

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

Niagara Mohawk Power Corporation,)	
a National Grid Company)	
Complainant,)	
)	
v.)	Docket No. EL06-1-000
)	
New York State Reliability Council, L.L.C. and)	
New York Independent System Operator, Inc.)	
Respondent.)	

**ANSWER OF
NEW YORK STATE RELIABILITY COUNCIL, L.L.C.**

Pursuant to Rules 206(f) and 213 of the Federal Energy Regulatory Commission’s (“FERC’s” or “Commission’s”) Rules of Practice and Procedure,¹ the New York State Reliability Council, L.L.C. (“NYSRC”) hereby respectfully submits this Answer to the complaint filed by Niagara Mohawk Power Corporation d/b/a National Grid (“National Grid”) in the captioned proceeding on October 6, 2005. All communications and correspondence in connection with this proceeding should be sent to the following representatives who should be included on the official service list compiled by the Secretary in this proceeding:

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¹ 18 C.F.R. §§ 385.206(f) and 385.213 (2005).

I. SUMMARY

The National Grid complaint alleges that the decision of the NYSRC Executive Committee to use a methodology to represent locational capacity requirements in its study to determine the annual statewide installed capacity requirement for the New York Control Area (“NYCA”) for the 2006-2007 capability year, different from the methodology supported by National Grid, is a violation of Section 206 of the Federal Power Act.² Contrary to the contentions set forth in the National Grid complaint, the NYSRC’s conduct of its installed capacity study is consistent with its authority, as approved by the Commission, and reasonable. Furthermore, the National Grid complaint consistently assigns responsibility to the NYSRC for the consequences of determinations with respect to locational installed capacity requirements, with which it disagrees, when the responsibility for setting locational installed capacity requirements clearly rests with the New York Independent System Operator (“NYISO”), not the NYSRC. Finally, contrary to National Grid’s contention, it has not exhausted its opportunities to raise its concerns with respect to locational capacity requirements within the NYISO stakeholder committee process.

II. BACKGROUND

The NYSRC was approved by an order issued by the Commission in 1998,³ and subsequent Commission orders,⁴ as part of the restructuring of the electricity market in New York State and the formation of the NYISO. In its orders, the Commission approved the New York State Reliability Council Agreement (“NYSRC Agreement”), among the members of the

² 16 U.S.C. § 824e.

³ *Central Hudson Gas & Electric Corp., et al.*, 83 FERC ¶ 61,352 (1998), *order on reh’g*, 87 FERC ¶ 61,135 (1999).

⁴ *Central Hudson Gas & Electric Corp., et al.*, 86 FERC ¶ 61,062; *Central Hudson Gas & Electric Corp., et al.* 87 FERC ¶ 61,135 (1999); *Central Hudson Gas & Electric Corp., et al.* 88 FERC ¶ 61, 138 (1999).

New York Power Pool (“NYPP”) which established the NYSRC and described its responsibilities, and the NYISO/New York State Reliability Council Agreement (“NYISO/NYSRC Agreement”), between the NYISO and the NYSRC which established the relationship between the NYSRC and the NYISO.

One of the responsibilities assigned to the NYSRC was the establishment of the annual statewide installed capacity requirement (“ICR”) for the NYCA.⁵ The ICR is described generally in terms of an installed reserve margin (“IRM”).⁶ The NYISO was assigned the responsibility to determine the installed capacity obligations of load serving entities (“LSEs”) and to establish locational capacity requirements needed to ensure that the statewide installed capacity requirement is met.⁷ The responsibilities assigned by the NYSRC Agreement and the NYISO/NYSRC Agreement are implemented in the NYSRC’s Reliability Rules, the NYSRC’s Policy No. 5-0 and the NYISO’s Market Administration and Control Area Services Tariff (“Market Services Tariff”). The following is a brief description of the relevant portions of those documents.

