that the requirements of the Commission's June 22 Order on the NYISO will likely remedy the inappropriate financial impact the tariff violations have caused the Complainants. However, Complainants are currently engaged in informal discussions with the NYISO concerning possible remedies, both retrospective and prospective. Given the large number of market participants that were, and continue to be, affected by the NYISO's administration of its TCC authority, the Complainants do not anticipate that their discussions with the NYISO will resolve all or even most of the issues raised in this complaint, particularly with respect to the financial impacts that have inappropriately been imposed on the Complainants over the past two years.

The Complainants would be willing to engage in alternative dispute resolution ("ADR") under the Commission's supervision. However, ADR may not be suitable with respect to this dispute because it involves the NYISO's interpretation and application of a tariff provision. Accordingly, the Commission's resolution of this matter is appropriate.

**C. The Commission is Authorized to Act Under Sections 205 and 206 of the FPA to Remedy Tariff Violations.**

The Complainants believe that the Commission has the requisite authority under Section 205 of the FPA to remedy the tariff violations at issue in this proceeding. The FPA vests exclusive jurisdiction in the Commission to approve the NYISO's rates, terms and conditions of service and to determine whether they are just and reasonable.<sup>6</sup> Section 205 requires that terms and conditions of service be just and reasonable and requires that all rates and charges made must

---

<sup>6</sup> See 16 U.S.C. §§ 824d and 824e. See also Kokajko v. FERC, 873 F.2d 419, 423 (1st Cir. 1989) ("The Commission's regulatory powers are, to be sure, broad, viz., 'to perform any and all acts, and to prescribe, issue, make, amend, and rescind such orders, rules and regulations as it may find necessary or appropriate to carry out the provisions of this chapter.'" (internal citations omitted)).

be "just and reasonable, and any such rate or charge that is not just and reasonable is . . . unlawful." 16 U.S.C. § 824d (2000). In its formative orders, the Commission approved the NYISO's tariffs and it has approved modifications in subsequent amendments thereto. The Commission has an independent duty to correct violations of the NYISO's tariffs, which are on file with the Commission:

Because the enforcement of filed rate schedules is a matter distinctly within the Commission's statutory mandate, See 16 U.S.C. § 824d; 18 C.F.R. § 35.1(e); Montana-Dakota Utilities Co. v. Northwestern Public Service Co., 341 U.S. 246, 251-252 (articulating filed rate doctrine), the Commission has an independent regulatory duty to remedy a utility's violation of its filed rate schedule.

Duke Power Co. v. FERC, 864 F.2d 823 at 829 (D.C. Cir. 1989). The filed rate doctrine, which stems from Section 205, "forbids a regulated entity to charge rates for its services other than those properly filed with the appropriate federal authority."<sup>7</sup> While the Commission may not engage in retroactive ratemaking,<sup>8</sup> the relief requested by the Complainants does not violate the filed rate doctrine or the rule against retroactive ratemaking because the charges collected here result from the incorrect applications of the tariffs and/or market design flaws.

In the event the Commission denies relief under Section 205, the Complainants respectfully request that the Commission exercise its discretion under Section 206 of the FPA to establish the earliest possible refund effective date and to act promptly to prospectively remedy the tariff violations at issue in this proceeding.

---

<sup>7</sup> Arkansas Louisiana Gas Co. v. Hall, 453 U.S. 571, 577 (1981).

<sup>8</sup> See Towns of Concord, Norwood & Wellesley v. FERC, 955 F.2d 67, 71 n.2 (D.C. Cir. 1992).

