

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a Session of the Public Service
Commission held in the City of
New York on December 14, 2005

COMMISSIONERS PRESENT:

William M. Flynn, Chairman
Thomas J. Dunleavy
Leonard A. Weiss
Neal N. Galvin
Patricia L. Acampora

CASE 05-E-0889 - Proceeding on Motion of the Commission to
Establish Policies and Procedures Regarding
Generation Unit Retirements.

ORDER ADOPTING NOTICE REQUIREMENTS
FOR GENERATION UNIT RETIREMENTS

(Issued and Effective December 20, 2005)

BY THE COMMISSION:

BACKGROUND

In an Order Instituting Proceeding and Notice Soliciting Comments (Instituting Order) issued July 27, 2005 in this proceeding, it was noted that policies and procedures for obtaining adequate notice of generator retirements might be needed in order to prevent or mitigate any adverse impacts, such as degradation of electric system reliability, which might attend such a retirement.¹ The Instituting Order established a process for developing appropriate policies and procedures, by

¹ The Instituting Order defined "retirements" to collectively include shut-downs, abandonments, mothballing, and other circumstances where a generating unit is taken out of service for a substantial period of time, excluding scheduled maintenance and forced outages.

soliciting comments on questions regarding generation unit retirements and other related matters.

Parties were invited to submit their views by filing initial comments by September 9, 2005, and reply comments by September 26, 2005. Moreover, notice of the Instituting Order was published in the State Register on August 10, 2005, in conformance with State Administrative Procedure Act (SAPA) §202(1). The SAPA §202(1)(a)(ii) comment period expired on September 26, 2005. The parties that filed comments in response to the Instituting Order and the SAPA Notice are identified below.

POSITIONS OF THE PARTIES

Initial Comments

A. Wholesale Generators

1. IPPNY

While acknowledging that requiring reasonable notice of planned generation unit retirements is appropriate, the Independent Power Producers of New York, Inc. (IPPNY) ask the Commission to refrain from taking action and defer to the New York Independent System Operator, Inc. (NYISO), to develop any necessary generator retirement policies and procedures through a stakeholder process. According to IPPNY, the NYISO is well suited to managing the process of establishing retirement notice requirements and creating the procedures necessary to address any reliability impacts attending a retirement.

Rather than asserting Public Service Law (PSL) jurisdiction over generation reliability by imposing requirements on wholesale generators, IPPNY believes transmission and distribution (T&D) utilities² should be directed to propose solutions that address reliability needs on local

² The T&D utilities also refer to the Transmission Owners (TO).

distribution systems, such as contracting with existing generators for any services needed to support reliability. IPPNY also suggests T&D utilities could be directed to perform periodic assessments at the local distribution level to identify areas that need generation support to maintain local reliability.

2. AES

According to AES Eastern Energy, L.P. (AES), the NYISO should be designated as the entity responsible for implementing generator retirement notice procedures, given that the NYISO is charged with maintaining transmission system reliability. AES notes that the NYISO has developed a Comprehensive Reliability Planning Process (CRPP) to identify and evaluate New York's short and long-term reliability needs, and suggests concerns regarding potential remedies for ensuring the preservation of reliability should be considered in the CRPP structure.

A merchant generator's decision to continue operations or to retire a facility, AES observes, largely turns on the past and expected profitability of that facility. Costs of environmental initiatives, AES continues, such as cooling water intake requirements, mercury emission requirements, and regional greenhouse gas initiatives, must be evaluated along with the existing wholesale market design to determine if the revenue stream supporting the costs of those initiatives is adequate.

AES recommends that T&D utilities be directed to conduct annual reliability analyses of their local distribution systems over a ten-year horizon. Where reliability needs are identified, AES would require T&D utilities to address those needs by entering into temporary or longer-term contracts with generating units or, by performing the transmission upgrades necessary to ensure reliability.