NYSRC Reliability Rules

The Introduction to Section A, Resource Adequacy, of the NYSRC Reliability Rules, provides that among the factors to be considered by the NYSRC in setting the annual statewide IRM are the characteristics of the loads, uncertainty in the load forecast, outages and deratings of generating units, the effects of interconnections to other control areas, and transfer capabilities within the NYCA.

⁵ NYSRC Agreement, § 3.03 ; NYISO/NYSRC Agreement, § 4.5.

⁶ The annual statewide ICR is established by implementing Reliability Rules for providing the corresponding statewide installed reserve margin (“IRM”) requirements. The IRM requirements relates to ICR through the following equation: $ICR = (1 + IRM \text{ Requirement}) \times \text{Forecasted NYCA Peak Load}$ (NYSRC Reliability Rules, A. Resource Adequacy, Introduction).

⁷ NYISO/NYSRC Agreement, § 3.4; NYISO Market Services Tariff, §§ 5.10 and 5.11.4.

Reliability Rule A-R1, NYCA Installed Reserve Margin Requirement, provides that:

The NYSRC shall establish the IRM requirement for the NYCA such that the probability (or risk) of disconnecting any firm load due to resource deficiencies shall be, on average, not more than once in ten years. Compliance with this criterion shall be evaluated probabilistically, such that the loss of load expectation (LOLE) of disconnecting firm load due to resource deficiencies shall be on average, no more than 0.1 day per year. This evaluation shall make due allowance for demand uncertainty, scheduled outages and deratings, forced outages and deratings, assistance over interconnections with neighboring control areas, NYS Transmission System transfer capability and capacity and/or load relief from available operating procedures.

Reliability Rule A-R2, Load Serving Entity Installed Capacity, provides that:

LSEs shall be required to procure sufficient resource capacity for the entire NYISO defined obligation procurement period so as to meet the statewide IRM requirement determined from A-R1. Further, this LSE capacity obligation shall be distributed so as to meet locational ICAP requirements, considering the availability and capability of the NYS Transmission System to maintain A-R1 reliability requirements.

NYSRC Policy No. 5-0, Procedure for Establishing New York Control Area Installed Capacity Requirements

The last paragraph of Section 1.0 of NYSRC Policy No. 5-0 provides that:

The final NYCA IRM requirement, as approved by the NYSRC Executive Committee, is the basis for various installed capacity analyses conducted by the NYISO. These NYISO analyses include the determination of the capacity obligation of each Load Serving Entity (LSE) on a Transmission District basis, as well as Locational Installed Capacity Requirements, for the following capability year. These NYISO analyses are conducted in accordance with NYSRC Reliability Rules and Procedures.

Section 2.2 of NYSRC Policy No. 5-0 provides a timeline for establishing the statewide IRM. This timeline is based on the NYSRC's providing the NYISO with next year's NYCA IRM requirement by January, when the NYISO, under its installed capacity and procurement

process, is required to begin its studies for determining the following summer's LSE capacity obligations.

Section 4.4 of NYSRC Policy No. 5 sets forth the process for approval of the annual statewide IRM by the NYSRC Executive Committee.

4.4 NYSRC Executive Committee

The NYSRC Executive Committee has the responsibility of approving the final IRM requirements for the next capability year.

- Review and approve data and modeling assumptions for use in IRM studies.
- Review and approve technical report prepared by ICS.
- Establish NYCA IRM requirement for the next capability year. This decision should consider base case and sensitivity case results shown in the technical IRM report, as well as considering other issues that may impact NYCA IRM requirements.
- Notify the NYISO of the NYCA IRM requirements. Meet with NYISO management as required to review study results.
- Make IRM requirement study results available to state and federal regulatory agencies and to the general public.

