

October 12, 2010

**Submitted Electronically**

Kimberly D. Bose  
Secretary  
Federal Energy Regulatory Commission  
888 First Street N.E.  
Washington, D.C. 20426

Re: New York Independent System Operator, Inc.'s Proposed Amendments to its Market Power Mitigation Measures to Permit Improved Fuel Indexing of Generator Reference Levels, Proposed Tariff Amendments Addressing Real-Time Energy Offers, and Proposed Tariff Clarifications Addressing Guarantee and Margin Assurance Payments and Rules for Implementation of Improved Reference Levels for Generators that Are Not Able to Complete their Minimum Run Time Within the Dispatch Day; Request for Temporary Waivers of Tariff Compliance Obligations, Request for Shortened Notice Period, and Request for Expedited Commission Action;  
Docket No. ER11-\_\_\_\_-000.

Dear Ms. Bose:

Pursuant to Section 205 of the Federal Power Act,<sup>1</sup> the New York Independent System Operator, Inc. ("NYISO") hereby submits tariff sheets that propose revised effective dates for: (1) recently accepted<sup>2</sup> amendments to the Market Power Mitigation Measures ("Mitigation Measures") that are set forth in Attachment H to its Market Administration and Control Area Services Tariff ("Services Tariff") to permit the NYISO to implement new reference level software ("RLS") functionality that will enable Market Parties<sup>3</sup> to submit fuel price and fuel type information for their Generators; (2) recently accepted<sup>4</sup> revisions to the NYISO's Open Access Transmission Tariff ("OATT") and Services Tariff to permit Generators to increase Real-Time Market Incremental Energy Bids for Energy that was already scheduled in the Day-Ahead Market ("Increasing Bids in Real-Time" or "IBRT"); and (3) proposed revisions

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<sup>1</sup> 16 U.S.C. § 824d (2010).

<sup>2</sup> See *New York Independent System Operator, Inc.*, 132 FERC ¶ 61,270 (2010) (the "RLS Order"), Docket No. ER10-2062.

<sup>3</sup> Capitalized terms that are not otherwise defined herein shall have the meaning specified in the Services Tariff or in the Mitigation Measures.

<sup>4</sup> See *New York Independent System Operator, Inc.*, 132 FERC ¶ 61,271 (2010) (the "IBRT Order"), Docket No. ER10-1977.

to the OATT and Services Tariff addressing Bid Production Cost guarantees (“BPCGs”) and Day Ahead Margin Assurance Payments (“DAMAP”) (“BPCG Strategic Tariff Review”), as well as proposed revisions to the Services Tariff to permit the NYISO to more accurately implement a requirement of its Mitigation Measures that Generator start-up reference levels incorporate costs related to satisfying minimum run time requirements (“Late Day Start”).<sup>5</sup> The tariff revisions submitted herewith incorporate all of the changes proposed in the filings (including supplemental and errata filings) that the NYISO has submitted in Docket Nos. ER10-1866, ER10-1977 and ER10-2062.

In addition to requesting the Commission’s expedited consideration of the NYISO’s request for a revised effective date for the RLS, IBRT and Late Day Start tariff revisions, the NYISO also requests temporary waivers to excuse its inability to implement IBRT and RLS until October 21, 2010, and (if and to the extent necessary<sup>6</sup>) its inability to implement Late Day Start until November 2, 2010. Finally, the NYISO requests a shortened comment period to permit expedited Commission consideration of and action on the NYISO’s request.

The Commission’s recently issued RLS Order and IBRT Order each require the NYISO to submit a compliance filing that will include substantive changes to the Tariff revisions that the NYISO proposed in Docket Nos. ER10-1977 or ER10-2062.<sup>7</sup> The NYISO does not attempt to address its compliance obligations in Docket Nos. ER10-1977 or ER10-2062 in this filing. Rather the NYISO will address its outstanding compliance obligations in a future filing or filings.

In summary, the purpose of this filing is to request the Commission’s expedited consideration of (a) changes to the effective dates of the tariff revisions that implement RLS, IBRT and Late Day Start, and (b) the NYISO’s request for a waiver to excuse its inability to implement the proposed RLS, IBRT and Late Day Start Tariff revisions on the effective dates that the NYISO initially requested.<sup>8</sup> This filing moots the *Prospective Requests for Temporary Waiver to Permit Delayed Implementation of Proposed Tariff Rules, and Request for Expedited Commission Action* that the NYISO filed in Docket Nos. ER10-1866, ER10-1977 and ER10-2062 on September 28, 2010.

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<sup>5</sup> The proposed BPCG Strategic Tariff Review and Late Day Start tariff revisions are before the Commission for its consideration in Docket No. ER10-1866.

