

136 FERC ¶ 61,011
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
John R. Norris, and Cheryl A. LaFleur.

New York Independent System Operator, Inc.

Docket No. ER08-1281-007

ORDER ON REHEARING

(Issued July 1, 2011)

1. The New York Independent System Operator, Inc. (NYISO) seeks rehearing of a Commission order issued December 30, 2010.¹ For the reasons discussed below, we grant rehearing.

Background

2. This proceeding was instituted by the NYISO to address the market distortions and increased congestion attributable to certain loop flow transactions submitted to the NYISO beginning in January 2008.² To address these market distortions, the NYISO proposed certain short-term solutions which the Commission accepted.³ In addition, the

¹ *New York Independent System Operator, Inc.*, 133 FERC ¶ 61,276 (2010) (December 30, 2010 Order).

² These transactions, which were scheduled for the purpose of exporting power to PJM Interconnection, L.L.C. (PJM), relied on a circuitous flow around Lake Erie, crossing through two neighboring systems, the Independent Electricity System Operator (IESO) and the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) before sinking in PJM - even though approximately eighty percent of this scheduled power flowed directly across the NYISO/PJM border. These transactions, by utilizing a circuitous path, benefited from the relatively lower market prices at the NYISO's western border, i.e., the NYISO/IESO border, and thus avoided the relatively higher market price at the more congested NYISO/PJM border.

³ See *New York Independent System Operator, Inc.*, 124 FERC ¶ 61,174 (2008) (accepting emergency tariff changes, on an exigent circumstances basis, prohibiting the

(continued...)

Commission encouraged the parties to consider appropriate long-term solutions.⁴ In a subsequent order, issued July 16, 2009, the Commission reiterated the need for long-term solutions, including regional market reforms, and required the NYISO to develop and file such a plan, in collaboration with its neighboring independent system operators (ISOs) and regional transmission organizations (RTOs).⁵

3. In response, the NYISO, in collaboration with PJM, the Midwest ISO and IESO, submitted a report on January 12, 2010 (NYISO Report) recommending the development and implementation of the following four initiatives:

■ Buy-Through of Congestion: the NYISO Report recommended the development and implementation of a Buy-Through Congestion proposal, an initiative designed to allocate a more complete and accurate measure of the costs caused by the scheduling of external transactions;

■ Market-to-Market Coordination: the NYISO Report recommended the development and implementation of a Market-to-Market coordination proposal, an initiative designed to reduce the costs of addressing transmission congestion within the region, based on the existing coordination program currently in place between the Midwest ISO and PJM;

■ Interface Pricing: the NYISO Report recommended the development and implementation of Interface Pricing revisions to address existing seams between markets that tend to exacerbate loop flows, an initiative that would require that the ISOs and RTOs around Lake Erie use similar methods to price interregional transactions, with one set of pricing rules applicable when the Ontario/Michigan PARs are effective in conforming actual power flows to scheduled power flows,

scheduling of external transactions over eight specified circuitous paths); *New York Independent System Operator, Inc.*, 125 FERC ¶ 61,184, at P 20 (2008) (November 17, 2008 Order) (order conditionally accepting proposal to make existing emergency routing restrictions permanent).

⁴ The Commission noted that these long-term solutions included the installation of such operational controls as phase angle regulators (PARs), an electrical device that helps control power flows by ensuring that actual and scheduled flows are closely aligned. *See* November 17, 2008 Order, 125 FERC ¶ 61,184 at P 20. In a companion proceeding, the Commission addressed cost allocation issues relating to the development and installations of these devices on the Michigan-Ontario interconnection. *See Midwest Independent Transmission System Operator, Inc.*, 133 FERC ¶ 61,275 (2010).

⁵ *New York Independent System Operator, Inc.*, 128 FERC ¶ 61,049 (2009).

and a different set of pricing rules applicable when the Ontario/Michigan PARs are not effective in conforming actual power flows to scheduled power flows; and

■ Enhanced Interregional Transaction Coordination: the NYISO Report recommended the development and implementation of Enhanced Interregional Transaction Coordination, an initiative designed to both reduce the exposure to congestion costs experienced by entities that schedule inter-balancing authority transactions and provide other financial benefits to participating markets.⁶

4. In an order issued July 15, 2010, the Commission found that these initiatives appeared to represent a constructive, workable framework for minimizing the occurrence of Lake Erie Region Loop Flows, but held that unanswered questions remained, including the projected deadlines applicable to the submission of required tariff changes and related agreements.⁷ The parties' responses to these questions were addressed by the Commission in the December 30, 2010 Order.

