

July 20, 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.*, ER18-____-000;
Proposed Revisions to Implement Historic Fixed Price TCC
Extensions**

Dear Secretary Bose:

In accordance with Section 205 of the Federal Power Act¹ and Part 35 of the regulations of the Federal Energy Regulatory Commission (“Commission”), the New York Independent System Operator, Inc. (“NYISO”) submits proposed revisions to its Open Access Transmission Tariff (“OATT”) and Market Administration and Control Area Services Tariff (“Services Tariff”) to provide Load Serving Entities (“LSEs”) the opportunity to extend the term of their Historic Fixed Price Transmission Congestion Contracts (“TCCs”) following the expiration of the initial full term thereof.²

The NYISO Management Committee approved the proposed revisions on June 26, 2018. The NYISO respectfully requests that the proposed revisions become effective on September 19, 2018 (*i.e.*, the day following the end of the statutory 60-day notice period).

I. Documents Submitted

The NYISO respectfully submits the following documents with this filing letter:

1. A clean version of the proposed revisions to the OATT (“Attachment I”);
2. A blacklined version of the proposed revisions to the OATT (“Attachment II”);
3. A clean version of the proposed revisions to the Services Tariff (“Attachment III”); and

¹ 16 U.S.C. § 824d.

² Capitalized terms not otherwise defined herein shall have the meaning specified in the OATT and the Services Tariff.

4. A blacklined version of the proposed revisions to the Services Tariff (“Attachment IV”).

II. Background

The NYISO implemented Historic Fixed Price TCCs as part of its compliance with Order Nos. 681 and 681-A.³ This product provides LSEs that received transmission service pursuant to longer-term transmission service agreements that pre-dated the NYISO’s commencement of operations (referred to herein as “grandfathered transmission agreements”)⁴ the right to obtain Historic Fixed Price TCCs upon the expiration or termination of such grandfathered transmission agreements.⁵ Historic Fixed Price TCCs provide eligible LSEs with a means to hedge congestion costs associated with their long-term power supply arrangements. These instruments generally have an initial term of 10 years, except in certain limited cases, as specified in Section 19.2.1.1 of Attachment M of the OATT, where a 12-year initial term was provided.

The first Historic Fixed Price TCCs awarded by the NYISO took effect on November 1, 2008. These Historic Fixed Price TCCs are currently scheduled to permanently expire on October 31, 2018 (*i.e.*, the Historic Fixed Price TCCs remain valid through and including October 31, 2018 but will no longer be in effect on November 1, 2018). The NYISO also awarded a material number of Historic Fixed Price TCCs that took effect on November 1, 2009 and are currently scheduled to permanently expire on October 31, 2019. In total, 39 LSEs currently holding active Historic Fixed Price TCCs will be affected by the expirations scheduled to occur this year and next.⁶

The OATT currently does not provide any right for LSEs that have purchased Historic Fixed Price TCCs to extend or renew these instruments beyond the initial full term thereof (*i.e.*, 10 or 12 years). In light of the pending expirations, affected LSEs requested that the NYISO explore options to allow for extensions of Historic Fixed Price TCCs. LSEs currently facing permanent expiration of their Historic Fixed Price TCCs in 2018 and 2019 expressed an ongoing

³ *Long-Term Firm Transmission Rights in Organized Electricity Markets*, Order No. 681, 116 FERC ¶ 61,077 (2006); and *Long-Term Firm Transmission Rights in Organized Electricity Markets*, Order No. 681-A, 117 FERC ¶ 61,201 (2006).

⁴ The grandfathered transmission agreements are set forth in Table 1A of Attachment L of the OATT.

⁵ *See, e.g., New York Independent System Operator, Inc.*, 123 FERC ¶ 61,044 (2008); Docket No. ER07-521-003, *New York Independent System Operator, Inc.*, Compliance Filing (May 16, 2008); *New York Independent System Operator, Inc.*, 125 FERC ¶ 61,206 (2008); and *New York Independent System Operator, Inc.*, 127 FERC ¶ 61,042 (2009).