3. KeySpan

KeySpan-Ravenswood, LLC (KeySpan) expresses its support of IPPNY and urges that no action be taken until the NYISO can develop and implement generator retirement policies and procedures. KeySpan claims a single set of rules establishing consistent compensation and service requirements for generators is needed and suggests the NYISO is best suited to accomplish that task. While not addressing the merits of the PSL jurisdictional analysis in the Instituting Order, KeySpan reserves its right to challenge the jurisdictional basis for any relief adopted in this proceeding and indicates that it does not believe the Commission has jurisdiction to require a wholesale supplier to provide services.

4. Mirant

Agreeing with IPPNY, Mirant Lovett, LLC and Mirant Bowline, LLC (collectively, Mirant) state generator retirement policies and procedures should be developed through the NYISO stakeholder process. Mirant maintains the NYISO is the proper venue to develop requirements for obtaining notice of planned retirements to ensure an evaluation of the reliability impacts is performed.

5. NRG

Indicating that a reasonable notification requirement is necessary, NRG asserts that giving 90 days notice prior to a proposed deactivation of any generation resource is reasonable.³ To simplify the notification requirement, NRG proposes that all generation resources be subject to the same rules.

Citing the NYISO's CRPP as the process that should be used to analyze the reliability implications associated with proposed retirements, NRG suggests the CRPP be expanded and

³ Ninety days is the period PJM, LLC (PJM) requires in its notice procedures for generation unit retirements.

refined to incorporate generator retirement notice provisions. NRG proposes the use of the criteria underpinning the NYISO's Reliability Needs Assessment (RNA), which assess the adequacy of generation and transmission, to determine adverse impacts on reliability.

According to NRG, the NYISO's Transmission Planning Advisory Subcommittee (TPAS) should be designated as the entity responsible for receiving reports of unit retirements. NRG suggests that TPAS maintain a queue of proposed retirements and post results of reliability impact studies. In addition, NRG proposes that TPAS coordinate its review with T&D utilities to ensure that impacts on lower voltage lines are identified.

NRG proposes that the NYISO notify the Commission and the appropriate T&D utility of a planned retirement, and the T&D utility analyze the effect of NYISO-identified transmission system impacts at levels below 115kV. As NRG notes, the CRPP already charges T&D utilities with developing regulatory solutions as a backstop to prevent reliability failures, where market-based solutions are not forthcoming, or "gap solutions," in situations where an immediate threat to system reliability exists. Contracts between T&D utilities and generators proposing to retire, according to NRG, could act as gap solutions, forestalling retirements until such time as reliability solutions can be developed.

6. Fulton

Opposing adoption of policies and procedures for obtaining adequate notice of generation retirements, Fulton Cogeneration Associates (Fulton) states that imposing any additional filing requirements upon lightly-regulated generating facilities will consume significant financial resources,

ultimately leading to higher electric prices.⁴ Fulton observes that a decision to retire a generating facility is the outcome of a long process requiring careful planning. Regulatory intervention, it claims, could unnecessarily disrupt that process. If notification is required, Fulton would effectuate notice through a modern technology such as e-mail.

B. T&D Utilities

1. New York Utilities

Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation, Long Island Power Authority (LIPA), New York Power Authority (NYPA), Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation (collectively, New York Utilities) support development of procedures governing the retirement of generation resources. However, the New York Utilities claim that the NYISO stakeholder process should be used to develop those procedures because that is the process used to identify short and long-term reliability needs and develop solutions to those needs. They also note the NYISO's Market Monitoring Unit is adequately equipped to review anticipated retirements and to assess any associated market power issues. NYISO administration of retirement procedures, they argue, would allow for consistent application of reliability criteria, analyses, and methodologies, and avoid potential jurisdictional conflicts with the Federal Energy Regulatory Commission (FERC).

New York Utilities suggests the NYISO determine impacts on reliability using the criteria and rules of the North

⁴ Although Fulton's comments were filed after the SAPA comment period ended, they are being considered because they assist in developing a complete record and will not unduly prejudice other parties or delay this proceeding.