5. With respect to the Market-to Market initiative, the December 30, 2010 Order found that the NYISO can implement a Market-to-Market coordination agreement prior to finalization, by the North American Electric Reliability Corporation (NERC), of a parallel flow visualization tool.⁸ Specifically, the Commission found that the parallel flow visualization tool need not be in place in order to implement a Market-to-Market coordination agreement between the NYISO and its neighboring RTOs/ISO, given that the Midwest ISO and PJM currently use this type of agreement to manage loop flows between their systems. The Commission held that while the parallel flow visualization tool will provide additional data for analyzing loop flows, it is not a new technology. The Commission further noted that nothing in the record demonstrates that the NYISO cannot take advantage of the existing technology and data.

6. The Commission also directed the NYISO to prioritize Interface Pricing and Market-to-Market initiatives to address and resolve the price incentives that exacerbate Lake Erie loop flow. The Commission held that implementing these two initiatives sooner will be more cost effective than implementing all four initiatives at a later date.

⁶ See *New York Independent System Operator, Inc.*, 134 FERC ¶ 61,186 (2011) (order conditionally accepting proposed tariff changes to implement intra-hour transaction scheduling).

⁷ *New York Independent System Operator, Inc.*, 132 FERC ¶ 61,031 (2010).

⁸ The NYISO had proposed waiting for the NERC parallel flow visualization tool to be completed so that the same method of calculating market flows could be used by all participating ISOs and RTOs.

With respect to revised, firm deadlines, the Commission required that Interface Pricing be implemented concurrently for the Commission-jurisdictional RTO/ISOs by the second quarter of 2011. The Commission also required that the Market-to-Market initiative for the Commission-jurisdictional RTO/ISOs be implemented concurrently by the second quarter of 2011.

Request For Rehearing

7. The NYISO seeks rehearing of the Commission's directives requiring the NYISO to implement: (i) Interface Pricing by the end of the second quarter of this year; and (ii) Market-to-Market coordination by the end of the second quarter of 2011.

8. With respect to Interface Pricing, the NYISO argues that, without significant delays to its implementation of its Enhanced Interregional Transaction Coordination Initiative, its compliance with other regulatory obligations and its development of other important projects, it is not possible to meet the Commission's Interface Pricing deadline.⁹ The NYISO proposes, instead, to complete its interface pricing software by the end of 2011 for implementation by January 2012.¹⁰

9. In support of its request, the NYISO argues that its Enhanced Interregional Transaction Coordination initiative will provide greater system benefits than Interface Pricing and thus should not be given a lower development priority. In addition, the NYISO argues that its proposed timeline should provide time for RTOs and ISOs to: (i) review the actual, real-time operating effectiveness of the Ontario/Michigan PARs; (ii) determine if, and when, it will be necessary to switch pricing regimes to reflect the

⁹ The NYISO cites the following regulatory obligation requirements for 2011: (i) the Department of Energy's conditional authorization to implement smart grid technologies; (ii) the Commission's directive in Docket No. ER10-3043-000 regarding the implementation of buyer side installed capacity mitigation rules; (iii) the Commission's directive in Docket No. ER09-1142-000 regarding tariff revisions applicable to demand-side ancillary service provider aggregation; (iv) the Commission's directive in Order No. 741 regarding the shortening of the NYISO's settlement cycle; (v) the Commission's directive in Docket No. ER07-521-000 regarding invoice redesign as applicable to fixed-price transmission congestion contracts; and (vi) the Commission's directive in Docket No. EL09-68-000, *et al.* regarding tariff changes applicable to demand response in the real-time energy market.

¹⁰ Specifically, the NYISO proposes to: (i) complete software design by the end of the first quarter 2011; (ii) complete software development; tariff development and stakeholder review by the end of the third quarter 2011; and (iii) implement Interface Pricing by January 2012.

PARs effectiveness in conforming actual power flows to scheduled power flows at the Ontario/Michigan border; and (iii) develop procedures to ensure the interconnected markets use consistent pricing methods.

10. The NYISO also seeks rehearing of the Commission's directive requiring the NYISO to complete its proposed Market-to-Market initiative by the end of the second quarter of 2011. The NYISO states that the December 30, 2010 Order determined that waiting for the NERC parallel flow visualization tool to be completed was unnecessary and asserts that the Commission "instructed the NYISO to construct its own tools „on the existing framework developed and implemented by the Midwest ISO and PJM" by the end of the second quarter of 2011.¹¹ The NYISO argues that that Commission directive was erroneously based on statements made by Monitoring Analytics, LLC, PJM's independent market monitor (PJM IMM), regarding the timeframe in which the NYISO can develop and implement its Market-to-Market initiative. The NYISO argues that the PJM IMM is not an expert on the markets that the NYISO administers, the hardware and software that the NYISO relies on to operate its markets, or on the NYISO's outstanding regulatory compliance obligations. The NYISO argues that, as such, it was error for the Commission to rely on unsupported statements by the PJM IMM to determine what the NYISO can or cannot do, or to determine the timeframe in which the NYISO can complete its implementation of a new market rule or of a change to its market design.

