

March 23, 2018

By Electronic Delivery

Honorable Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

**Re: New York Independent System Operator, Inc.'s Proposed Services Tariff
Amendments Related to Market Party Fuel Cost Adjustments;
Docket No. ER18-____-____**

Dear Ms. Bose:

Pursuant to Section 205 of the Federal Power Act,¹ and Part 35 of the regulations of the Federal Energy Regulatory Commission (“Commission”),² the New York Independent System Operator, Inc. (“NYISO”) hereby submits proposed amendments to its Market Administration and Control Area Services Tariff (“Services Tariff”), including to the Market Power Mitigation Measures (“MMM”) that are set forth in Section 23 of (Attachment H to) the Services Tariff. The proposed amendments revise the NYISO’s two methods to address cases where Market Parties³ submit inaccurate fuel type or fuel price information in Fuel Cost Adjustments (“FCA”) for their Generators. The FCA functionality allows Generators to include fuel type or fuel price information when submitting energy offers into the markets. The FCA-related Services Tariff revisions proposed in this filing:

- (a) revise the NYISO’s after-the-fact mitigation measure that applies to the submission of inaccurate fuel type or fuel price information that was biased in the Market Party’s favor, including the definition of what constitutes “bias”; and
- (b) revise the real-time conduct test, impact test, and penalty calculation for misuse of the FCA functionality to align with the more precise Day-Ahead conduct test, impact test, and penalty calculation.

The NYISO also proposes minor revisions to Services Tariff language related to cost recovery for Generators that primarily consume natural gas but are required to either burn an

¹ 16 U.S.C. §824d.

² 18 C.F.R. § 35 *et seq.* (2017).

³ Capitalized terms that are not otherwise defined herein shall have the meaning specified in the Services Tariff or in the Market Power Mitigation Measures that are set forth in Section 23 of (Attachment H to) the Services Tariff.

alternate fuel, or be capable of automatically switching over to an alternate fuel, under certain conditions, to help ensure reliable service to loads in New York City and on Long Island. The proposed revisions will require Market Participants to update Minimum Oil Burn Compensation Program cost components when the tax rates that affect a participating resource change.

I. Documents Submitted

1. This filing letter;
2. A clean version of the proposed revisions to the NYISO's Services Tariff ("Attachment I"); and
3. A blacklined version of the proposed revisions to the NYISO's Services Tariff ("Attachment II").

II. Background and Justification

A. Reference Level and Fuel Cost Adjustment Background

The NYISO's Services Tariff addresses the development of reference levels. Dollar-denominated reference levels, such as start-up, minimum generation and incremental energy reference levels, are generally intended to reflect a Generator's marginal cost of providing a service.⁴ Several of the rules addressing the development of reference levels expressly require the NYISO to adjust reference levels to reflect changes in the price of the fuel that a Generator must consume.⁵ Even where the NYISO is not expressly required by the Tariff to fuel index a particular type of reference level, it may incorporate fuel costs to more accurately reflect Generators' marginal costs.

The NYISO has the ability to use up-to-date fuel type and fuel price information submitted by Market Parties to calculate reference levels for Generators that are committed in the Day-Ahead Market or the Real-Time Market.⁶ The NYISO reference level software ("RLS") allows Market Parties to submit fuel type and/or fuel price information with the Bids they submit for their Generators. This information is relevant to fuel-indexing the reference levels of Generators when fuel prices are volatile and for Generators that can burn more than one fuel type (e.g., natural gas or oil), that can burn different fuel blends, or that can draw from multiple fuel sources (pipelines) with distinct prices.⁷

⁴ See, e.g., Services Tariff Sections 23.3.1.4.1.1(iii), 23.3.1.4.1.2(iv), 23.3.1.4.1.3, 23.4.2.1.

⁵ See, e.g., Services Tariff Sections 23.3.1.4.1.1, 23.3.1.4.1.2, 23.3.1.4.4.1.

⁶ *New York System Operator, Inc.*, 132 FERC ¶ 61,270 (2010); *New York Independent System Operator, Inc.*, Letter Order, Docket No. ER10-2062-001 (Dec. 21, 2010); *New York Independent System Operator, Inc.*, Letter Order, Docket Nos. ER14-1735-000 and ER14-1735-001 (June 27, 2014).

