

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Policy Statement on Matters Related to) Docket No. PL04-5-000
Bulk Power System Reliability)

REQUEST FOR CLARIFICATION OF THE NEW YORK STATE RELIABILITY COUNCIL

Pursuant to the Federal Energy Regulatory Commission’s (“Commission’s”) Rules of Practice and Procedure, the New York State Reliability Council (“NYSRC”) seeks clarification of one aspect of the Commission’s “Policy Statement on Matters Related to Bulk Power System Reliability,” 107 FERC ¶ 61,052 (2004), issued in the captioned proceeding on April 19, 2004 (“Policy Statement”). Specifically, in Paragraphs 18 and 31, the Commission expressed support for regional or state variations in reliability standards where such standards can be demonstrated as necessary to account for “physical differences” in the bulk power system and are no less stringent than and consistent with the North American Electric Reliability Council’s (“NERC’s”) reliability standards.¹ The NYSRC requests that the Commission clarify that it did not intend for the term “physical differences” to be a limiting factor with respect to the promulgation of more stringent regional or state reliability standards, given that structural, operational, demographic or other considerations may justify more stringent regional or state reliability standards.

In support hereof, the NYSRC states as follows:

¹ Policy Statement at PP 18 and 31.

The NYSRC and Enforceable Reliability Standards

The NYSRC was approved by the Commission in 1999 as part of the comprehensive restructuring of the competitive wholesale electricity market in New York State.² Under the restructuring, the New York Power Pool (“NYPP”) was replaced by the NYISO as the entity with the primary responsibility for the reliable operation of the State’s bulk power system. The NYISO also assumed responsibility for administration of the newly established competitive wholesale electricity markets.

The NYSRC was established to promote and preserve the reliability of the New York State power system by developing, maintaining and, from time to time, updating the reliability rules (“Reliability Rules”) that govern the NYISO’s operation of the State’s bulk power system. The NYSRC develops Reliability Rules in accordance with standards, criteria and regulations of NERC, the Northeast Power Coordinating Council (“NPCC”), the Commission, the New York Public Service Commission (“PSC”) and the Nuclear Regulatory Commission.³

The ISO/NYSRC Agreement, which was approved by the Commission, provides that the NYISO and all entities engaged in transactions on the New York State Power System must comply with the Reliability Rules adopted by the NYSRC.⁴ Compliance with NYSRC Reliability Rules, which are incorporated into the NYISO’s procedures, are made binding on market participants through the NYISO tariff.⁵ The ISO/NYSRC Agreement also assigns to the NYSRC the responsibility to monitor the NYISO’s compliance with the Reliability Rules and requires the NYISO to provide the NYSRC the data necessary for it to effectively perform its

² Central Hudson Gas & Electric Corp., et al., 83 FERC ¶ 61,352 (1998).

³ NYISO/NYSRC Agreement, Section 4.1.

⁴ NYISO/NYSRC Agreement, Section 2.1, 3.1.

⁵ NYISO Services Tariff, Sections 5.1, 5.6.

compliance monitoring responsibility.⁶ Each member of the NYSRC Executive Committee is required to have substantive knowledge and/or expertise in the reliable operation of bulk power electric systems.⁷

At its inception, the NYSRC adopted the pre-existing NYPP reliability rules. These planning and operating rules had been developed by the NYPP and the PSC based on decades of experience in the operation of the New York State bulk power system. Revisions to the Reliability Rules are developed by the NYSRC in an open process with direct participation by the NYISO and the PSC. If the NYISO concludes that a proposed Reliability Rule is unnecessary or should be modified, it will so advise the NYSRC. If the NYSRC and the NYISO should disagree with respect to a proposed Reliability Rule, and cannot resolve their differences, the matter is referred to the appropriate regulatory body, the PSC or the Commission, for resolution. The NYISO board of directors has the authority to suspend a new Reliability Rule pending resolution of the disagreement.⁸ This process leaves reliability rule-making in the hands of reliability organizations with the relevant expertise, with limited involvement by regulators.

While the NYSRC Reliability Rules are based on NERC and NPCC reliability standards, they may be more specific or more stringent when necessary to meet the special requirements of the New York Control Area (“NYCA”). These special requirements include the specific electric system characteristics and demographics of New York State, the complexities related to the maintenance of reliable transmission in New York State given the configuration of the State’s bulk power system, and the severe consequences that result from power interruptions in New York City and Long Island. Since the NYSRC Reliability Rules may not be less stringent than

⁶ NYISO/NYSRC Agreement, Section 3.6.

⁷ NYSRC Agreement, Section 4.03.

⁸ NYISO/NYSRC Agreement, Article 5.

NERC and NPCC standards, the NERC and NPCC standards serve as a minimum or “floor” to which the NYSRC’s more stringent standards are added to meet the special reliability needs of the New York Control Area.

Request For Clarification

The NYSRC fully supports the Commission’s initiative to use the existing statutory authority to facilitate the mandatory compliance with reliability standards by all control area operators and participants in the wholesale electricity markets. The NYSRC also strongly supports the Commission’s recognition that “NERC’s reliability standards should represent a floor for grid operator and bulk system participants’ reliability efforts, and not a ceiling.”⁹ The Commission noted that several state and regional entities, including the NYSRC, have asked the Commission to recognize that state or regional reliability rules may be more stringent than those developed by NERC, and expressed the view that it is essential for regional entities to have the ability to promulgate more specific and more stringent regional and local reliability standards.¹⁰ The Commission expressed support for “variations where the transmission provider or other relevant entity can demonstrate that reliability standards are necessary to account for physical differences in the bulk power system and are no less stringent than, and not inconsistent with, NERC’s reliability standards.”¹¹

The NYSRC agrees that regional standards should not be less stringent than NERC standards. We are concerned, however, that the justification for more stringent regional reliability standards not be limited to a demonstration of “physical differences in the bulk power system.” First, since the term “physical differences” is not defined in the Policy Statement, it is

⁹ Policy Statement at P 17.

¹⁰ Policy Statement at P 30.

¹¹ Policy Statement at P 18 (emphasis added)(footnote omitted).

not clear what that term would encompass. For example, would the existence of a major load pocket, or consistent and substantial power flows in a particular direction within a region or state constitute “physical differences”?

Furthermore, there may be compelling reasons for more stringent regional or state standards that are not related to the physical characteristics of the bulk power system. For example, New York State and New York City have long recognized that population density, heavy reliance on subways and other forms of mass transit that use electric power, the large numbers of high rise commercial and residential buildings, and New York’s preeminence as a national and international financial center justify more stringent reliability standards to protect bulk power system reliability in the New York Metropolitan area. The potential social, public safety and economic consequences of a power interruption in the New York Metropolitan area are extraordinary, and clearly warrant reasonable regional and state reliability standards that are more stringent than the general standards adopted by NERC.

The NYSRC, therefore, respectfully suggests that the Commission clarify the Policy Statement to provide that more stringent regional or state reliability standards should be justified by the particular reliability needs of the region or state, considering all relevant factors. The Commission should further clarify that, while physical differences in the bulk power system may provide justification for more stringent regional or state standards, other relevant factors also must be considered.

The Commission’s consideration of this request is appreciated. The NYSRC requests

waiver of any applicable Commission regulations necessary to grant this request for clarification.

Please contact the undersigned if you require any further information concerning this request.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list in this proceeding in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure.

Dated at Washington, D.C. this 28th day of June 2004.

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