



February 17, 2010

VIA FIRST CLASS AND ELECTRONIC MAIL

Robert J. Stanton, PE  
New York State Department of Environmental Conservation  
Division of Air Resources  
625 Broadway, 2nd Floor  
Albany, New York 12233-3251

Subject: Comments of the New York State Reliability Council on Proposed Revisions to NOx RACT Rule, 6 NYCRR Subpart 227-2

Dear Mr. Stanton:

Attached please find the Comments of the New York State Reliability Council on the New York State Department of Environmental Conservation Proposed revisions to 6 NYCRR Subpart 227-2, NOx RACT Rule. Please contact me at (518) 626-9000 or at [pgioia@dl.com](mailto:pgioia@dl.com) if you have any questions concerning these comments.

Sincerely,

A handwritten signature in black ink that reads "Paul L. Gioia". The signature is written in a cursive style with a large, sweeping "P" and "G".

Paul L. Gioia  
Counsel

New York State Reliability Council

February 17, 2010

**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
PROPOSED REVISIONS TO 6 NYCRR SUBPART 227-2, NO<sub>x</sub> RACT RULE**

**COMMENTS SUBMITTED ON BEHALF OF  
THE NEW YORK STATE RELIABILITY COUNCIL**

**I. INTRODUCTION**

The New York State Reliability Council (NYSRC) was approved by the Federal Energy Regulatory Commission in 1998.<sup>1</sup> The NYSRC is assigned specified responsibilities related to the maintenance of electric system reliability in the New York control area. These responsibilities include the promulgation of reliability rules that may be more specific or more stringent than the reliability standards and criteria adopted by the Northeast Power Coordinating Council or the North American Electric Reliability Council, in order to meet the special reliability requirements of the New York Control Area. The NYSRC's reliability rules establish standards that must be complied with by the New York Independent System Operator (NYISO) in its operation of the New York State bulk power system, and by all entities that participate in the NYISO's electricity markets. The NYSRC also adopts the annual statewide installed reserve margin for the New York control area, to ensure that resource adequacy criteria are met and that sufficient resources are available to meet New York State's peak load electricity requirements.

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<sup>1</sup> Central Hudson Gas & Electric Corp., 83 FERC ¶ 61,352 (1998).

## II. COMMENTS

### A. Compliance Schedule

The NYSRC takes no position on the merits of the proposed revisions to the NOx RACT Rule. However, the NYSRC is concerned that affected generators have sufficient time to comply with the NOx RACT Rule without adversely impacting the reliability of New York's bulk power system. The NYISO retained General Electric's Energy Applications and Systems Engineering Unit to do a study on the feasibility of applying the proposed NOx RACT Rule to the generation fleet in the New York control area and a reasonable schedule to implement the required emission control retrofits (GE Study). The GE study is available on the NYSRC's website<sup>2</sup> Based on a specific set of assumptions proposed by the NYISO, including an assumption that there would be no unit retirements beyond those currently identified, the GE Study found that compliance with the NOx RACT Rule could be achieved without negatively impacting system reliability (GE Study, p. 8). However, the GE Study also estimated that the two-year period needed for retrofitting affected units would begin no earlier than 2012, because necessary permitting, engineering and financing would have to be completed prior to the beginning of construction. The GE Study states:

Nearly 3000 MW of capacity that needs emission control mechanisms or equipment modifications is located in New York City. The permitting and preconstruction activities are estimated to require at least 2 years, thus these

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[http://www.nyiso.com/public/webdocs/services/planning/special\\_studies/GE\\_\\_NOx\\_RACT\\_Study\\_Report-Public-FINAL.pdf](http://www.nyiso.com/public/webdocs/services/planning/special_studies/GE__NOx_RACT_Study_Report-Public-FINAL.pdf)

retrofits will not likely be completed by June 1, 2012. Depending on the level of New York City capacity that needs to be retrofitted, and cannot be accomplished prior to July 1, 2012, reliability concerns may arise. The current retrofit compliance deadline is too aggressive, not reasonably practicable, and has the potential to jeopardize grid reliability. A more reasonable compliance schedule for retrofitting is estimated to be June 1, 2014 based on a two year retrofit program beginning no earlier than 2012 as permitting, engineering, and financing would be required prerequisites to the beginning of construction.

The GE Study further states:

The actions that generation owners take in response to the proposed NOx RACT regulation will most likely have an impact on the economics and reliability of the New York Electric System. The retirement of generators for which reduction in emissions is not technically feasible or economically viable, will have an impact on the reliability of the New York Grid. Also, the outage schedule for implementing the compliance plans of generators that have opted to retrofit or upgrade emission controls need to be coordinated to ensure sufficient reserve margin in the system at all times (GE Study, p. 9).

Given the findings of the GE Study, the NYSRC urges the DEC to carefully consider the Study's recommendation that the schedule for compliance with the NOx RACT Rule be extended to at least June 1, 2014.

## **B. NYISO Recommendations for Additional Flexibility**

It is the NYSRC's understanding that the NYISO is making several recommendations to clarify the proposed rule to facilitate compliance without adverse impacts on electric system reliability. The NYISO recommends that the deadline for a federally enforceable permit condition committing to a compliance shutdown option be extended from October 1, 2010 through the end of 2012; and that the regulation allow flexibility for the shutdown commitment to extend into 2015 for any unit that may be needed for system reliability, rather than the proposed December 31, 2012 deadline for the unit's permanent shutdown. These recommendations appear to be measured and reasonable steps to protect electric system reliability, and should be adopted.

The NYSRC also supports the NYISO's recommendation that it be made clear that under the proposed rule an emission source in a system averaging plan will be deemed in compliance during the forced outage of another unit in the system averaging plan or when a unit is needed to address a statewide or local reliability issue.

## **III. CONCLUSION**

The NYSRC appreciates the DEC's consideration of these comments and respectfully requests that the DEC extend the compliance schedule as recommended in the GE Study and adopt the NYISO's recommendations to include sufficient flexibility in the proposed regulation to allow compliance without imposing unnecessary risks to electric system reliability.