**V. COMMUNICATIONS AND NOTIFICATIONS**

All communications, pleadings, and orders with respect to this proceeding should be sent to the following individuals:

**New York State Electric & Gas Corporation    Rochester Gas and Electric Corporation**

Catherine P. McCarthy  
LeBoeuf, Lamb, Greene & MacRae, L.L.P.  
1875 Connecticut Ave., N.W.  
Suite 1200  
Washington, DC 20009-5728

Catherine P. McCarthy  
LeBoeuf, Lamb, Greene & MacRae, L.L.P.  
1875 Connecticut Ave., N.W.  
Suite 1200  
Washington, DC 20009-5728

Raymond P. Kinney  
Manager - Programs  
New York State Electric & Gas Corporation  
Corporate Drive  
Kirkwood Industrial Park  
P.O. Box 5224  
Binghamton, NY 13902-5224

Marjorie L. Perlman  
Director, Federal Regulatory Proceedings  
Rochester Gas and Electric Corporation  
89 East Avenue  
Rochester, NY 14649-0001

**Niagara Mohawk Power Corporation, a  
National Grid company**

**Central Hudson Gas & Electric Corporation**

Roxane E. Maywalt, Esq.  
National Grid USA Service Company, Inc.  
300 Erie Boulevard - West  
Syracuse, NY 13202-4250

Donald K. Dankner, Esq.  
Raymond B. Wuslich, Esq.  
Winston & Strawn  
1400 L Street, N.W.  
Washington, DC 20005

Mary Ellen Paravalos  
National Grid USA Service Company, Inc.  
25 Research Drive  
Westborough, MA 01582

John W. Watzka  
Section Engineer - Transmission Planning &  
Design  
Central Hudson Gas & Electric Corporation  
284 South Avenue  
Poughkeepsie, NY 12601

Wesley Yeomans  
Manager Energy Supply  
Niagara Mohawk Power Corporation  
300 Erie Boulevard - HCB  
Syracuse, NY 13202

**Long Island Power Authority and LIPA**

David P. Yaffe, Esq.  
Van Ness Feldman, P.C.  
1050 Thomas Jefferson Street, N.W.  
7th Floor  
Washington, DC 20007

Stanley B. Klimberg, Esq.  
Roni F. Epstein, Esq.  
Long Island Power Authority  
333 Earle Ovington Boulevard  
Suite 403  
Uniondale, NY 11553

**New York Power Authority**

Edgar K. Byham, Esq.  
New York Power Authority  
123 Main Street  
White Plains, NY 10601-3170

William Palazzo, Manager Transmission  
Services and Interconnection Agreements  
New York Power Authority  
123 Main Street  
White Plains, NY 10601-3170

**VI. RULE 206**

**Background and Factual Basis for Complaint (Rule 206(b)(1))** — See Sections II and III, *supra*.

**Legal Bases for Complaint (Rule 206(b)(2))** — See Sections II and III, *supra*.

**Impact on Complainants and Request for Refunds (Rules 206(b)(3)-(5), 206(b)(7))** — See Sections II and III, *supra*.

**Attempts to Resolve Dispute (Rule 206(b)(6))** — See Section III, *supra*.

**Related Proceedings (Rule 206(b)(9))** — See Sections II and III, *supra*. Other than Docket No. EL04-110-000, the Complainants are not aware of any other proceedings that are directly related.

**Other Rule 206 Requirements (Rules 206(b)(10), 206(c))** — Complainants have included with this Complaint a form of notice. Because this complaint is being filed electronically, the form of notice is included in the electronic submission. To the extent necessary, the Complainants request waiver of the requirement to submit a form of notice on diskette. Complainants have served this Complaint by same-day service on both the respondent

and the New York State Public Service Commission ("NYPSC"), by sending complete copies of the Complaint by both overnight mail and electronic mail to the respondent and the NYPSC. Complainants have also served a copy of the Complaint on all parties on the Commission's official service list in Docket No. EL04-110-000 by overnight mail, to satisfy the requirement under Rule 206(c) that the Complainant also serve a copy of this filing on any other party that is expected to be affected by the Complaint.

## **VII. REQUEST FOR RELIEF**

For the reasons stated above, Complainants request that the Commission (1) grant the Complainants request for Fast Track processing; (2) initiate proceedings to consider the NYISO administration of its TCC authority; (3) find that the NYISO's administration of its TCC authority is unjust and unreasonable, and/or contrary to the public interest and take any and all action under Section 205 and, alternatively Section 206, of the FPA to fashion a complete remedy for the retroactive and prospective tariff violations consistent with the provisions of the tariff and TCC agreements, and revise the TCC awards accordingly; (4) if the Commission does not take action under Section 205, then establish the earliest possible refund-effective date under Section 206; (5) structure any buyback to refund to the Complainants any shortfalls incurred for the past months and completely eliminate shortfalls for the remainder of the capability period;

(6) if a buyback does occur or if it only partially mitigates the problem, the Commission should order a downward proration of the oversold TCCs to fully mitigate the shortfall for the full summer period; and (7) issue such other and further relief as it may deem appropriate.