NYISO Market Services Tariff

The first and fourth paragraphs of Section 5.10 of the NYISO's Market Services Tariff,

NYCA Minimum Installed Capacity Requirement, read as follows:

The NYCA Minimum Installed Capacity Requirement is derived from the NYCA Installed Reserve Margin, which is established each year by the NYSRC. The NYCA Minimum Installed Capacity Requirement for the Capability Year beginning each May 1 will be established by multiplying the NYCA peak Load forecasted by the ISO by the quantity of one plus the NYCA Installed Reserve Margin. The ISO shall translate the NYCA Installed Reserve Margin, and thus the NYCA Minimum Installed Capacity Requirement, into a NYCA Minimum Unforced Capacity Requirement, in accordance with the ISO Procedures.

The ISO shall determine the amount of Unforced Capacity that must be sited within the NYCA, and within each Locality, and

the amount of Unforced Capacity that may be procured from areas External to the NYCA, in a manner consistent with the Reliability Rules.

The first paragraph of Section 5.11.4 of the Market Services Tariff, LSE Locational Minimum Installed Capacity Requirements, reads as follows:

The ISO will determine the Locational Minimum Installed Capacity Requirements, stated as a percentage of the Locality's forecasted Capability Year peak Load and expressed in Unforced Capacity terms, that shall be uniformly applicable to each LSE serving Load within a Locality. In establishing Locational Minimum Installed Capacity Requirements, the ISO will take into account all relevant considerations, including the total NYCA Minimum Installed Capacity Requirement, the NYS Power System transmission Interface Transfer Capability, the Reliability Rules and any other FERC-approved Locational Minimum Installed Capacity Requirements.

III. STATEMENT OF ISSUE

- Whether the NYSRC's actions with respect to the conduct of its IRM study for the 2006-2007 capability year violate Section 206 of the Federal Power Act.

IV. ACTIONS TAKEN BY THE NYSRC WITH RESPECT TO THE STATEWIDE IRM

The NYSRC Agreement, the NYISO/NYSRC Agreement, the NYSRC Reliability Rules, NYSRC Policy Statement No. 5-0 and the NYISO Market Services Tariff clearly define the responsibilities of the NYSRC and the NYISO with respect to installed capacity requirements in the NYCA. The NYSRC establishes the annual statewide installed capacity requirement. In doing so, it must consider the configuration of the New York State transmission system and the transfer capabilities with the NYCA.⁸ The NYISO is responsible for ensuring that LSEs within

⁸ NYSRC Agreement, § 3.03; NYSRC Reliability Rule A-R1.

the NYCA maintain sufficient levels of installed capacity, including locational capacity requirements, recognizing internal and external transmission constraints.⁹

Pursuant to its responsibilities, on December 10, 2004, the NYSRC adopted a statewide IRM of 18% for the capability year beginning on May 1, 2005 and ending April 30, 2006. The locational installed capacity requirements established for the previous capability year by the NYISO were recognized in the NYSRC IRM study's base case assumptions. The statewide IRM for the 2005-2006 capability year was approved by the NYSRC Executive Committee based on the IRM study's base case sensitivity analyses, and other relevant factors.

On February 10, 2005, the NYISO's Operating Committee considered the NYISO's Locational Installed Capacity Requirements Study for the 2005-2006 Capability Year.¹⁰ The study included a curve that demonstrated the relationship between locational capacity requirements and the statewide IRM. According to the study, each point on the curve would meet the NYSRC's criteria for installed capacity set forth in Reliability Rule A-R1. (i.e., an LOLE of no more than 0.1 day per year). At one end of the curve, the locational installed capacity requirements for New York City and Long Island were at their highest levels (87.8% and 104.2%, respectively) and the statewide IRM was at its lowest level (approximately 16%). This point on the curve approximates the results that would be obtained under the Free Flowing methodology supported by National Grid. At the other end of other curve, the locational requirements for New York City and Long Island were at their lowest levels (76.2% and 97.1%, respectively) and the statewide IRM was at its highest level (approximately 28%). The NYISO study recommended that the Operating Committee retain the then applicable locational requirements of 80% for New York City and 99% for Long Island, which were at a point in the

⁹ NYISO/NYSRC Agreement, § 3.4; NYSRC Reliability Rules, Section A., Resource Adequacy, Introduction, NYISO Market Services Tariff, §§ 5.10 and 5.11.4.