⁷ See *New York System Operator, Inc.*, 132 FERC ¶ 61,270 at fn 4 (2010) ("For example, if a Generator has indicated that it usually buys gas at either the 'Transco Zone Six New York' spot price or at the 'Algonquin City

Fuel type and fuel price information that is used to determine a Generator's reference levels can directly impact market clearing prices or a particular Generator's guarantee payment compensation. Because fuel costs are incorporated into a Generator's reference levels, applying mitigation will not prevent a Generator that submits inaccurate fuel price or fuel type information from receiving a financial benefit. For this reason, the NYISO employs two methods to address cases where Market Parties submit inaccurate fuel type or fuel price information for their Generators. The first method is to review fuel type and fuel price submission for bias in the submitting entity's favor over a period of time (currently, over a period of at least one week). The second method is to penalize Market Parties for the submission of inaccurate fuel type and/or fuel price information that causes an LBMP or guarantee payment impact.

B. Proposed Modifications to Bias Test Applied to Inaccurate Fuel Type and/or Fuel Price Submissions

Currently, the NYISO will cease using the fuel type and fuel price information submitted with the Bids for a Generator if a Market Party submits inaccurate fuel type or fuel price information that is determined to be biased in the submitting entity's favor, measured over a period of at least one week.⁸ Bias is found if: (1) the fuel type that a Market Party submits is not the most economic fuel type available and, as a result of the fuel type change, the fuel price used to develop reference levels exceeded the fuel price that the NYISO would have used to develop reference levels by greater than 10%, on average, over a seven day period; or (2) the fuel price that a Market Party submits exceeded the greater of the actual price (as substantiated by supplier quotes, invoices or gas tariff requirements) or the NYISO's indexed fuel price by greater than 10%, on average, over a seven day period. The first time the NYISO determines that a Market Party submitted biased fuel type or fuel price information, the NYISO ceases using the fuel type and fuel price information submitted with the Generator Bids for a period of 60 days.⁹ Each subsequent time the NYISO determines biased information was submitted, it ceases using the fuel type and fuel price information submitted with the Generator Bids for a period of 180 days, until the Market Party remains continuously eligible to submit fuel type and fuel price information in the Day-Ahead Market or in the Real-Time Market (as appropriate) for a period of one year or more. After a Market Party remains continuously eligible to submit fuel type and fuel price information for a period of a year or more, the number of days over which bias mitigation is imposed is reset. A determination of bias will, again, be considered the first time that NYISO determines bias, resulting in a new 60 day bias mitigation period.

The NYISO proposes several improvements to the fuel type or fuel price bias review, including changes to the repercussions when NYISO finds that biased fuel price or fuel type information was submitted. The NYISO proposes to expand the period of time examined when

Gates' spot price, and both fuels are included by the NYISO on the Generator's pre-approved list of available fuels, a change by the Generator from one pipeline to the other would constitute a change in fuel 'type.'").

⁸ See Services Tariff Section 23.3.1.4.6.9.

⁹ During this time Market Parties may still notify the NYISO of changes in fuel type or fuel price by directly contacting the NYISO to request a reference level update consistent with ISO procedures. See Services Tariff Section 23.3.1.4.6.4.

determining that a Market Party's actions were biased and to require a minimum number of hours in which FCAs were submitted for the relevant Generator. The NYISO also proposes revisions to the threshold used to determine bias and to the periods of time for which the NYISO will cease considering the fuel type and fuel price information submitted with the Bids for the mitigated Generator following a determination that impermissibly biased fuel cost information was submitted.

