

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

GDF Suez Energy Resources, NA)	
)	
v.)	
)	
New York Independent System)	Docket No. EL14-89-000
Operator, Inc., and)	
)	
Consolidated Edison Company)	
Of New York, Inc.)	

**REQUEST FOR CLARIFICATION OF
THE NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.**

Pursuant to Rule 212 of the Federal Energy Regulatory Commission’s (“Commission’s”) Rules of Practice and Procedure,¹ the New York Independent System Operator, Inc. (“NYISO”) hereby requests clarification of the Commission’s December 18, 2014 *Order Granting Complaint* in the above-captioned proceeding (“December Order”).²

The December Order directs the NYISO to reopen and resettle GDF Suez Energy Resources, NA’s (“Suez’s”) settlements for the November and December 2012 time period. The Commission held that under the extraordinary circumstances caused by Superstorm Sandy, significant injustice would result in the absence of Commission action.³ Superstorm Sandy caused the loss of actual meter data which Consolidated Edison Company of NY, Inc. (“Con Edison”) did not correct until after the NYISO’s meter data finalization deadline and the final

¹ 18 C.F.R. § 385.212 (2013).

² *GDF Suez Energy Resources, NA v. New York Independent System Operator, Inc. and Consolidated Edison Company of New York, Inc.*, 149 FERC ¶ 61,257 (2014).

³ December Order at P 18.

monthly invoices were issued for the time period.⁴ The NYISO does not dispute the Commission's order to reopen and resettle Suez's November and December 2012 invoices based on the extraordinary events of Superstorm Sandy.

The Commission's comments on certain Customer obligations imposed by the settlement provisions in NYISO's tariff, however, could lead to erroneous conclusions about future opportunities for Customer challenges of meter data absent Commission action. The NYISO seeks Commission clarification that it did not intend, by the comments in its order, to question the legitimacy of the meter data correction deadlines in the NYISO's FERC-approved tariffs, or the need for timely Customer review and challenge of LSE bus metering data to ensure the accuracy of NYISO invoices. Although the Commission states in its December Order "that Suez had no obligation under the Services Tariff to challenge the estimated meter data in order to receive corrected bills based on corrected meter data,"⁵ the NYISO's tariff currently precludes any final invoice corrections based on bad meter data where, as here, there are no meter data corrections or challenges submitted within the timeframe, no matter the reason, absent an order by the Commission or a court of competent jurisdiction.⁶ While the NYISO agrees that a challenge to meter data is not a required prerequisite to receive a corrected invoice, Customer participation in the review of meter data before it becomes final is an important component for the settlement process to result in accurate, timely invoices.⁷ The NYISO seeks to clarify that the Commission did not intend to indicate: (1) that Customers are not required to play any role at

⁴ December Order at P 15.

⁵ December Order at P 16.

⁶ Market Administration and Control Area Services Tariff ("Services Tariff") Section 7.4 ("For purposes of this Section 7.4, "finalized" data and invoices shall not be subject to further correction, including by the ISO, except as ordered by the Commission or a court of competent jurisdiction").

⁷ Capitalized terms that are not otherwise defined herein shall have the meaning specified in the NYISO's Open Access Transmission Tariff and a Market Administration and Control Area Services Tariff.

all in the pursuit of accurate meter data within the tariff-prescribed settlement timeline; or (2) that the tariff authorizes Customers to challenge meter data after expiration of the 150 day timeframe for finalized meter data.

I. COMMUNICATIONS

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II. REQUEST FOR CLARIFICATION

The NYISO respectfully requests clarification of Paragraph 16 of the December Order, which states in part:

we find that Suez had no obligation under the Services Tariff to challenge the estimated meter data in order to receive corrected bills based on corrected meter data because section 7.2.3 affirmatively requires NYISO to correct and true-up estimated meter data, whether or not there is a challenge to those estimates.

The Commission is correct that the NYISO may issue “corrected bills based on corrected meter data because section 7.2.3 [of the Services Tariff] affirmatively requires NYISO to correct and true-up estimated meter data” even in the absence of a customer challenge.⁸ However, the NYISO seeks clarification that the Commission did not intend to nullify the important step of Customer meter data review during the timeframes provided in the NYISO settlements process.

⁸ December Order at P 16.

NYISO Customers are in the best position to ensure that their Load Serving Entity (“LSE”) bus metering data⁹ is accurate. NYISO Customers can tell, for instance, when estimated meter data looks grossly unreasonable and alert the NYISO to the possibility of an error. It is in all Customers’ interest to ensure that their energy consumption is appropriately reflected in the NYISO invoices. Meter data that has been reviewed by the Customer and is determined to be correct or is challenged within the tariff-prescribed deadline will lead to more accurate finalized meter data and more accurate invoices. Once meter data is finalized the NYISO is prohibited from making corrections, whether the Customer belatedly challenges the invoice or not.¹⁰ Therefore, Customer review of meter data before the meter data challenge deadline has passed is a fundamental and crucially important contributing element to the overall accuracy of the NYISO’s settlement system.

