

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

North American Electric Reliability Corporation)	Docket No. RC09-3-000
)	
)	
Northeast Power Coordinating Council, Inc.)	

**MOTION TO INTERVENE AND COMMENTS
OF THE INDICATED TRANSMISSION OWNERS**

Pursuant to Rules 212 and 214 of the Federal Energy Regulatory Commission’s (“Commission”) Rules of Practice and Procedure, 18 C.F.R. §§ 385.212 and 385.214 (2008), Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Power Authority, New York Power Authority, New York State Electric & Gas Corporation, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation (referred to herein as the “Indicated Transmission Owners”), individually and collectively move to intervene and provide comments in response to the February 20, 2009 submission of the North American Electric Reliability Corporation (“NERC”) and Northeast Power Coordinating Council, Inc. (“NPCC”) (collectively the “Joint Filing Parties”) in the above-captioned proceeding (“Joint Compliance Filing”).¹

The Indicated Transmission Owners fully support the proposal by the Joint Filing Parties to retain the current impact-based approach for defining the Bulk Electric System (“BES”) (which was developed over a long period of time to address the unique reliability requirements in the NPCC region) and to conduct and submit to the Commission by September 20, 2009, a complete evaluation of both the benefits and negative impacts of deviating from that standard.

¹ The Indicated Transmission Owners reserve the right to individually or collectively file supplemental comments in this proceeding.

No such deviation should even be considered unless it can be fully demonstrated that any such potential benefits definitively outweigh the potential negative impacts.

I. BACKGROUND

On February 20, 2009, in compliance with the Commission's December 18, 2008 Order ("December 18 Order"), NERC and NPCC submitted the Joint Compliance Filing containing a comprehensive list of BES facilities within the United States portion of the NPCC Region and responses to the set of questions and data requests of the Commission in the December 18 Order. The filing includes the following: (1) the existing NPCC list of BES facilities currently being used for the application of NERC Reliability Standards; (2) the NPCC list of Bulk Power System ("BPS") busses within the United States portion of the NPCC region; (3) the NPCC Task Force on System Studies documentation related to the NPCC BPS list; (4) NPCC spreadsheets detailing a comprehensive list of transmission facilities rated at 100kV and above within the United States portion of the NPCC Region; (5) the NPCC spreadsheet listing Balancing Authority program data related to load shedding; and (6) an NPCC document listing and describing NPCC Special Protection System relay information in the United States.

II. COMMUNICATIONS

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

(1) ***Counsel to the Indicated Transmission Owners:***

Elias G. Farrah
Julia E. Richardson
Dewey & LeBoeuf LLP
1101 New York Avenue, NW
Washington, DC 20005-4213

(2) *Company Representatives Listed on Attachment A at the end of the filing.*²

III. MOTION TO INTERVENE

The Indicated Transmission Owners, for purposes of this filing, are comprised of seven electric systems in the State of New York that own the transmission facilities operated by the New York Independent System Operator, Inc. (“NYISO”). The Indicated Transmission Owners recover their costs of operating those facilities under the NYISO Open Access Transmission Tariff (“OATT”) and Market Administration and Control Area Services Tariff (“Services Tariff”). The NYISO commenced operations under the OATT and Services Tariff on November 18, 1999. No other party can adequately represent the Indicated Transmission Owners’ interest. Accordingly, it is in the public interest to permit this intervention.

IV. COMMENTS

The Indicated Transmission Owners share the concerns of the NPCC Board of Directors (expressed in the February 20, 2009 companion letter to the Joint Compliance Filing) with regard to any deviation from NPCC’s current impact-based test for defining BES in the NPCC region without an “in-depth evaluation of the effects and any unintended consequences it could have on the reliability of the NPCC region.” As the Joint Filing Parties make clear, the NPCC impact-based test was developed and refined based on decades of experience in the NPCC region and it reflects the specific characteristics of the region including but not limited to the: (a) unique characteristics of the international, interconnected NPCC system; (b) large concentrated load pockets; (c) both synchronous and asynchronous electrical ties; and (d) a significant number of multiple circuit transmission corridors. Thus, as the Joint Filing Parties also make clear, the “NPCC criteria that evolved to meet these characteristics were necessarily more stringent or

² Waiver of the Commission’s regulations (18 C.F.R. § 385.203) is requested to the extent necessary to permit the inclusion on the service list of all of the parties on Attachment A.

more specific than the NERC Reliability Standards.” As a result, there is potential for unintended and undesirable consequences from any deviation from the current NPCC impact-based test. Therefore, no consideration of any such deviation should even be considered prior to a complete evaluation. We are actively participating in the study to be submitted in September 2009.

V. CONCLUSION

WHEREFORE, in view of the foregoing, the Indicated Transmission Owners respectfully request that they be permitted to intervene with all the rights that attend to such status and that the Commission consider the comments offered herein.