The NYISO proposes to review all fuel type submissions and fuel price submissions over the previous 90 days when determining whether FCA submissions were biased in a Market Party's favor. The NYISO also proposes to require as a precondition to testing for bias that Generators must have submitted at least 100 hours of fuel type adjustments or 100 hours of fuel price adjustments during the previous 90 days. Fuel type submissions and fuel price submissions are reviewed independently, such that, a Market Party must submit at least 100 hours of fuel type adjustments over the previous 90 days to be subject to a bias review for submitting inaccurate fuel type adjustments. Similarly, a Market Party must submit at least 100 hours of fuel price adjustments over the previous 90 days to be subject to a bias review for submitting inaccurate fuel price adjustments. Increasing the review period, from seven days to 90 days, and adding the proposed required minimum 100 hours of FCA submissions will ensure that NYISO has enough data to determine that a Market Party's FCA submissions are inappropriately biased. The current seven-day review set, with no minimum number of FCA submission hours, can obligate the NYISO to draw conclusions about bidding behavior based on a single FCA submission affecting reference levels for one hour, and require the NYISO to cease using a Market Party's submitted fuel type or fuel price adjustments for 60 days or more as a consequence.

The NYISO proposes to replace the 10% threshold that is set forth in the Tariff to identify bias¹⁰ with a threshold that is the greater of 10% or \$0.50/MMBtu. The NYISO determines bias if the fuel type submitted is not the most economic fuel type available and, as a result of the fuel type change, the fuel price used to develop reference levels exceeded the fuel price that the NYISO would have used to develop reference levels by greater than the specified threshold, on average, or the fuel price submitted exceeded the greater of the actual price (as substantiated by supplier quotes or invoices) or the NYISO's indexed fuel price by greater than the specified threshold, on average, over a defined period. The static 10% threshold the NYISO currently employs has become increasingly restrictive as natural gas prices have declined and remained low. The NYISO, therefore, proposes to define the bias threshold as the greater of 10% or \$0.50/MMBtu. The proposed threshold will prevent the NYISO from determining bias when a Market Party's FCAs were less than \$0.50/MMBtu above the fuel price that NYISO would have used to develop reference levels.

The NYISO proposes to allow the Market Party an opportunity to demonstrate to the NYISO, acting in consultation with its Market Monitoring Unit ("MMU"), that the submitted FCAs were consistent with competitive behavior even when the difference between the FCA and the actual fuel cost exceeds the proposed threshold. The NYISO Services Tariff provides the

¹⁰ See Services Tariff Sections 23.3.1.4.6.9.5 and 23.3.1.4.6.9.6.

opportunity for consultation before other types of mitigation are applied.¹¹ When it determines mitigation may be warranted, the NYISO contacts the Market Party engaging in the identified conduct to request an explanation of the conduct.¹² If the Market Party's explanation of the reasons for its bidding indicates to the satisfaction of the NYISO, after review and comment by the MMU, that the questioned conduct is consistent with competitive behavior, no further action will be taken.¹³ The NYISO proposes to engage in a similar process when a Market Party's bidding behavior and FCA values result in a determination that the Market Party exceeded the bias threshold. The revisions proposed herein will allow the Market Party to demonstrate that the fuel type or fuel price information it submitted was developed in a manner that is consistent with competitive behavior. When a Market Party successfully demonstrates to the NYISO, with review by the MMU, that its submission was developed in a manner that is consistent with competitive behavior, the NYISO will not cease using the fuel type and fuel price information submitted with the Bids for a Generator.

The NYISO's final proposed change related to FCA bias determinations is to modify how long NYISO must cease using a Market Party's FCAs after it determines that biased fuel type or fuel price information was submitted. Currently, the ban on submitting fuel price or fuel type information is applied for 60 days after the first failure and 180 days for each subsequent failure. The NYISO proposes a more graduated series of bans, which was requested by stakeholders and further developed in the NYISO stakeholder process. The first time the NYISO determines that FCAs are biased in the submitting entity's favor, the NYISO will cease using the fuel type and fuel price information submitted with Bids for a period of 30 days. The ban doubles to 60 days the second time the NYISO determines FCA bias. Each subsequent determination will result in the NYISO ceasing to use the fuel type and fuel price information submitted with Bids for a period of 120 days. Similar to today, after a Market Party remains continuously eligible to submit fuel type and fuel price information for at least one year, a determination of bias will be reset to a 30 day prohibition.