⁶ The affected LSEs are municipal electric utilities and rural electric cooperatives. These LSEs all have ongoing long-term power supply agreements with the New York Power Authority (“NYPA”) that include the purchase of low-cost hydroelectric power for use in serving the needs of their respective retail customers. Availability of power supply arrangements with NYPA for these LSEs is provided by law (*see, e.g.*, New York Public Authorities Law § 1005).

need for the congestion hedging provided by these instruments in light of their continuing long-term power supply arrangements. The NYISO also previously committed to explore extension options with its stakeholders.⁷

The NYISO, in collaboration with its stakeholders, developed this proposal to provide an opportunity for LSEs to extend the term of their Historic Fixed Price TCCs following expiration of the initial full term thereof. The proposal does not affect or otherwise revise any rules related to Historic Fixed Price TCCs during their initial full term. The proposal establishes a new product offering that will only be available after the initial full term of any such Historic Fixed Price TCCs has expired.

III. Description of the Proposed Tariff Revisions

The proposed tariff revisions provide a right for certain LSEs that have purchased Historic Fixed Price TCCs to extend the term thereof for one year at a time following the expiration of their initial full term. This extension opportunity provides for the use of updated pricing for each one-year extension. The refreshed pricing is intended to ensure that the purchase price for extensions remains consistent with current market conditions, as reflected in NYISO-administered TCC auction results.

The proposed Historic Fixed Price TCC extension product addresses the interest expressed by LSEs to extend the term of their Historic Fixed Price TCCs in light of their ongoing need for such instruments. The proposed extension product also provides for the continued availability of a congestion-hedging instrument for LSEs with long-term power supply arrangements, consistent with the intent of Order Nos. 681 and 681-A.

A. Section 19.2.1.4 of Attachment M of the OATT

The NYISO proposes to add a new Section 19.2.1.4 to Attachment M of the OATT to describe the terms and conditions for Historic Fixed Price TCC extensions.

Historic Fixed Price TCC extensions will generally be available only to LSEs that purchase Historic Fixed Price TCCs and retain them for the entirety of their initial full term.⁸ The proposed tariff revisions, however, provide for a limited exception to this general rule. This limited exception addresses certain LSEs that previously elected to terminate their Historic Fixed Price TCCs prior to the expiration of the initial full term thereof. The limited exception applies only to LSEs that: (i) purchased Historic Fixed Price TCCs; and (ii) elected to terminate their

⁷ See, e.g., Docket No. ER07-521-000, *New York Independent System Operator, Inc.*, Post-Technical Conference Reply Comments of the New York Independent System Operator, Inc. at 5-6 (November 9, 2007); and *New York Independent System Operator, Inc.*, 123 FERC ¶ 61,044 at P 63 (2008).

⁸ Certain LSEs may hold more than one set of Historic Fixed Price TCCs. The proposed tariff revisions, therefore, clarify that eligibility to purchase Historic Fixed Price TCC extensions is determined separately for each set of Historic Fixed Price TCCs held by a LSE.

Historic Fixed Price TCCs early, and such early termination occurred prior to the development of the extension proposal. This limited category of LSEs will also be deemed eligible to purchase extensions.⁹ This limited exception is intended to recognize that these LSEs did not have knowledge that their prior decision to terminate their Historic Fixed Price TCCs early would also adversely impact their eligibility to potentially later pursue extensions thereof. As such, these LSEs were not provided an opportunity to consider this ramification at the time of their decision to terminate their Historic Fixed Price TCCs prior to the expiration of their initial full term.

The term of each Historic Fixed Price TCC extension will be one year. The one-year term of each extension commences on the first day of the Capability Period immediately following: (i) in the case of initial eligibility to purchase extensions, the last Capability Period in which the initial full term of the LSE's Historic Fixed Price TCCs is valid; and (ii) in the case of subsequent years, the last Capability Period in which the prior year's Historic Fixed Price TCC extension term is valid. For example, for eligible LSEs with Historic Fixed Price TCCs that otherwise expire on October 31, 2019, the start date of their extensions would be November 1, 2019 and the expiration date would be October 31, 2020.