American Electric Reliability Council (NERC), the Northeast Power Coordinating Council (NPCC), the New York State Reliability Council (NYSRC), and the affected T&D utilities. They also assert that T&D utilities should be actively involved in evaluating potential retirements.

According to New York Utilities, the issue of paying additional compensation to generators to forestall a retirement should be deferred for consideration in the NYISO stakeholder process. Unnecessarily over-compensating a retiring generator to retain its capacity in operation, the New York utilities caution, could undermine the competitive market.

2. NYSEG and RGE

New York State Electric & Gas Corporation (NYSEG) and Rochester Gas and Electric Corporation (RGE) recommended that all units counted by the NYISO towards in-state capacity should be required to provide prior notice of a change in operating status or retirement to the NYISO, the Commission and the affected T&D utility. NYSEG and RGE state that the notification period should be shorter for generation units less than 10 MW, because they are expected to have smaller impacts on reliability. Besides evaluating the effect of changes in the operational status of generating units through CRPP, the New York Utilities claim that the T&D utilities should be involved in determining whether there are any adverse reliability impacts on the electric system, as well as determining the best solutions to resolve any such impacts. The two utilities also recommend that NYPA and LIPA should participate in reporting generator retirements.

C. Other Parties

1. NYISO

The NYISO encourages the coordination of any generator retirement notification procedures through the CRPP, where

resource adequacy and transmission reliability are analyzed using reliability criteria from NERC, NPCC, NYSRC, and FERC. After cautioning that the "notification period should not be so long as to unduly burden generation unit owners that may be forced to cease operations temporarily or permanently for financial reasons within one accounting or tax year,"⁵ NYISO suggests a minimum six-month notice period be adopted. A period of at least that length, it asserts, is needed to analyze even a short-term reliability impact and to identify and implement a solution.

The NYISO also warns against adopting burdensome policies or procedures that may discourage generation developers and financiers from investing in the New York market. The NYISO asks the Commission to clarify that it is not adopting rules or policies that would require generation owners to continue operations indefinitely, even if those operations are unprofitable. Furthermore, the NYISO requests that policies favoring existing generation owners over new investments in generation or transmission facilities be rejected.

The ultimate responsibility for ensuring reliability on the non-bulk electric system, according to the NYISO, rests with the T&D utilities. Therefore, the NYISO recommends that T&D utilities be directed to conduct analyses of key generation facilities, under several scenarios, to determine if retiring such facilities will affect reliability on non-bulk electric systems, and to report the results. Finally, the NYISO requests that market-based solutions, such as incentive-based ratemaking, are considered in the first instance, as solutions to reliability problems, with T&D utilities effectuating regulatory backstop solutions in the absence of market-based responses.

⁵ NYISO Comment, p. 5.

2. Multiple Intervenors

Multiple Intervenors (MI) encourages the Commission to work in consultation with the NYISO to adopt a notice provision adequate to allow for evaluation of generator retirement impacts. MI proposes a one-year notice period, because a shorter period would arguably be inadequate to evaluate the reliability impacts and to implement a solution. A one year period, MI notes, would be consistent with the timeframe for the NYISO's RNA, which is conducted on an annual basis under the CRPP.

After a retirement notice is received, MI believes that the Commission and NYISO should evaluate the impact of the retirement using applicable reliability criteria. If an adverse impact is found, MI recommends that T&D utilities enter into negotiations with the retiring generator so that a solution is crafted until there is a market-based response. According to MI, the Commission should review proposed solutions.

3. Local Unions

International Brotherhood of Electrical Workers, Locals 83, 97, and 503, and Utility Works Union of America, AFL-CIO, Local 1 - 2 (collectively, Local Unions) would require all lightly-regulated independently-owned generation owners to provide notice of any proposed retirements to the Commission, the NYISO, the customers of the generator making the proposal, affected T&D utilities, any suppliers of last resort, and all parties to this proceeding. The Local Unions advocate initiation of a collaborative process to establish retirement notice policies and procedures, and ask for an assurance that the local economy is seriously considered when evaluating any proposed retirement. The Local Unions also identify various types of information that should be collected from generators in order to monitor and ensure reliable operation of the electric

system, and assert that penalties should be imposed on generators that shut down without authorization.

