

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Rules Concerning Certification of an Electric )  
Reliability Organization and the Establishment, )  
Approval, and Enforcement of Electric Reliability )  
Standards )  
)  
)  
Customer Matters, Reliability, Security and )  
Market Operations )

Docket No. RM04-2-000

Docket No. AD02-7-000

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REGULATORY COMMISSION

COMMENTS OF THE NEW YORK STATE RELIABILITY COUNCIL

(January 16, 2004)

The New York State Reliability Council ("NYSRC") is pleased to have the opportunity to comment and make recommendations concerning the Commission's consideration of the establishment and enforcement of reliability standards for the electricity industry.

Summary of NYSRC Comments

The NYSRC strongly supports the adoption of national, regional and local reliability rules that are binding on all entities responsible for the operation of a bulk power system and all market participants that use that system.

In the absence of federal legislation, the Commission should consider the implementation of enforceable reliability standards through administrative action. As the result of agreements and tariffs approved by the Commission, reliability rules are promulgated by the NYSRC and are binding on the New York Independent System Operator ("NYISO") and all parties who use the New York bulk power system.

Whether enforceable reliability standards are implemented as a result of federal legislation or administrative action by the Commission, it is essential that the ability of the NYSRC and other regional reliability entities to promulgate more specific and more stringent

regional and local reliability standards is not hindered. If regional reliability entities are hindered in the promulgation of more detailed and more stringent reliability standards when needed, the adoption of mandatory national reliability standards could result in a significant degradation of reliability in New York and other regions in the United States.

#### 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.<sup>1</sup> 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, and that must be complied with by all entities engaging in electric power transactions in New York State. The NYSRC develops Reliability Rules in accordance with standards, criteria and regulations of the North American Electric Reliability Council (“NERC”), the Northeast Power Coordinating Council (“NPCC”), the Commission, the New York Public Service Commission (“PSC”) and the Nuclear Regulatory Commission.<sup>2</sup> 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

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

<sup>2</sup> NYISO/NYSRC Agreement, Section 4.1.

NYSRC.<sup>3</sup> Compliance with NYSRC Reliability Rules, which are incorporated into the NYISO's procedures, are made binding on market participants through the NYISO tariff.<sup>4</sup> 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 compliance monitoring responsibility.<sup>5</sup> 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.<sup>6</sup>

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 NYSRC and the NYISO should disagree with respect to a new Reliability Rule, and cannot resolve their differences, the matter is referred to the appropriate regulatory body, the PSC or the Commission, for resolution. 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

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<sup>3</sup> NYISO/NYSRC Agreement, Section 2.1, 3.1.

<sup>4</sup> NYISO Services Tariff, Sections 5.1, 5.6.

<sup>5</sup> NYISO/NYSRC Agreement, Section 3.6.

<sup>6</sup> NYSRC Agreement, Section 4.03.

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.

#### Enforceable Reliability Rules

The NYSRC supports the adoption of enforceable reliability standards in all control areas. The importance of effective reliability standards throughout the United States was clearly demonstrated by the massive power interruption on August 14, which was caused by events in the Midwest but had very severe consequences for New York State, New England and Canada.

Pending federal energy legislation would establish a framework for the designation of an Electric Reliability Organization ("ERO") and the establishment of mandatory national reliability standards by the ERO, subject to Commission approval. If this legislation is enacted, the Commission will have the responsibility to promulgate regulations for its implementation, and the ultimate authority to approve the reliability standards applicable to all transmission systems. If the pending legislation is not enacted, the NYSRC would urge the Commission to explore the implementation of enforceable reliability standards through administrative action. As explained above, as the result of agreements and tariffs approved by the Commission, NYSRC Reliability Rules (and, therefore, the NERC and NPCC reliability standards upon which they are based) are binding on the NYISO and all market participants in the NYCA and enforceable under the NYISO tariffs.

#### Importance of Maintaining Regional and Local Reliability Standards

Whether enforceable reliability standards are implemented through legislation or administrative action, the Commission will have a major role in the implementation of such standards. It is essential that the Commission ensure that the implementation of enforceable

reliability standards on a national basis does not hinder the continued promulgation of more specific or more stringent standards on a regional or local basis when necessary to protect the reliability of the bulk power system. Currently, NERC standards are treated by the NYSRC as minimum standards, and NYSRC's Reliability Rules conform to those standards. However, the Reliability Rules also conform to NPCC standards, which sometimes are more stringent than NERC standards. In addition, the Reliability Rules are sometimes more stringent than both NERC and NPCC standards, when necessary to meet the specific reliability requirements of the NYCA. If regional and local reliability standards are not protected by the Commission, the adoption of national reliability standards could establish a ceiling for reliability standards, which would significantly reduce reliability in New York and other parts of the United States. Such a result clearly would be contrary to the Commission's goals.

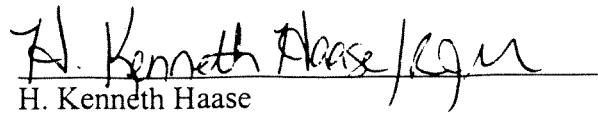
#### Recommendations

The NYSRC respectfully makes the following recommendations:

1. Enforceable reliability standards applicable to all entities who operate bulk power transmission systems in the United States, and binding on all parties who use those transmission systems, should be established through federal legislation or administrative action by the Commission.
2. In the absence of legislation, the Commission should explore the implementation of enforceable reliability standards through administrative action, as has been achieved in New York.
3. In its implementation of enforceable reliability standards, it is essential that the Commission designate those standards as minimum standards, and that the current authorization of the NYSRC and other regional reliability

organizations to promulgate more specific and more stringent reliability standards when necessary to protect reliability not be diminished.

Respectfully submitted,

A handwritten signature in black ink that reads "H. Kenneth Haase / cgm". The signature is written in a cursive style and is positioned above a horizontal line.

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