¹⁰ Set forth in Appendix B of National Grid complaint.

middle part of the curve. A motion to adopt the recommendation in the NYISO study was approved by the NYISO Operating Committee by a vote of 81.29% to 18.71%, with National Grid in the negative. While National Grid made a motion to increase the locational requirements for New York City and Long Island to 83% and 99%, respectively, (which was defeated) it did not make a motion to have the NYISO Operating Committee adopt its proposed Free Flowing methodology. National Grid did not appeal the Operating Committee's decision to adopt the locational requirements recommended in the NYISO study.

The NYSRC currently is in the process of preparing to determine the statewide IRM for the next capability year, from May 1, 2006 to April 30, 2007. As part of that process, the NYSRC's Installed Capacity Subcommittee is preparing an IRM study that includes a base case and numerous sensitivity analyses. At its meeting on June 10, 2005, the Executive Committee agreed to adopt a unified study methodology to be used for both the NYSRC IRM study and the NYISO locational capacity study, in order to avoid inconsistencies between the two studies. The unified study methodology includes a curve that shows the relationship between locational capacity requirements and the statewide IRM, similar to the curve that was included in the NYISO's Locational Installed Capacity Requirements study for the 2005-2006 Capability Year.

The NYSRC's Installed Capacity Subcommittee sought guidance from the NYSRC's Executive Committee as to the point on the curve that should be used for the purposes of the IRM study's base case. At its meeting on August 12, 2005, the Executive Committee considered two options, referred to at the meeting as Option 3 and Option 2(a). Option 3 was the Free Flowing methodology, under which a point at one end of the curve would be selected at which the statewide IRM is the lowest and the locational requirements for New York City and Long Island are the highest. Under Option 2(a), a point in the middle part of the curve would be

selected. The locational requirements for New York City and Long Island at this point on the curve were consistent with those adopted by the NYISO Operating Committee for the current capability year.¹¹ The NYSRC Executive Committee adopted Option 2(a) by a vote of 10 to 2. This action by the NYSRC Executive Committee is the subject of National Grid's complaint.

It should be noted that the Executive Committee's action did not establish the IRM for the 2006-2007 capability year, but merely provided guidance to its Installed Capacity Subcommittee as to the methodology to use in developing the IRM study's base case. In determining the annual statewide IRM, the Executive Committee considers the IRM study, including the base case and several sensitivity analyses, along with other factors. Subsequent to the adoption by the NYSRC of the statewide IRM, the NYISO's Operating Committee will adopt the locational requirements for the 2006-2007 capability year.

V. THE NYSRC HAS NOT TAKEN ANY ACTION THAT VIOLATES SECTION 206 OR WARRANTS COMMISSION INTERVENTION

A. The NYSRC Has Acted In Accordance With Its Responsibilities and Has Acted Reasonably.

It is clear that the NYSRC has the responsibility to establish the annual statewide IRM. To assist the NYSRC in exercising that responsibility, the NYSRC Installed Capacity Subcommittee conducts an annual IRM study, in coordination with the NYISO. The Executive Committee did not act unreasonably when, in response to a request for guidance from its Installed Capacity Subcommittee, it decided that the IRM study's base case should assume locational capacity requirements at a point in the middle portion of the IRM/locational capacity curve, rather than a point at one extreme end of the curve. As noted, the point on the curve

¹¹ The inflection point on the curve selected for the base case study is described as the "tangent 45 degrees," at which point movement up or down on the curve would have a comparable impact on the IRM and locational requirements. If an inflection point at either end of the curve were selected, movement up or down the curve would disproportionately impact either the IRM or locational requirements, depending on which end of the curve is used. From this perspective, the tangent 45 degrees inflection point on the curve may be considered to be more stable.

selected for the NYSRC's IRM study's base case is consistent with the locational requirements adopted by the NYISO for the current capability year.