4. PULP

The Public Utility Law Project of New York, Inc. (PULP) maintains that generators should be required to file long-range plans addressing future operations, and identifying the known reliability and environmental implications of an unanticipated retirement. The generator plans, PULP indicates, should be provided to the T&D utility, NYPA, NYSRC, NYISO and Department of Public Service Staff (Staff) for review. According to PULP, Commission approval of a retirement should be required. T&D utilities, PULP continues, should be required to file plans demonstrating means for preserving safe and adequate service upon a retirement, including upgrades of transmission facilities, the building of replacement power plants, or continuing operation of otherwise-retiring power plants through purchase or exercise of eminent domain. The effect of a retirement on retail rates, PULP posits, may also be considered in evaluating a retirement.

Reply Comments

A. IPPNY

In reply, IPPNY opposes proposals to adopt specific retirement notice periods or other related requirements. The NYISO stakeholder process, IPPNY argues, is where the retirement notice and review process should be determined. In support of its position, IPPNY argues that the NYISO, as the administrator of the wholesale energy and capacity market, subject to FERC supervision, is in the best position to develop, review and adopt rules on the adequacy of capacity generation and the availability of other services in the wholesale market. As a result, IPPNY also believes the NYISO is best-equipped to ensure

that any rules that are adopted are consistent with the operation of competitive markets.

B. New York Utilities

The New York Utilities reject, as beyond the scope of this proceeding, other parties' suggestions to impose specific obligations on T&D utilities if a reliability concern arises. The New York Utilities also argue that the proper forum for adopting generator retirement notification requirements and for considering potential reliability impacts is through the NYISO's CRPP. The New York Utilities encourage Staff to participate in developing these requirements within the CRPP, and to supplement any procedures that are adopted, to the extent appropriate, in subsequent State proceedings.

C. MI

Responding to proposals to set the retirement notice requirement at 90 days, MI reiterates its initial position that a one-year period is appropriate. That period, it claims, would ensure that a proposed retirement is analyzed in conformance with the NYISO's RNA, which is conducted on an annual basis.

D. Local Unions

In response to the NYISO's comments, the Local Unions revise their proposed 90-day notice period to a minimum of six months notice, and note they now believe a period as long as one year might be justifiable. The Local Unions continue to believe that investigation of all underlying causes of a decision to retire, including environmental restrictions, would be appropriate after notice of a retirement is given.

E. New York City

The City of New York (NYC) requests broadening the scope of this proceeding to include regulatory measures that will promote the maintenance and repair of generation facilities. According to NYC, such measures would serve as a

regulatory backstop to the existing market-based system. NYC envisions an approach similar to that in California, which mandates that generation facilities meet performance standards, comply with data collection requirements, and conduct inspection programs.

According to NYC, depending on T&D utilities to ensure reliability, as some parties recommend, would not adequately prepare for precipitant actions, such as sudden plant de-activations that merchant generators might take. NYC also contends that relying exclusively on the NYISO to preserve reliability is similarly prone to risk, because delays the NYISO might face in implementing reliability measures as parties debate the application of NYISO tariffs, could potentially cause reliability problems to go unresolved. NYC points to a current dispute among PJM market participants over generator retirements as supporting its argument.

Advocating the imposition of retirement notice requirements on generators, NYC details a schedule of notice periods up to one year, scaled to the type of proposed action and its effect on the electric system. NYC maintains that the time of year and the impact on peak load (including the impact if a facility is within a load pocket) are other relevant considerations affecting the notice period. NYC recommends the Commission coordinate its initiatives with the NYISO, but not substitute the NYISO processes for the Commission's regulatory oversight. In addition, NYC suggests identifying potential remedies in advance of receipt of retirement notices, so that a remedy can be implemented more quickly if a sudden retirement occurs.