Respectfully submitted,

\_\_\_\_\_  
/s/

Catherine P. McCarthy  
LeBoeuf, Lamb, Greene & MacRae, L.L.P.  
1875 Connecticut Ave., N.W.  
Suite 1200  
Washington, DC 20009-5728  
(202) 986-8253 (phone)  
(202) 986-8102 (fax)  
catherine.mccarthy@llgm.com

Counsel to New York State  
Electric & Gas Corporation and  
Rochester Gas and Electric Corporation

\_\_\_\_\_  
/s/

Donald K. Dankner, Esq.  
Raymond B. Wuslich, Esq.  
Winston & Strawn  
1400 L Street, N.W.  
Washington, DC 20005

Counsel to Central Hudson Gas & Electric  
Corporation

\_\_\_\_\_  
/s/

Edgar K. Byham, Esq.  
New York Power Authority  
123 Main Street  
White Plains, NY 10601-3170

Counsel to New York Power Authority

Dated: June 24, 2004

\_\_\_\_\_  
/s/

Roxane E. Maywalt, Esq.  
National Grid USA Service Company, Inc.  
300 Erie Boulevard - West  
Syracuse, NY 13202-4250

Counsel to Niagara Mohawk Power  
Corporation, a National Grid company

\_\_\_\_\_  
/s/

Stanley B. Klimberg, Esq.  
Roni F. Epstein, Esq.  
Long Island Power Authority  
333 Earle Ovington Boulevard  
Suite 403  
Uniondale, NY 11553

Counsel to the Long Island Power Authority  
and LIPA

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

Central Hudson Gas & Electric Corporation  
LIPA  
New York Power Authority  
New York State Electric & Gas Corporation  
Niagara Mohawk Power Corporation  
Rochester Gas and Electric Corporation

v.

Docket No. EL04-\_\_-000

New York Independent System Operator, Inc.

**NOTICE OF FILING**

Take notice that on June \_\_, 2004, pursuant to Section 206 of the Federal Power Act (16 U.S.C. § 824e) and Federal Energy Regulatory Commission Rule 206 (18 C.F.R. § 385.206), Central Hudson Gas & Electric Corporation; New York Power Authority; Long Island Power Authority and its operating subsidiary, LIPA; New York State Electric & Gas Corporation; Niagara Mohawk Power Corporation, a National Grid company; and Rochester Gas and Electric Corporation (collectively referred to herein as the "Complainants") filed a complaint against the New York System Independent System Operator, Inc. ("NYISO") concerning the NYISO's administration of its Transmission Congestion Contract ("TCC") authority.

Complainants seek historic and prospective relief from the NYISO's alleged past and ongoing tariff violations regarding TCCs. The Complainants seek Fast Track processing for the complaint. Complainants state that they served a copy of the filing by overnight mail and by email on the respondent and the New York State Public Service Commission. In addition, Complainants state that they have also served a copy of the Complaint on all parties on the Commission's official service list in Docket No. EL04-110-000, a related proceeding, by overnight mail.

Initial comments to the Consent Agreement shall be filed not later than \_\_\_\_, 2004; and any reply comments shall be filed not later than \_\_\_\_, 2004. Any person desiring to intervene in this proceeding should file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Any person wishing to become a party must file a motion to intervene. All such motions should be filed on or before the comment date, and, to the extent applicable, must be served on the Complainants, the respondent, and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at <http://www.ferc.gov>, using the eLibrary (FERRIS) link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online

Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll-free at (866)208-3676, or for TTY, contact (202)502-8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

Comment Date: \_\_\_\_\_

Magalie Roman Salas  
Secretary

Submission Contents

Complaint.DOC..... 1-17