C. Penalty for Submission of Inaccurate Fuel Type and/or Price Information

The NYISO currently applies a penalty when (1) a Market Party submits inaccurate fuel price and/or fuel type information for one or more Generator(s), and (2) the inaccurate information is used by the NYISO to develop reference levels for the Generator(s), and (3) the resulting inaccurately developed reference levels permit the Market Party to Bid the Generator(s) in a manner that increases the guarantee payments to one or more of the Market Party's Generators, or the market clearing prices at the Market Party's Generator locations, by the thresholds specified in Services Tariff Section 23.3.2.1 for at least one of the Market Party's Generators. The current penalty formulas are different for Day-Ahead Market FCA violations and Real-Time Market FCA violations.¹⁴

¹¹ See Services Tariff Section 23.3.3.1.

¹² See Services Tariff Section 23.3.3.1.1.

¹³ See Services Tariff Section 23.3.3.1.3.

¹⁴ See Services Tariff Sections 23.4.3.3.3.3 and 23.4.3.3.4.

The Day-Ahead penalty calculation is based on the change to the Market Party's Day-Ahead Market compensation caused by the use of inaccurate reference level(s) in the Day-Ahead Market, including changes in LBMP at the location(s) of all of the Market Party's Generator(s), changes in the Market Party's BPCG revenues for its Generators, and any increase in the Market Party's TCC revenues. The penalty calculation does not permit losses by the Market Party in the TCC market to offset increased LBMP or guarantee payment revenues. The NYISO calculates the penalty by re-running the Day-Ahead Market with corrected reference levels substituted for the reference levels that were calculated using inaccurate fuel type or fuel price information. The NYISO also applies a multiplier of 1* or 1.5* to certain components of the penalty calculation, based on when the last penalty was issued to the Market Party.¹⁵

The current Real-Time Market penalty differs from the Day-Ahead penalty calculation because, at the time this functionality was developed, the NYISO was not able to re-run its Real-Time Market in an integrated manner to determine the full market impact that a Market Party's submission of inaccurate fuel type or fuel price information caused. The real-time penalty calculation uses the difference between the inaccurate reference level that was originally used to evaluate the Generator's Real-Time Market Bids and the corrected reference level to approximate the LBMP impact of the Market Party's behavior for each affected Generator. The NYISO also performs a simplified guarantee payment impact calculation to estimate the impact that the submission of incorrect fuel type or fuel price information had on real-time Bid Production Cost guarantee payments to affected Generators.

Because the NYISO is now capable of re-running its Real-Time Market in an integrated manner, the NYISO proposes to modify the Real-Time conduct and impact tests and penalty calculation for misuse of the FCA functionality to employ the more precise Day-Ahead conduct and impact tests, and penalty calculation. The NYISO proposes to use the Day-Ahead Market conduct and impact tests, and penalty calculation rules to determine Day-Ahead and Real-Time Market penalties for misuse of the FCA functionality. The NYISO will perform market re-runs separately for the Day-Ahead Market and Real-Time Market and will then calculate separate penalties for any FCA misuse in the Day-Ahead Market and Real-Time Market.

III. Description of Proposed Services Tariff Revisions

A. Services Tariff Section 23.3.1.4.6.9

The NYISO proposes revisions to Section 23.3.1.4.6.9 of the Services Tariff to implement the FCA bias test changes proposed in Section II.B. of this filing letter. In particular, the NYISO proposes the following changes:

Section 23.3.1.4.6.9 – the proposed revisions to this section remove the one week time period used in the current bias determination analysis and set forth the opportunity for Market Parties to

¹⁵ See Services Tariff Sections 23.4.3.3.3.3 and 23.4.3.3.4.

demonstrate to the NYISO and its MMU that the submitted FCAs were developed consistent with competitive behavior.

Sections 23.3.1.4.6.9.1 and 23.3.1.4.6.9.2 – set forth the proposed modifications to the time periods that NYISO must cease using a Market Party’s FCAs after submission of inaccurate fuel type or fuel price information and a NYISO determination that submissions were biased in the Market Party’s favor. The proposed changes are described on page 5 of this filing letter.

Section 23.3.1.4.6.9.5 – sets forth the proposed revisions to the NYISO’s bias analysis. The proposed revisions in this section include new or modified requirements: (1) to review all fuel type submissions and fuel price submissions over the previous 90 days when performing the bias test; (2) to require that at least 100 hours of fuel type adjustments or 100 hours of fuel price adjustments were submitted during the previous 90 days as a prerequisite to a finding of bias; and (3) to modify the threshold to be the greater of a 10% or \$0.50/MMBtu increase in the fuel price used to develop reference levels.