DISCUSSION

As discussed in the Instituting Order, there are currently no regulatory mechanisms in place that address the retirement of lightly-regulated generating units. The absence of regulatory oversight raised the possibility that "the level of generation supply might decline to a point that would threaten the reliability of electric service."⁶ Thus, an appropriate regulatory mechanism is needed to address the possibility that generation unit retirements might undermine electric system reliability and render service unsafe or inadequate.

Several parties suggest that devising an appropriate regulatory mechanism should be the responsibility of the NYISO, through its CRPP process. The NYISO, however, has not yet commenced the development of a mechanism to ensure notification of generation unit retirements, nor set out a timetable to implement such a mechanism. Even if the NYISO were to institute a process promptly, the outcome would remain uncertain for some time. Therefore, we are taking action now, so that a process is in place to address proposals to retire generation units.⁷

As other parties point out, however, such a process should not unduly interfere with the operations of the competitive markets. Excessive regulation could unnecessarily drive prices in these markets higher. The process should also

⁶ Instituting Order, p. 3.

⁷ Requests to conduct further proceedings through collaborative efforts or through formal hearings are rejected because the record is adequate to support the adoption of the notice requirements set forth below, and delaying their adoption to conduct further proceedings could harm the public interest if a retirement that threatened system reliability went unnoticed as a result.

be designed to accommodate future developments, such as NYISO efforts to address retirements in its CRPP process.

A requirement that generators subject to our jurisdiction provide notice of a proposed retirement should sufficiently protect the public interest, without unduly interfering with market operations or future developments. Once notice of a retirement is received, the effect of the retirement may be analyzed and solutions devised if it appears system reliability would be adversely affected.

We may adopt reasonable notice requirements and require lightly-regulated generators, along with other generators subject to our jurisdiction, to comply with them. The Instituting Order sets forth the basis for asserting that jurisdiction over lightly-regulated generators, and no party presents a detailed argument contradicting those legal principles. Although several parties questioned the extent of that jurisdiction, our action in adopting notice requirements, rather than broader forms of relief, renders it unnecessary to address here questions regarding jurisdiction over lightly-regulated generators beyond the jurisdiction necessary to establish such notice requirements. The requisite notice requirements and timeframes set out below, in the context of answering the questions that were posed in the Instituting Order.

Question 1

Should notice be required of proposed generation retirements by independently owned generation suppliers that have been afforded lightened regulatory status? If so, what period of notice is adequate (i.e., how much time is needed to assess and address reliability implications)? Should a notice requirement only apply to some generators based on

amount of real power capacity (in MW), megavolt ampere reactive (MVAR) capacity, location within load pockets, or other factors?

In response to the inquiry whether notice should be required of generators proposing to retire a unit, most parties acknowledge that imposing a notice requirement is appropriate. Parties diverge, however, in whether the development of notice procedures should be conducted through a NYISO process or independent of the NYISO. Parties also differ on the length of the notice period that is appropriate.

An appropriate notice requirement should balance the interests of the parties. It should protect against a precipitous generator retirement that could harm the public interest. A retirement notice requirement should also be sufficiently straightforward to avoid adverse interference with competitive market operations and generator financial decisions.

Balancing these factors, we determine that generators subject to PSL regulation that are sized equal to or greater than 80 MW shall provide written notice of a proposed retirement at least 180 days prior to the time the requirement is effectuated. This approximately six-month period equates with the minimum period that NYISO indicates as adequate to identify and resolve reliability concerns. Therefore, a shorter notice period would leave insufficient time to study reliability implications of a proposed retirement and to implement a solution.

For generators subject to PSL jurisdiction sized under 80 MW, a minimum of 90 days written notice is required. The impact on system reliability of retiring a smaller unit is necessarily less than that of a large-sized unit. Selecting some dividing point between large and small sized units is therefore appropriate. Using a 80 MW threshold is proper,

because that size limitation is already embodied in several provisions of the PSL. For example, under former PSL §160, the definition of a "major electric generating facility" included generators sized at 80 MW or more. A similar distinction is recognized in PSL §§2(2-a), 2(2-c), and 66-c, where a regulatory regime is established for exempting qualifying facilities from most forms of PSL regulation.