Respectfully submitted,

Paul L. Gioia
Dewey & LeBoeuf LLP
One Commerce Plaza
99 Washington Avenue
Suite 2020
Albany, NY 12210-2820
Email: pgioia@dl.com

/s/ Elias G. Farrah by JER
Elias G. Farrah
Julia E. Richardson
Dewey & LeBoeuf LLP
1101 New York Avenue, NW
Washington, DC 20005-4213
Email: efarrah@dl.com
jrichardson@dl.com

Counsel to the Indicated Transmission Owners

/s/Raymond B. Wuslich by JER
Central Hudson Gas & Electric Corporation
Donald K. Dankner, Esq.
Raymond B. Wuslich, Esq.
Winston & Strawn LLP
1700 K Street, NW
Washington, DC 20006
Email: ddankner@winston.com
rwuslich@winston.com

/s/ Neil H. Butterklee by JER
Consolidated Edison Company of New York,
Inc.
Orange and Rockland Utilities, Inc.
Neil H. Butterklee, Esq.
Consolidated Edison Co.
of New York, Inc.
4 Irving Place
Room 1815-s
New York, NY 10003
Email: butterklee@coned.com

/s/ Joseph Nelson by JER

Long Island Power Authority
Joseph Nelson, Esq.
David P. Yaffe, Esq.
Van Ness Feldman, P.C.
1050 Thomas Jefferson Street, N.W.
7th Floor
Washington, DC 20007
Email: JBN@vnf.com
dpy@vnf.com

/s/ Sarah Barish-Straus by JER

New York Power Authority
Sarah Barish-Straus, Esq.
Carlos E. Gutierrez, Esq.
New York Power Authority
123 Main Street
White Plains, NY 10601-3170
Email: sarah.barish-straus@nypa.gov
carlos.gutierrez@nypa.gov

/s /Catherine P. McCarthy by JER

New York State Electric & Gas Corporation
Rochester Gas and Electric Corporation
Catherine P. McCarthy, Esq.
Dewey & LeBoeuf LLP
1101 New York Avenue, NW
Washington, DC 20005-4213
Email: catherine.mccarthy@dl.com

Dated: April 10, 2009

ATTACHMENT A

Julia E. Richardson
Dewey & LeBoeuf LLP
1101 New York Avenue, NW
Washington, DC 20005-4213
Email: jrichardson@dl.com

Central Hudson Gas & Electric Corporation

Donald K. Dankner, Esq.
Raymond B. Wuslich, Esq.
Winston & Strawn LLP
1700 K Street, NW
Washington, DC 20006
Email: ddankner@winston.com; rwuslich@winston.com

John W. Watzka
Section Engineer - Transmission Planning & Design
Central Hudson Gas & Electric Corporation
284 South Avenue
Poughkeepsie, NY 12601
Email: jwatzka@cenhud.com

**Consolidated Edison Company of New York, Inc. and
Orange and Rockland Utilities, Inc.**

Neil H. Butterklee, Esq.
Consolidated Edison Co. of New York, Inc.
4 Irving Place
Room 1815-s
New York, NY 10003
Email: butterkleen@coned.com

Stuart Nachmias
Vice President, Energy Policy and Regulatory Affairs
Consolidated Edison Co. of New York, Inc.
4 Irving Place
Room 1425
New York, NY 10003
Email: nachmiass@coned.com

Long Island Power Authority

Joseph Nelson, Esq.
David P. Yaffe, Esq.
Van Ness Feldman, P.C.
1050 Thomas Jefferson Street, NW
7th Floor
Washington, DC 20007
Email: JBN@vnf.com
dpy@vnf.com

Kevin B. Jones
Long Island Power Authority
333 Earle Ovington Boulevard, Suite 403
Uniondale, NY 11553
Email: kjones@lipower.org

New York Power Authority

Sarah Barish-Straus, Esq.
Carlos E. Gutierrez, Esq.
New York Power Authority
123 Main Street
White Plains, NY 10601-3170
Email: sarah.barish-straus@nypa.gov
carlos.gutierrez@nypa.gov

William Palazzo, Director-Market Issues Group
New York Power Authority
123 Main Street
White Plains, NY 10601-3170
Email: palazzo.w@nypa.gov

New York State Electric & Gas Corporation

Catherine P. McCarthy, Esq.
Dewey & LeBoeuf LLP
1101 New York Avenue, NW
Washington, DC 20005-4213
Email: catherine.mccarthy@dl.com

Raymond P. Kinney
New York State Electric & Gas Corporation
Corporate Drive
Kirkwood Industrial Park
P.O. Box 5224
Binghamton, NY 13902-5224
Email: rpkinney@nyseg.com

Rochester Gas and Electric Corporation

Catherine P. McCarthy, Esq.
Dewey & LeBoeuf LLP
1101 New York Avenue, NW
Washington, DC 20005-4213
Email: catherine.mccarthy@dl.com

Raymond P. Kinney
New York State Electric & Gas Corporation
Corporate Drive
Kirkwood Industrial Park
P.O. Box 5224
Binghamton, NY 13902-5224
Email: rpkinney@nyseg.com

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 10th day of April 2009.

/s/ Claire M. Brennan

Claire M. Brennan

Paralegal Manager

Dewey & LeBoeuf LLP

1101 New York Avenue, NW

Washington, DC 20005-4213

202-346-8000