B. Locational Installed Capacity Requirements Are Established by the NYISO, Not the NYSRC.

National Grid complains that the current locational capacity requirements in the NYCA result in an unlawful subsidy by upstate consumers to downstate consumers. The National Grid complaint, however, does not acknowledge that the NYSRC does not establish the locational capacity requirements for the NYCA; is not involved in the allocation of locational capacity costs among LSEs; and has no role in the NYISO's installed capacity market structure or how capacity prices are set. These are all NYISO functions. Consequently, National Grid's request that the Commission mandate that the NYSRC's IRM base case study include assumptions consistent with National Grid's position on locational requirements is totally unjustified. It also would be futile because the IRM study's base case does not ultimately determine either the NYSRC's final decision on the statewide IRM or, more relevant, the subsequent NYISO decision on locational capacity requirements.

VI. NONE OF THE ARGUMENTS MADE BY NATIONAL GRID SUPPORT THE RELIEF IT HAS REQUESTED

A. National Grid Has Not Exhausted All Opportunities to Address Its Concerns Through the NYISO Stakeholder Committee Process.

National Grid states that it is seeking the Commission's intervention into the setting of the statewide IRM by the NYSRC and locational capacity requirements because it "has exhausted all opportunities to correct the IRM defect through the committee and stakeholder processes. . ."¹² The appropriate stakeholder committee process to consider National Grid's concerns is the NYISO's Operating Committee, when that committee establishes the annual

¹² National Grid complaint at pp. 18 and 19.

locational capacity requirements for the NYCA.¹³ As noted above, National Grid did not appeal the Operating Committee's decision in February of 2005 to adopt the current locational capacity requirements to the NYISO Management Committee and the NYISO Board, as it is authorized to do under the NYISO's governance procedures. Furthermore, National Grid did not make a motion that the Operating Committee utilize its proposed Free Flowing methodology, and adopt the locational capacity requirements that would result from the use of that methodology.

It cannot be reasonably contended, therefore, that National Grid has exhausted all opportunities to address its concerns within the NYISO's stakeholder committee process.

B. National Grid Has Not Provided an Adequate Legal Basis For Its Request That the Commission Intervene in the NYSRC IRM Process.

In support of its request that the Commission intervene in the NYSRC's IRM process, National Grid compares its complaint to a Commission proceeding in which the NYSRC's decision to revise the statewide IRM was challenged.¹⁴ The circumstances in that proceeding, however, are not relevant to National Grid's complaint.

The Commission order cited by National Grid involved an NYSRC action for which Commission approval is expressly required under the NYSRC Agreement (*i.e.*, a revision of the statewide IRM).¹⁵ Commission approval is not required with respect to the assumptions used by the NYSRC's Installed Capacity Subcommittee in the base case of its IRM study, which is the action that National Grid is seeking to overturn through its complaint. Furthermore, National

¹³ It should be noted that while the setting of the IRM and locational requirements are sequential, (*i.e.*, the IRM is set first by the NYSRC and then locational requirements are set by the NYISO, the two processes are interrelated. For example, the IRM must assume certain locational requirements. If the NYISO decides to revise the locational requirements after the IRM has been set for the next capability year, either those locational requirements would be established for consideration by the NYSRC when setting the IRM for the following capability year or the NYISO would have to request the NYSRC to reconsider its IRM determination. The NYSRC and the NYISO have recently agreed on a unified study methodology and are working to further coordinate the processes for setting the IRM and locational requirements.

¹⁴ National Grid complaint at p. 19; *New York Reliability Council*, Docket No. ER00-1671-000, March 29, 2000.

¹⁵ NYSRC Agreement, § 3.03.