There is a point on the scale of generator size where a facility may be retired without likely impacts on system reliability. Adopting a threshold for facilities two MW or less, to be retired without providing notice, is appropriate. That limit has been relied upon in prior proceedings as an appropriate definition of a small-sized unit.⁸

Generators proposing to retire are required to serve their notice on our Secretary, the NYISO, and any affected T&D utility. These entities will be involved in conducting an analysis of the impact of a retirement and in devising a solution in the event the retirement adversely affects reliability. Imposing a broader notification requirement could unnecessarily impose unneeded costs on generators, and overly intrude in competitive market operations. To the extent that devising a solution to a reliability detriment becomes necessary, however, other parties may be allowed to offer solutions.

Moreover, we request that the NYISO notify its market participants of any retirement notices it receives, in order to apprise those potentially-affected parties. NYPA and LIPA are

⁸ Case 02-E-1282, Standard Interconnection Requirements, Order Modifying Standardized Interconnection Requirements (issued November 17, 2004); Case 91-E-0237, Long-Run Avoided Cost Estimates, Order Withdrawing 1990 Long-Run Avoided Cost Estimates on a Permanent Basis (issued February 10, 1992).

encouraged to report retirements they propose in conformance with this regulatory mechanism.

Other proposals the parties present on the development of notice procedures are rejected. NYSEG and RG&E suggest that the notice requirement be imposed on all generators the NYISO includes in its count of in-state capacity. A requirement imposed on generators geographically situated within New York is sufficient to satisfy the concerns the two utilities raised and appropriately effectuates our jurisdiction under the PSL. It also prevents exemption of a generator that, although not counted towards in-State capacity by the NYISO, might have an impact on reliability if retired.

NYC proposes detailed notice requirements scaled to deadlines dependent on a wide variety of factors. NYC's approach is overly complicated and could result in confusion and delays, causing ineffective reporting. The more simple approach set forth above, based on three size categories of generators, is sufficient to ensure consistency and fairness in application of the notice requirements, while also affording sufficient time to analyze and address the impact of a retirement.

Failure to give notice will be addressed on a case-by-case basis. We will not at this time adopt proposals to impose penalties or other remedies for failing to comply with the notice requirements.

Question 2

What process should be used to analyze the reliability implications associated with proposed retirements (e.g., preparation of independent reliability assessments, coordination with the NYISO and affected Transmission Owner assessments or studies, coordination with the NYISO's Electric System Planning

process)? What process should be used if adequate notice is not practicable (e.g., emergency conditions)?

In response to the inquiry into the processes for analyzing the reliability implications of retirements, several parties note that retirement impacts are already addressed in the NYISO's CRPP. The notice requirement adopted above complements the CRPP process by providing useful information that may be reflected in the NYISO's RNA, and may be considered in devising what the NYISO describes as backstop or gap solutions.

Under the CRPP, the NYISO is responsible for developing the RNA on an annual basis. The RNA is designed to evaluate the reliability needs of the bulk power system over a ten year planning horizon and to identify system needs in order to comply with reliability criteria. The base case used in developing the RNA includes projected capacity additions and planned retirements over the planning horizon. If a reliability need is identified in the RNA, there is a preference for market-based solutions to address that need in the first instance. Where market-based solutions are not forthcoming, the CRPP calls for the development of a regulated back-stop solution by T&D utilities to resolve the identified need.⁹

Time permitting, any proposed retirement should be included in the RNA base case developed through the CRPP. Where there is insufficient time, such that bulk system reliability needs cannot be addressed through the ordinary RNA planning cycle, we expect that, when a retirement notice is received, the NYISO and responsible T&D utility will work together, in consultation with Staff, to determine if the retirement will result in a bulk and/or local system reliability need.