<sup>6</sup> The Commission has not yet ruled on the tariff revisions that the NYISO submitted in Docket No. ER10-1866 with a requested effective date of September 30, 2010. The NYISO has timely implemented the BPCG Strategic Tariff review measures proposed in that filing, but will not be ready to implement Late Day Start until November 2, 2010. The NYISO recognizes that its implementation of BPCG Strategic Tariff Review is subject to Commission action in Docket No. ER10-1866. The NYISO can “back out” its implementation should the Commission reject the pending tariff revisions.

<sup>7</sup> See n. 2 and n. 4, above.

<sup>8</sup> As explained below, the NYISO is able to timely implement the Tariff modifications related to the BPCG Strategic Tariff Review components of its filing that is pending before the Commission in Docket No. ER10-1866. For this reason, the NYISO does not seek a waiver with regard to its obligation to implement these proposed Tariff revisions.

## I. LIST OF DOCUMENTS SUBMITTED

The NYISO submits the following documents:

1. this filing letter;
2. a clean version of the proposed revisions to the following Sections of its Services Tariff (including Attachments C, H, J and O thereto);
  - Services Tariff Section 2.18, IBRT revisions that the NYISO requests be permitted to become effective for the October 21, 2010 Day-Ahead and Real-Time Market Day
  - Services Tariff Section 2.19, Late Day Start revisions that the NYISO requests be permitted to become effective on November 2, 2010
  - Services Tariff Section 4.1, IBRT revisions that the NYISO requests be permitted to become effective for the October 21, 2010 Day-Ahead and Real-Time Market Day
  - Services Tariff Section 4.4, IBRT revisions that the NYISO requests be permitted to become effective for the October 21, 2010 Day-Ahead and Real-Time Market Day
  - Services Tariff Section 4.6, Late Day Start revisions that the NYISO requests be permitted to become effective on November 2, 2010
  - Services Tariff Section 5.2, IBRT revisions that the NYISO requests be permitted to become effective for the October 21, 2010 Day-Ahead and Real-Time Market Day
  - Services Tariff Section 18, IBRT revisions that the NYISO requests be permitted to become effective for the October 21, 2010 Day-Ahead and Real-Time Market Day\*
  - Services Tariff Section 18, Late Day Start revisions that the NYISO requests be permitted to become effective on November 2, 2010\*
  - Services Tariff Section 23.3, RLS revisions that the NYISO requests be permitted to become effective for the October 21, 2010 Day-Ahead and Real-Time Market Day\*
  - Services Tariff Section 23.3, Late Day Start revisions that the NYISO requests be permitted to become effective on November 2, 2010\*
  - Services Tariff Section 23.4, RLS and IBRT revisions that the NYISO requests be permitted to become effective for the October 21, 2010 Day-Ahead and Real-Time Market Day
  - Services Tariff Section 23.5, Late Day Start revisions that the NYISO requests be permitted to become effective on November 2, 2010

- Services Tariff Section 25, IBRT revisions that the NYISO requests be permitted to become effective for the October 21, 2010 Day-Ahead and Real-Time Market Day
  - Services Tariff Section 30.4, RLS and IBRT revisions that the NYISO requests be permitted to become effective for the October 21, 2010 Day-Ahead and Real-Time Market Day
    - \* Because it would require significant additional delay to unravel the Late Day Start tariff revisions from the BPCG Strategic Tariff Review revisions (the two sets of revisions are interwoven and were submitted together in Docket No. ER10-1866), the NYISO is submitting identical versions of Sections 18 and 23.3 of its Services Tariff with two different effective dates. The first “version” of each of these Sections has an October 21, 2010 effective date. The second “version” has a November 2, 2010 effective date. The NYISO requests that the Commission accept only the IBRT and RLS revisions to these two Sections (not the Late Day Start revisions) effective for the October 21, 2010 Day-Ahead and Real-Time Market Day. The NYISO requests that the Commission then accept the Late Day Start revisions effective November 2, 2010.
3. a blacklined version of the proposed revisions to the Sections of its Services Tariff (including Attachments C, H, J and O thereto) that are identified above;
  4. a clean version of the proposed revisions to the following sections of its OATT;
    - OATT Section 1.18, IBRT revisions that the NYISO requests be permitted to become effective for the October 21, 2010 Day-Ahead and Real-Time Market Day
    - OATT Section 1.19 Late Day Start revisions that the NYISO requests be permitted to become effective on November 2, 2010
- and
5. a blacklined version of the proposed revisions to the Sections of its OATT that are identified above.