The purchase price for Historic Fixed Price TCCs during their initial full term is set forth in Section 19.2.1.2 of Attachment M of the OATT. This pricing methodology generally provides for a purchase price that is fixed for either five or ten years and is determined based on two years of historic TCC auction data and Day-Ahead Market outcomes. The proposed tariff revisions establish a materially different purchase price calculation for Historic Fixed Price TCC extensions. The purchase price (in \$/MW-year) for Historic Fixed Price TCC extensions will be updated annually for each one-year extension. The applicable purchase price for each extension will be based on the weighted average market-clearing prices from the most recently completed one-year Sub-Auction rounds of a Centralized TCC Auction, and calculated in the same manner as a hypothetical TCC with the same Point of Injection and Point of Withdrawal as the Historic Fixed Price TCCs the eligible LSE seeks to extend. The weighting assigned to the market-clearing prices for each applicable Sub-Auction round will be based on the ratio of: (1) the percentage of transmission capacity made available in the applicable round to support the sale of one-year TCCs; to (2) the total percentage of transmission capacity made available to support the sale of one-year TCCs in the relevant Centralized TCC Auction.

The proposed tariff revisions also describe the process and timing for eligible LSEs to receive extension offers and make purchase decisions in response to such offers. The offer and decision process timing is designed to ensure that decisions regarding the purchase of extensions are known in advance of the Centralized TCC Auction in which the transmission capacity associated with expired Historic Fixed Price TCCs or extensions thereof would otherwise be made available to support the sale of new TCCs. This ensures that transmission capacity that is

⁹ This limited exception applies to six LSEs, including five LSEs that currently do not hold any active Historic Fixed Price TCCs. Notably, the majority of the five LSEs that currently do not hold any active instruments terminated their Historic Fixed Price TCCs within the last two years, and, at the time of such early termination, were entering either the final or second-to-last year of the initial full term of their Historic Fixed Price TCCs.

otherwise available to support the purchase of extensions, but not utilized by eligible LSEs, is made available to the market to support the sale of other TCCs in the appropriate Centralized TCC Auction.

LSEs eligible to purchase Historic Fixed Price TCC extensions will be provided an extension offer only once per year. The NYISO will provide offers to eligible LSEs during the Capability Period that immediately precedes: (i) in the case of initial eligibility to purchase extensions, the last Capability Period in which the initial full term of the LSE's Historic Fixed Price TCCs is valid; and (ii) in the case of subsequent years, the last Capability Period in which the prior year's Historic Fixed Price TCC extension term is valid. Eligible LSEs will be required to notify the NYISO of their decision to purchase, or election not to purchase, an extension for each one-year term prior to the commencement of the Centralized TCC Auction in which the six-month Sub-Auction will make transmission capacity available to support the sale of TCCs for the first Capability Period the extension at issue would be valid.¹⁰ For example, for eligible LSEs with Historic Fixed Price TCCs for which the initial full term expires on October 31, 2019, the NYISO would provide offers to purchase extensions during the 2018-2019 Winter Capability Period (likely in the March/April 2019 timeframe). The offers would be for Historic Fixed Price TCC extensions that would take effect on November 1, 2019 and remain valid through October 31, 2020. The purchase prices reflected in the offers would be based on the market-clearing prices from the one-year Sub-Auction rounds of the 2019 spring Centralized TCC Auction. The eligible LSEs would need to notify the NYISO of their purchase decisions prior to the commencement of the 2019 autumn Centralized TCC Auction (in this case, notices of purchase decisions would likely be due in the June/July 2019 timeframe). Any transmission capacity that would otherwise be available to support the sale of Historic Fixed Price TCC extensions, but is not utilized by eligible LSEs, would be made available to support the sale of TCCs in the 2019 autumn Centralized TCC Auction.

A modified procedure will be required for the LSEs that will be eligible to purchase extensions that take effect on November 1, 2018.¹¹ For this offering, the eligible LSEs will be required to make their purchase decisions on a more accelerated timeframe. The NYISO will provide extension offers to these LSEs as soon as reasonably practicable following the effective date of the tariff revisions proposed herein. The purchase prices reflected in these offers will be based on the market-clearing prices from the one-year Sub-Auction rounds of the 2018 spring Centralized TCC Auction that was conducted earlier this year. The eligible LSEs will need to provide notice of their purchase decisions prior to November 1, 2018.