11. The NYISO argues that because the PJM and New York markets operate on fundamentally different market platforms, the assumption that PJM software can readily be adapted for use by the NYISO is not credible. The NYISO asserts that, regardless of the platform used to operate Market-to-Market capability, the software infrastructure required to coordinate flowgate redispatch, accurately settle the resulting outcome, and validate the results, needs to be developed and implemented within the NYISO's infrastructure. The NYISO asserts that it must start largely from scratch in constructing its own, market-specific, market flow calculator to replace the functionality that PJM and the Midwest ISO have in place and that it is not possible to purchase and modify the existing market calculation and reporting tools in order to speed the Market-Market implementation process. The NYISO asserts that the December 30, 2010 Order makes clear that the Commission expects the NYISO to move forward with developing its own market flow calculator instead of waiting for completion of NERC's parallel flow visualization tool. The NYISO states that, while it is working with PJM to expeditiously and collaboratively develop the NYISO's market-specific, market flow calculation tool to implement Market-to-Market, it is not possible for the NYISO to both develop the market flow calculator by the second quarter 2011 and achieve implementation of Market-to-Market coordination with PJM in 2011.

¹¹ NYISO Request for Rehearing at 5-6 (*citing* December 30, 2010 Order, 133 FERC ¶ 61,276 at P 28 and 32).

12. The NYISO states that it has discussed its proposed Market-to-Market implementation schedule with PJM and that PJM agrees that it is not possible to implement this initiative by the date specified in the December 30, 2010 Order. The NYISO states, however, that it would be able to commit to a revised firm timeline.

13. First, the NYISO proposes, by the end of the third quarter 2011, to develop a market flow calculator (including the specification, development, testing, and implementation of the calculation engine, incorporating common treatment for PARs operational requirements and model representation) and to develop software specifications (including the completion of documentation defining changes necessary to administer real-time constraint coordination, settlement administration, audit and validation). Second, the NYISO proposes, by the end of the fourth quarter 2011, to file the joint operating agreement with the Commission. Third, the NYISO proposes, by the end of the second quarter 2012, to develop the necessary software (including all tools necessary to administer and settle Market-to Market outcomes and validate the results). Finally, the NYISO proposes, by the end of the fourth quarter 2012, to complete software validation (including finalized software development, software performance and completeness testing, process validation and operator training) and implement its initiative.

Discussion

A. Procedural Matters

14. On February 11, 2011, PJM filed an answer in support of the NYISO's rehearing request. Rule 713(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.713(d) (2011) prohibits an answer to a request for rehearing. On March 18, 2011, the NYISO filed a motion for extension of time to comply with the December 30, 2010 Order, pending Commission action on the NYISO's request for rehearing. Given our ruling below, we dismiss as moot the NYISO's motion.

B. Commission Determination

15. We grant rehearing of the December 20, 2010 Order, for the purpose of establishing revised timelines applicable to the NYISO's implementation of its Interface Pricing and Market-to-Market Coordination initiatives. Specifically, we adopt the timing benchmarks proposed by the NYISO in its rehearing request, based on the NYISO's representations, as summarized above. Given NYISO's past failure to meet deadlines in this proceeding,¹² and the ongoing market inefficiencies associated with not fully

¹² For example, on January 12, 2010, the NYISO presented a "Potential/Proposed" implementation timeline for developing the comprehensive solutions, which it failed to meet.

resolving the Lake Erie Loop Flow issues, we expect the NYISO to expend the necessary resources to meet all outstanding deadlines.

16. With respect to the Market-to-Market Coordination initiative, we want to be clear that in the December 30, 2010 Order, we did not intend to direct the NYISO to develop and use its own market flow tool, nor did we intend to direct the NYISO to abandon the NERC parallel flow visualization tool. In the December 30, 2010 Order, the Commission concluded that the NYISO should not delay implementation of the Market-to-Market Coordination initiative to wait for the NERC parallel flow visualization tool to be completed.¹³ While in this order we direct the NYISO to achieve Market-to-Market coordination with PJM in accordance with the schedule the NYISO has proposed, it may, but is not required to, develop and use an alternate tool of its own design in the interim to achieve that coordination. Nonetheless, we also expect the NYISO to continue to work within the NERC process to expeditiously pursue finalization of the NERC parallel flow visualization tool, and to use that tool once it is developed.

The Commission orders:

Rehearing of the December 30, 2010 Order is hereby granted, for the reasons discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

¹³ December 30, 2010 Order, 133 FERC ¶ 61,276 at P 28.