B. Services Tariff Section 23.4.3.3

The NYISO proposes revisions to Section 23.4.3.3 of the Services Tariff to implement the FCA misuse penalty calculation changes proposed in Section II.C. of this filing letter. In addition to the proposed revisions described below, the NYISO proposes ministerial changes throughout this section, such as the addition of section headers to identify when the subject matter being addressed changes and corrected capitalization of defined terms.

Section 23.4.3.3.3 – NYISO proposes ministerial revisions to address changes that the New York State Reliability Council (“NYSRC”) has made to the numbering system it uses to designate its Reliability Rules. The NYISO proposes to replace an outdated reference to Local Reliability Rules I-R3 and I-R5 with a reference to “Cost Recovery for Units Responding to Local Reliability Rules Addressing Loss of Generator Gas Supply.”

Section 23.4.3.3.3.1 – sets forth the conduct and impact tests that must be exceeded for a penalty to apply. The proposed revisions throughout this section will apply the existing Day-Ahead conduct and impacts tests, which have existed since 2010,¹⁶ to the Real-Time Market in addition to the Day-Ahead Market.

Sections 23.4.3.3.3.2 and 23.4.3.3.3.4 – set forth the original real-time conduct and impact tests for a penalty to apply and the Real-Time Market penalty calculation. The NYISO proposes to delete both of these sections in their entirety because the proposed revisions to Sections 23.4.3.3.3.1 and 23.4.3.3.3.2 (as renumbered herein) will now address the conduct and impact tests and the penalty calculations for both the Day-Ahead and Real-Time Markets.

Section 23.4.3.3.3.2 (as renumbered in the proposed tariff revisions) – sets forth the Day-Ahead Market and Real-Time Market penalty calculation. The daily penalty formula has been used for

¹⁶ See *New York System Operator, Inc.*, 132 FERC ¶ 61,270 (2010) and *New York Independent System Operator, Inc.*, Letter Order, Docket No. ER10-2062-001 (Dec. 21, 2010).

Day-Ahead Market penalties since 2010.¹⁷ The revisions proposed herein provide that the NYISO will use this penalty section to calculate daily penalties separately for the Day-Ahead Market and Real-Time Market, as required, based on the respective conduct and impact tests. The proposed revisions also define each term of the penalty formula for both the Day-Ahead and Real-Time Markets and apply the existing 1.5 multiplier, for multiple penalties in a six month time period, to the entire penalty calculation as opposed to just the first two terms of the penalty formula.

C. Services Tariff Section 4.1.9.2

The NYISO proposes minor revisions to Services Tariff Section 4.1.9.2 to require Market Participants to update Minimum Oil Burn Compensation Program cost components when the tax rates that affect a participating resource change. The NYISO uses the most up-to-date data in its possession to calculate the payments for the Minimum Oil Burn program, which will include any Market Participant-submitted cost component updates when tax rates change.

IV. Requested Effective Date

The NYISO respectfully requests that the proposed tariff revisions become effective on May 23, 2018 (i.e., the day following the end of the statutory 60-day notice period).

V. NYISO Stakeholder Review and Board of Directors Approval

The NYISO's Management Committee approved, by a show of hands with one abstention, the proposed Services Tariff revisions on October 25, 2017. The NYISO Board of Directors approved these proposed Services Tariff revisions on November 13, 2017.

VI. Communications and Correspondence

All communications and service in this proceeding should be directed to:

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¹⁷ See Id.

VII. Service

The NYISO will send an electronic link to this filing to the official representative of each of its customers, to each participant on its stakeholder committees, to the New York Public Service Commission, and to the New Jersey Board of Public Utilities. In addition, the complete filing will be posted on the NYISO's website at www.nyiso.com.

VIII. Conclusion

The NYISO respectfully requests that the Commission accept its proposed Services Tariff revisions for filing.

Respectfully submitted,

/s/ James H. Sweeney

James H. Sweeney, Senior Attorney
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