

137 FERC ¶ 61,229  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

New York Independent System Operator, Inc.

Docket No. ER04-449-024

ORDER ON CLARIFICATION

(Issued December 19, 2011)

1. The New York Independent System Operator (NYISO) administers the Installed Capacity (ICAP) market in the New York Control Area (NYCA). In this order the Commission grants clarification of its September 8, 2011 order<sup>1</sup> which, *inter alia*, accepted, in part, and rejected, in part, proposed criteria that would govern the evaluation and potential creation of new ICAP zones.

**Background**

2. The ICAP market uses NYISO-determined demand curves for each of three ICAP pricing zones; NYCA (or Rest-of-State), New York City (NYC, comprised of load zone J), and Long Island (LI, comprised of load zone K). The NYC and LI capacity zones are referred to as “locational” zones because they each have a separate requirement that a certain minimum percentage of the zone’s required generating capacity must be physically located within that zone.

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<sup>1</sup> *New York Indep. Sys. Operator, Inc.*, 136 FERC ¶ 61,165 (2011) (September 8, 2011 Order).

3. As part of its implementation of the 2007 Consensus Deliverability Plan<sup>2</sup> submitted to comply with the interconnection requirements of Order No. 2003,<sup>3</sup> NYISO proposed that “NYISO staff and market participants will work collaboratively to develop over the next three years criteria for the potential formation of additional locational ICAP zones.”<sup>4</sup> On January 4, 2011, NYISO and the New York Transmission Owners (NYTOs)<sup>5</sup> filed proposed Criteria and Considerations that would govern the evaluation and potential creation of new ICAP zones in NYCA.

4. In the September 8, 2011 Order, the Commission accepted the proposed Criteria subject to modification, rejected the proposed Considerations, and directed NYISO to file tariff revisions that implement the approved Criteria within 60 days of the date of the order.<sup>6</sup> In particular, as relevant here, the Commission agreed with protestors that the NYISO proposal was not just and reasonable because it failed to adequately recognize binding transmission constraints in the capacity market. The Commission found that:

NYISO should use the methodology contained in the existing Attachment S Deliverability Test in section 25.7.8 of Attachment S to the NYISO [Open Access Transmission Tariff] in determining whether to create new zones. That is, a new zone should be created when the total transmission transfer capability (including any upgrades that would be required to be built to

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<sup>2</sup> See NYISO and the New York Transmission Owners, *Consensus Deliverability Plan*, Docket No. ER04-449-003, *et al.* (filed October 5, 2007) (Consensus Deliverability Plan).

<sup>3</sup> *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. ¶ 31,146 (2003), *order on reh’g*, Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160, *order on reh’g*, Order No. 2003-B, FERC Stats. & Regs. ¶ 31,171 (2004), *order on reh’g*, Order No. 2003-C, FERC Stats. & Regs. ¶ 31,190 (2005), *aff’d sub nom. Nat’l Ass’n of Regulatory Util. Comm’rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007), *cert. denied*, 552 U.S. 1230 (2008).

<sup>4</sup> Consensus Deliverability Plan at P 19.

<sup>5</sup> The NYTOs are 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 & Rockland Utilities, Inc., Rochester Gas and Electric Corporation, and Niagara Mohawk Power Corporation.

<sup>6</sup> For a more detailed discussion of the Criteria and Considerations, *see* September 8, 2011 Order, 136 FERC ¶ 61,165 at P 4-7.

make new resources capacity-qualified) is insufficient to allow all of the capacity resources in a pre-existing zone to be deliverable throughout the pre-existing zone.<sup>7</sup>

5. On October 11, 2011, NYISO filed a request for clarification or, in the alternative, rehearing of the September 8, 2011 Order.

**Request for Clarification or, in the Alternative, Rehearing**

6. NYISO requests clarification of paragraph 52 of the September 8, 2011 Order, which directs NYISO to use the methodology contained in the existing Attachment S Deliverability Test in section 25.7.8 of Attachment S to the NYISO OATT in determining whether to create new zones. NYISO states that section 25.7.8 sets forth the deliverability test methodology that NYISO uses to determine the capacity deliverability of class year projects<sup>8</sup> over Highway facilities and Byway facilities<sup>9</sup> (Deliverability Test<sup>10</sup>), but it also contains, in subsection 25.7.8.2.14, criteria to perform an additional assessment of the aggregate system impact of class year projects on Highway facilities (the “Project Impact Assessment”). NYISO states that only the application of the Deliverability Test methodology to Highway facilities is relevant to the consideration of new capacity zones, for the reasons discussed below. NYISO requests that the Commission clarify that the directive to use the “existing Attachment S Deliverability Test in section 25.7.8” is intended to require NYISO to propose compliance tariff modifications that provide that the Deliverability Test in section 25.7.8 will be applied to

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<sup>7</sup> September 8, 2011 Order, 136 FERC ¶ 61,165 at P 52.

<sup>8</sup> Class year projects consist of the group of projects that make up the Annual Transmission Reliability Assessment and Class Year Deliverability Study for new interconnection projects conducted in accordance Attachment S of the NYISO OATT.