¹⁰ Eligible LSEs will be required to timely notify the NYISO each year of their decision to purchase, or election to not purchase, an extension for the one-year period at issue. If an eligible LSE fails to provide any response to the NYISO for a given one-year period, such failure will cause the LSE to forego eligibility for any future purchases of Historic Fixed Price TCC extensions.

¹¹ On June 29, 2018, the NYISO filed a waiver request with the Commission to facilitate the NYISO's ability to offer extensions with a November 1, 2018 start date, provided that the Commission ultimately accepts the proposed revisions described herein. See Docket No. ER18-1889-000, *New York Independent System Operator, Inc.*, Request for Limited Tariff Waiver, Shortened Notice and Comment Period, and Expedited Action (June 29, 2018).

To qualify to purchase Historic Fixed Price TCC extensions, an eligible LSE must certify to the NYISO that, for the one-year term at issue, the LSE expects to: (1) be legally obligated to continue serving load related to its expired or terminated grandfathered transmission agreement in an amount equal to or greater than the MW value of the Historic Fixed Price TCCs it seeks to extend; and (2) need transmission capacity along the transmission path represented by the Historic Fixed Price TCCs it seeks to extend to serve such load.¹² Eligible LSEs will not qualify to purchase extensions to the extent that they cannot meet the required certifications. For example, if the amount of load continuing to be served by an eligible LSE decreases over time, this could affect the number of Historic Fixed Price TCCs the LSE can seek to extend. Furthermore, if the eligible LSE's power supply arrangements were terminated or modified such that it no longer required use of the transmission capacity along the path represented by its underlying expired or terminated grandfathered transmission agreement, the LSE would no longer qualify to purchase extensions of its Historic Fixed Price TCCs.

Eligible LSEs that elect to purchase an extension for a given one-year period will also be required to specify the number of Historic Fixed Price TCCs they seeks to extend. For each one-year term, eligible LSEs will be able to purchase an extension for up to the maximum MW quantity of transmission capacity specified in their underlying expired or terminated grandfathered transmission agreement. As required by the annual certification requirements described above, an eligible LSE will be further restricted to purchasing a quantity that is less than or equal to the load the LSE continues to serve. The quantity of Historic Fixed Price TCCs that an eligible LSE may purchase for each one-year term is also subject to potential reduction to maintain the feasibility of the applicable set of all valid TCCs awarded by the NYISO. If the NYISO identifies feasibility issues, any required reductions will be performed in a manner consistent with the procedures described in Section 19.8.2 of Attachment M of the OATT.

Due largely to the static nature of the purchase price for Historic Fixed Price TCCs during their initial full term, several restrictions are placed on the ability of LSEs to modify their Historic Fixed Price TCC holdings during this period. LSEs may reduce the number of Historic Fixed Price TCCs held during the initial full term; however, if this number is reduced, it cannot be increased above this new reduced level for the remainder of the initial full term. LSEs also have the ability to terminate their Historic Fixed Price TCCs early, but such a decision is permanent and terminates all future rights to those Historic Fixed Price TCCs. These restrictions exist, in part, to avoid the potential for LSEs to take undue advantage of the static nature of the pricing for Historic Fixed Price TCCs during their initial full term. Absent these restrictions, LSEs could potentially: (1) reduce or fully eliminate their Historic Fixed Price TCC holdings during periods when they could obtain TCCs at a lower price through the NYISO-administered TCC auctions; and (2) seek to only retain, or potentially increase, their Historic Fixed Price TCC

¹² The proposed tariff revisions expressly clarify the NYISO's ability to request additional information from eligible LSEs seeking to purchase extensions in order verify the accuracy of each LSE's certifications. Such additional information could include, for example, data to verify the amount of load served by the LSE and/or documentation evidencing the LSE's power supply arrangements requiring the use of transmission capacity along the path represented by the Historic Fixed Price TCCs it seeks to extend.

holdings during periods when the purchase price thereof is at or below the cost they would otherwise incur to purchase TCCs through the NYISO-administered TCC auctions.