⁹ See, NYISO Open Access Transmission Tariff, Attachment Y.

If a bulk-system need is identified, the NYISO should request that the responsible T&D utility develop a gap solution, similar to the one envisioned in the CRPP, for consideration by the NYISO and Staff. If a local reliability concern is identified, the appropriate T&D utility is expected to coordinate a solution with the NYISO and us.

Lastly, several parties suggested that T&D utilities be required to conduct specified analyses. The NYISO and T&D utilities, however, already perform studies for the bulk system, while the T&D utilities would study local impacts when a retirement notice is received, in order to maintain safe and adequate service. Moreover, imposing requirements on the T&D utilities is beyond the scope of this proceeding. Therefore, we are not adopting study requirements in this proceeding.

Question 3

What criteria should be used in determining when a retirement adversely impacts reliability or constitutes an abandonment of service (e.g., amount of capacity being retired, impact on compliance with reliability criteria, or other criteria)?

The NYISO indicates that when a retirement is analyzed in the CRPP, resource adequacy and transmission reliability are evaluated using the reliability criteria established by NERC, NPCC, NYSRC, FERC, and promulgated by us. The New York Utilities also point out that they use their own criteria in analyzing system reliability.

All applicable reliability criteria developed by the entities above should be deployed in analyzing a retirement.¹⁰ When analyzing the effects on local distribution systems, T&D

¹⁰ The Local Union's proposal to consider the effect on the local economy in evaluating a proposed retirement is rejected as beyond the scope of this proceeding, which pertains to the reliability of electric systems needed to ensure safe and adequate service.

utilities should use appropriate criteria, which may not reflect all of the criteria applicable to reliability on the bulk transmission system. Thus, more detailed requirements establishing the specific criteria and their specific deployment are not needed. To the extent an analysis might be lacking, we could take steps to ensure that deficiencies are corrected.

Question 4

Should potential remedies be identified that could be implemented if a retirement poses potential adverse impacts to system reliability (e.g., continuing operation of the generation unit temporarily; requiring maintenance or upgrades to a generation unit if the costs can be recovered; alternative transmission solutions, or other remedies)? What costs and priorities should be considered in selecting remedies (e.g., cost to the generator, solution requiring the least-cost investment, cost impacts on customers, or other cost impacts)? What roles will generators, Transmission Owners, the NYISO, and other entities play in implementing remedies?

Notwithstanding the inquiry launched into potential remedies for addressing adverse impacts attending a retirement, specific remedies will not be adopted at this time. While we are prepared to take any action within our jurisdiction necessary for the preservation of safe and adequate service, remedies are better considered on a case-by-case basis, given the potential variety of circumstances that could be encountered. Designing a remedy will depend upon the exact nature of those circumstances, which cannot be adequately forecast at this time. It is expected, however, that if a T&D utility proposes a solution to a harm raised by a particular retirement, a cost-benefit analysis would be presented for each option proposed.

Question 5

What other types of information or data should be collected from generators to adequately monitor and plan for the reliable operation of the electric system?

Several parties made proposals for the gathering of information from generators and monitoring their reliability or performance. These proposals need not be addressed at this time. Requiring generators to provide notice of retirements is an adequate solution to the problems that might arise if a retirement were made precipitously or went unreported. More detailed regulatory requirements that would intrude upon the operations of generators have not been shown to be necessary to preserve system reliability or to ensure safe and adequate service.

CONCLUSION

The notice requirements described above shall take effect as of the date of this Order. Therefore, all generators greater than two MW subject to PSL jurisdiction shall provide notice, as indicated above, of any retirement that is planned to take effect after the date of the issuance of this Order.

The Commission orders:

1. All generators subject to Public Service Law jurisdiction shall comply with the requirements for giving notice of generation unit retirements established in the body of this Order.

2. This proceeding is continued.

By the Commission,

(SIGNED)

JACLYN A. BRILLING
Secretary