Grid is not complaining about a final decision by the NYSRC to adopt a statewide IRM, as was the case in the proceeding cited. Instead, National Grid seeks to have the Commission mandate the adoption of specific assumptions to be used in the NYSRC's IRM study base case prior to the adoption of the IRM.

It is clear, therefore, that the precedent cited by National Grid is not relevant to this proceeding, and that National Grid has not provided an adequate basis to justify Commission intervention in the NYSRC's process to establish the statewide IRM for the capability year 2006-2007.

C. National Grid Has Not Demonstrated that the Process Used by the NYSRC to Determine the Statewide IRM for the NYCA Violates Section 206 of the Federal Power Act.

National Grid contends that the NYSRC's current IRM practice violates Section 206 of the Federal Power Act and contravenes the Commission's orders and policies against subsidies and in favor of appropriate cost allocation.¹⁶ National Grid requests that the Commission require the NYSRC "to arrive at a comprehensive market solution that comports with Section 206 and accurately reflects both regional and locational adequacy needs by setting the region-wide IRM at the Free Flowing Equivalent proposed here by National Grid."¹⁷

National Grid's contention with respect to the existence of an unlawful subsidy, however, relates to the current locational capacity requirements in the NYCA. As explained above, the NYISO establishes locational requirements, which the NYSRC must respect, provided that they effectively meet the reliability criteria established by the NYSRC. The circumstances about which National Grid complains are outside the purview of the action taken by the NYSRC with

¹⁶ National Grid complaint at p. 24.

¹⁷ *Id* at p. 28.

respect to its IRM study, and it cannot reasonably be contended that the action taken by the NYSRC is in violation of Section 206.

D. National Grid’s Request for Alternative Relief Demonstrates That Its Basic Concerns Are Financial.

National Grid proposes alternative relief from the Commission if the Free Flowing methodology it is proposing “yields LICAP Requirements beyond the constrained zones’ current locational procurement abilities.”¹⁸ In that case, National Grid proposes that the Commission leave in place the locational requirements to which it objects and mandate the development of a “transition mechanism . . . to mitigate any potentially sudden price differentials and to allow long-term solutions to be developed.”¹⁹

First, whether or not the areas of the NYCA subject to locational requirements have the resources necessary to meet the locational capacity requirements that would be imposed under the Free Flowing methodology should not be the subject of speculation, but of careful analysis by the NYISO and its stakeholder committees. While the NYISO has the responsibility to establish LSE installed capacity requirements and locational requirements, those requirements must result in compliance with Northeast Power Coordinating Council and NYSRC reliability criteria.²⁰ Second, the nature of the alternative relief suggested by National Grid indicates that its primary concern is not the statewide IRM established by the NYSRC, or even the locational capacity requirements established by the NYISO, but the allocation of costs related to installed capacity requirements within the NYCA. This issue is clearly not within the NYSRC’s responsibilities.

¹⁸ *Id.* at p. 37.

¹⁹ *Id.* at pp. 37 and 38.

²⁰ NYSRC Reliability Rule A-R2.

V. COMPLIANCE WITH RULE 213 OF THE COMMISSION'S RULES OF PRACTICE AND PROCEDURE

A. Disputed Factual Allegations

As demonstrated in this Answer:

- The NYSRC denies that it has taken any action that violates Section 206 of the Federal Power Act.
- The NYSRC denies that its procedures in determining the statewide IRM are inconsistent with established Commission precedent and policy.
- The NYSRC denies that it determines the installed capacity requirements for LSEs or locational installed capacity requirements for the NYCA.

B. Process for Resolution of the Complaint

The complaint should be dismissed on the pleadings.

VII. CONCLUSION

For the reasons stated above, the NYSRC requests that National Grid's complaint be dismissed. National Grid's complaint fails to support its contention that the NYSRC action complained of violates Section 206 or warrants intervention by the Commission.

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