<sup>9</sup> NYISO states that, as defined in Attachment S of the NYISO OATT, Highway facilities are the major transmission interfaces between the nine Load Zones within the currently defined Rest-of-State capacity region, and include, as immediately connected, in series, Bulk Power facilities in New York State, whereas Byway facilities are those transmission facilities that are neither Highways nor Other Interfaces. NYISO October 11, 2011 Filing at 4-5. *See* NYISO OATT, Attachment S, section 25.1.2. All transmission facilities in NYISO Zones J and K are defined as Byways. *Id.*

<sup>10</sup> NYISO defines deliverability as the ability to deliver the aggregate of NYCA capacity resources to the aggregate of the NYCA load under summer peak conditions. *See* section 25.7.8.1 of Attachment S to the NYISO OATT.

Highway facilities to determine whether constraints exist that warrant the creation of new capacity zones.

7. NYISO contends that this understanding of the September 8, 2011 Order is consistent with the Market Monitoring Unit's (MMU) comments<sup>11</sup> and no other party to the proceeding proposed that the new capacity zone analysis utilize the assessment of Byway facilities. Further, according to NYISO, this exclusive application of the Deliverability Test methodology to Highway facilities is consistent with the Commission's acceptance of NYISO's proposal to evaluate whether to establish new capacity zones with the same boundaries as existing NYCA load zones.<sup>12</sup> NYISO adds that the assessment of Highway facilities by applying the Deliverability Test methodology in section 25.7.8 will provide the information necessary to determine whether inter-zonal constraints exist necessitating the creation of new Capacity zones while the assessment of Byway facilities would not provide an indication of whether the transmission system interfaces between load zones are constrained.

8. NYISO also requests clarification that the Commission did not intend to require the application of the Project Impact Assessment, which is contained in the last subsection of section 25.7.8 of Attachment S. NYISO argues that the Project Impact Assessment is not intended to identify whether there are constraints between load zones but rather is a comparative analysis performed to determine whether proposed projects reduce the transfer capability of Highways when compared against a defined baseline system. According to NYISO, the test is only meaningful when identifying the impact of a particular project or group of projects on the transfer capability of Highways, and as such, is not useful in identifying constraints between load zones and should not be required when evaluating the need for a new capacity zone.

9. NYISO states that, in the alternative, it requests rehearing because the Commission erred to the extent it is intending to require NYISO to perform all assessments that are part of section 25.7.8 of OATT Attachment S because those assessments provide no information necessary to the determination of whether new capacity zones should be created. Also, according to NYISO, reading paragraph 52 of the September 8, 2011 Order to require NYISO to assess Byway facilities would make the September 8, 2011 Order internally inconsistent because the Commission accepted NYISO's proposal to create new capacity zones that are concurrent with existing load

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<sup>11</sup> NYISO October 11, 2011 Filing at 4 (citing MMU Comments, Docket No. ER04-449-022 (filed January 25, 2011)).

<sup>12</sup> NYISO October 11, 2011 Filing at 4 (citing September 8, 2011 Order, 136 FERC ¶ 61,165 at P 66).

zones. NYISO states that, the Commission has acknowledged that currently the administrative and developmental costs that would be incurred to implement sub-zonal capacity zones outweigh the benefits.

### **Commission Determination**

10. We grant clarification that the section 25.7.8 Highway Capacity Deliverability Test methodology to be used in the context of determining whether a new capacity zone is needed should only be that test in section 25.7.8 which applies to Highway facilities.

11. We grant NYISO's requested clarification because the discussion of the new capacity zone determination in the September 8, 2011 Order pertained solely to Highway facilities, as indeed noted by the heading of the section of the order to which NYISO refers—IV.B.1.a. Highway Capacity Deliverability Test. As NYISO states, new capacity zones, when established, are based on the configuration of the existing load zones and the evaluation of the major transmission interfaces that link the load zones, which are by definition Highway facilities. We agree with NYISO that the evaluation of Byways in this context is not relevant to the evaluation of new capacity zones that use the same boundaries as NYISO's existing load zones. Further, the impact assessment to which NYISO refers is used to determine whether class year projects degrade interface transfer capability as compared to a baseline. We agree that this assessment is not useful in identifying zonal constraints between the 11 load zones. As NYISO points out, the Commission found that the purpose of creating new capacity zones is to enable selection and pricing of capacity considering all constraints that exist.<sup>13</sup> Neither the Byway evaluations nor the impact assessment are useful for the purpose of identifying constraints between the 11 load zones. Accordingly we agree with NYISO that only the Highway application of the section 25.7.8 deliverability test methodology is necessary in determining whether to create new zones from the existing load zones.<sup>14</sup>

12. Therefore, while certain of the provisions of section 25.7.8 set forth that NYISO shall evaluate Byways and shall also conduct tests including an impact assessment, we confirm that these provisions are not relevant to the discussion in the September 8, 2011 Order which pertains solely to the provisions of section 25.7.8 that concern Highway

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<sup>13</sup> September 8, 2011 Order, 136 FERC ¶ 61,165 at P 58.

<sup>14</sup> We note that NYISO states that, if at some point in the future, in compliance with the September 8, 2011 Order, existing Load Zones are to be subdivided, assessment of Byway facilities may be appropriate. NYISO October 11, 2011 Filing at 5, note 17. We are not asked to render a ruling on that issue here and will address it if and when it arises in the future.

facilities in determining the need for new capacity zones. Accordingly, we grant NYISO's clarification request.

The Commission orders:

NYISO's request for clarification is hereby granted, as discussed in the body of this order.

By the Commission. (

S E A L )

Kimberly D. Bose,  
Secretary.