Under the NYISO’s tariff, the most recently submitted meter data becomes the final meter data 150 days from the date of the initial invoice if the meter authority does not provide updates and Customers do not challenge the data.¹¹ The NYISO tariff requirements set up a settlement process intended to strike a reasonable balance between the timely finalization and accuracy in NYISO invoices. The settlement process has long established specific time periods for Customers to review, challenge, and correct meter data and settlement information prior to the NYISO finalizing invoices.¹² These provisions are the product of extensive discussions among the NYISO and its stakeholders, which balanced Customers’ interests in attaining

⁹ LSE bus metering data is the type of meter data referenced throughout the December Order and this Request for Clarification.

¹⁰ Services Tariff Section 7.4 (“For purposes of this Section 7.4, “finalized” data and invoices shall not be subject to further correction, including by the ISO, except as ordered by the Commission or a court of competent jurisdiction”).

¹¹ LSE bus metering data becomes final, and unavailable for further challenge, after 150 days if it is not updated or challenged. *See* Services Tariff Section 7.4.1.1.4.

¹² *See* Services Tariff Section 7.4.

accurate settlements with their interests in obtaining the financial certainty of finalized invoices not subject to continuing revisions.¹³ Settlement processes that promote finality and financial certainty are vitally important for the NYISO-administered markets to function effectively.¹⁴ In the case of meter data, the 150 days from the date of the initial invoice to challenge meter data encourages both meter authorities and Customers to review estimated meter data and notify the NYISO promptly of any potential errors. The NYISO depends on Transmission Owners and meter authorities to submit accurate meter data¹⁵ and Customers to challenge potentially inaccurate data. The NYISO does not independently review meter data for accuracy. Customers that fail to review meter data for accuracy rely solely on meter authorities to find meter data errors and correct them. There are a number of reasons that a meter authority may not update LSE bus metering data within the tariff-prescribed timeframe, including that it may not become aware of issues with the data in a timely manner. Customer participation is crucial to this effort.¹⁶ The NYISO will work with meter authorities and other NYISO Customers to ensure that meter data is accurate prior to being finalized, *if* the NYISO is made aware of potential

¹³ See NYISO Management Committee, Motion Regarding Proposal to Shorten the NYISO Settlement Cycle, September 29, 2006, available at: http://www.nyiso.com/public/webdocs/committees/mc/meeting_materials/2006-09-29/agenda_06_Motion_re_settlements_cycle_proposal.pdf (“Whereas, the NYISO and Market Participants seek to balance the benefits of financial certainty with adequate assurances regarding the accuracy of NYISO-issued customer invoices. . . .”).

¹⁴ See New York Independent System Operator, Inc., New York Independent System Operator, Inc.’s Proposed Tariff Revisions Regarding the Review, Challenge, and Correction of Customer Settlement Information, Docket No. ER06-783-000 at p. 7 (March 27, 2006) (“Section 7.4.C of the Services Tariff has also been revised to more clearly establish the finality of a Close-Out Settlement by explicitly prohibiting the NYISO from making changes to an invoice after the issuance of a Close-Out Settlement for that month absent Commission or judicial intervention. This clarification will provide certainty regarding the finality of prior settlements that is vitally important to the effective functioning of the NYISO markets.”).

¹⁵ NYISO-TO Agreement Section 2.05 (“Each Transmission Owner shall have the responsibility for providing metering data in its Transmission District to the ISO Each Transmission Owner shall be responsible for collecting and making available to the ISO billing quality metering data and any other information for the Transmission District required by the ISO for billing purposes”).

¹⁶ If Suez had challenged the accuracy of the estimated meter data in this instance, NYISO, Con Edison, and Suez could have worked together in an effort to resolve issues with the metering data during the tariff-prescribed settlement process.

issues through a meter data challenge.¹⁷ Once finalized, the NYISO will determine settlement invoices based on meter data that can no longer be modified absent extraordinary circumstances¹⁸ and an order from the Commission.¹⁹

III. Conclusion

WHEREFORE, for the foregoing reasons, the NYISO respectfully requests that the Commission clarify that it did not intend its December Order to question the legitimacy of the meter data correction deadlines in the NYISO tariffs or the need for timely Customer review and challenge of LSE bus metering data to ensure the accuracy of NYISO invoices.

Respectfully submitted,

/s/ James H. Sweeney
James H. Sweeney, Attorney
New York Independent System Operator, Inc.

Dated: January 20, 2015

cc: Gregory Berson
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¹⁷ Services Tariff Section 7.4.1.1 provides Customers three distinct opportunities within 150 days from the date of the initial invoice to review and challenge LSE bus metering data.

¹⁸ In Paragraph 16 of the December Order, the Commission ordered the NYISO to reopen and resettle Suez's November and December 2012 monthly invoices because "the Commission determined that there were extraordinary circumstances and that significant injustice would result in the absence of Commission action."

¹⁹ See Services Tariff Section 7.4 ("For purposes of this Section 7.4, "finalized" data and invoices shall not be subject to further correction, including by the ISO, except as ordered by the Commission or a court of competent jurisdiction").