During the extension phase of Historic Fixed Price TCCs (*i.e.*, following expiration of the initial full term), the proposal provides eligible LSEs greater flexibility to modify their Historic Fixed Price TCC holdings over time. The proposal affords eligible LSEs the flexibility to elect to purchase, or not purchase, an extension for each applicable one-year period. An eligible LSE may also modify the number of Historic Fixed Price TCCs that it seeks to extend for each one-year period (subject to the limitations described above for extensions). Given that the pricing for Historic Fixed Price TCC extensions is refreshed annually to reflect current market conditions, relaxing the restrictions applicable to Historic Fixed Price TCCs during their initial full term is reasonable. The additional flexibility proposed for extensions also provides for a reasonable balancing of divergent opinions regarding the appropriate structure for the pricing and term of Historic Fixed Price TCC extensions.¹³

B. Additional Proposed Tariff Revisions

The NYISO proposes certain clarifying revisions related to the new Historic Fixed Price TCC extension product. These revisions clarify that: (i) certain tariff requirements applicable to Historic Fixed Price TCCs during their initial full term (including, but not limited to, credit requirements and the allocation of revenues resulting from sale thereof) apply equally to extensions; and (ii) terms and conditions relating solely to extensions are specified in the proposed new Section 19.2.1.4 of Attachment M of the OATT. The proposed revisions described above are set forth within the following sections:

- Definition of “Fixed Price TCC” in Section 1.6 of the OATT;
- Section 2.2.2 of the OATT;
- Sections 14.1.2.1.1 and 14.2.2.2.1 of Attachment H of the OATT;
- Sections 19.1, 19.2.1, 19.2.1.1, 19.2.1.2, 19.2.1.3, 19.2.3, 19.2.3.1, 19.7, 19.8.2, 19.8.3, and 19.9.3 of Attachment M of the OATT;
- Sections 20.1.1, 20.2.5 (Formula N-15), 20.3.7 (Formula N-29), 20.4.1.1, 20.4.1.2, 20.4.2 (Formula N-30), 20.4.3, and 20.4.4 (including Formula N-32) of Attachment N of the OATT; and
- Section 26.4.2.4.2 of Attachment K of the Services Tariff.

The NYISO also proposes certain other ministerial or clarifying revisions not directly related to the Historic Fixed Price TCC extension proposal. The proposed additional revisions are as follows:

¹³ Some stakeholders strongly prefer that the extensions be short-term with a purchase price that closely reflects current market conditions. There are other stakeholders including some LSEs that may become eligible to purchase extensions that prefer longer duration instruments with a purchase price that is known in advance and remains relatively static for a particular future period.

- Definition of “Fixed Price TCC” in Section 1.6 of the OATT: correction of typographical errors;
- Definition of “Sub-Auction” in Section 1.19 of the OATT: replacement of an incorrect reference to “Capability Period Auction” with a reference to “Centralized TCC Auction;”
- Section 19.2.1.3 of Attachment M of the OATT: deletion of redundant language and correction of a typographical error;
- Section 19.2.2.1 of Attachment M of the OATT: correction of a typographical error;
- Section 19.2.2.2 of Attachment M of the OATT: correction of a typographical error;
- Section 19.2.3 of Attachment M of the OATT: correction of a typographical error;
- Section 19.7 of Attachment M of the OATT: correction of a typographical error; and
- Section 19.9.1 of Attachment M of the OATT: correction of typographical errors.

IV. Effective Date

The NYISO respectfully requests that the proposed tariff revisions become effective on September 19, 2018 (*i.e.*, the day following the end of the statutory 60-day notice period).

V. Stakeholder Process

The Management Committee approved the Historic Fixed Price TCC extension proposal and associated tariff revisions by a show of hands vote, with only three votes in opposition, on June 26, 2018. The NYISO Board of Directors approved the proposal and associated tariff revisions on July 17, 2018.

VI. Communications and Correspondence

Please direct all communications and service in this proceeding to:

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VII. Service

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

VIII. Conclusion

The NYISO respectfully requests that the Commission accept the proposed revisions to the OATT and Services Tariff attached hereto with an effective date of September 19, 2018.

Respectfully submitted,

/s/ Garrett E. Bissell

Garrett E. Bissell

Senior Attorney

New York Independent System Operator, Inc.

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