## **II. COPIES OF CORRESPONDENCE**

Correspondence concerning this filing should be served on:

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## **III. OVERVIEW OF PROPOSED TARIFF REVISIONS**

The proposed tariff revisions that the NYISO submits with this filing letter are identical, but for their requested effective dates, to the tariff revisions that the NYISO submitted to the Commission for its consideration in Docket Nos. ER10-1866 (BPCG Strategic Tariff Review and Late Day Start), ER10-1977 (IBRT) and ER10-2062 (RLS). As explained above, the tariff revisions submitted herewith incorporate all of the various supplemental and errata filings that the NYISO made in Docket Nos. ER10-1977 and ER10-2062. However, there is a significant difference in the “metadata” that the NYISO submits with its proposed Tariff Revisions. The proposed effective dates of the tariff Sections submitted herewith have been changed from September 30, 2010 to either October 21, 2010 or November 2, 2010, as explained in greater detail below.

### **A. Reference Level Software**

In Docket No. ER10-2062 the NYISO proposed amendments to its Mitigation Measures to permit it to implement new RLS functionality that will enable Market Parties to submit fuel price and fuel type information for their Generators. The NYISO will be able to use the Market Party-submitted fuel price and type information to more timely and accurately fuel index Generator reference levels. In addition to adding specificity to the rules for fuel indexing Generator reference levels and supporting enhanced software functionality, the Tariff revisions:

- (a) clarify that it is not necessary for the NYISO to calculate real-time reference levels for Operating Reserve Ancillary Services because Generators’ real-time Availability Bid must be \$0;

- (b) clarify Market Parties' obligation to accurately report fuel type and fuel price information, and to report significant changes to the cost components used to develop Generator reference levels to the NYISO;
- (c) impose a penalty/sanction that will apply to Market Parties that submit inaccurate fuel price and/or fuel type information for a Generator, where (i) the inaccurate information is used by the NYISO to develop a reference level, and (ii) the inaccurate information increases guarantee payments or market clearing prices paid to the Market Party above the payment(s) that the Market Party would have received had it submitted accurate fuel price/type information for its Generator(s)<sup>9</sup>; and
- (d) include corresponding/reciprocal revisions to the NYISO's Market Monitoring Plan<sup>10</sup> where the Market Monitoring Unit's duties are affected by the proposed changes to the Mitigation Measures.

The improvements permit the NYISO to more accurately and timely reflect Generators' fuel costs in their reference levels. Incorporating more accurate cost information into Generator reference levels improves the accuracy of the NYISO's conduct and impact testing of Generator Bids for possible mitigation. Ultimately, improving the accuracy of the cost signal that Generators are able to provide to the NYISO in their Bids should improve the accuracy of the NYISO's dispatch and increase market efficiency.

The Commission's RLS Order accepted the RLS tariff revisions proposed in this filing subject to refund and subject to certain specific compliance conditions. As explained above, the NYISO does not propose any substantive changes to the language that the Commission accepted on September 29, 2010 in this filing. The NYISO intends to address the conditions that the Commission included in its Order in a future compliance filing. The NYISO's compliance filing will propose modifications to the tariff provisions that the NYISO submits herewith in order to achieve compliance with the requirements of the RLS Order.

## **B. Increasing Bids in Real-Time**

In Docket No. ER10-1977 the NYISO proposed amendments to its Services Tariff and OATT to permit it to implement new IBRT functionality.

Market Participants submit Generator offers in the Day-Ahead Market ("DAM") based on their expected marginal costs of operation. The costs associated with running at the Day-Ahead committed level may increase following the close of the DAM, due to the need to switch to an alternate fuel due to fuel curtailment, or for other, unanticipated, reasons. Prior to the NYISO's IBRT improvements, there was no NYISO mechanism to assist Generators'

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<sup>9</sup> The Commission has instructed the NYISO to make changes to the tariff language related to the determination of mitigation and penalties that the NYISO proposed. As explained above, the NYISO's compliance obligations will be addressed in a future filing.

<sup>10</sup> The Market Monitoring Plan is set forth in Attachment O to the Services Tariff.

efforts to manage or hedge these post-DAM increases in costs. Thus, Generators either had to run to their Day-Ahead schedule at their increased cost, or take a derate that would impact the Generator's future Unforced Capacity calculation and that could compromise real-time reliability.

The IBRT enhancements allow generators to increase their real-time market offers for DAM committed incremental Energy. Increases in the price of their Day-Ahead scheduled incremental Energy offers allow the real-time commitment and dispatch software to dispatch such a Generator below its Day-Ahead schedule if other facilities are available at a bid-cost less than the Generator's increased real-time bid. A Generator dispatched lower than its DAM schedule will be subject to Balancing Market obligations, but these obligations are likely to be less than the cost of operating the Generator to achieve its DAM schedule. IBRT improves the ability of Generators to manage the risk of real-time cost increases after submission of their Day-Ahead offers but before the real-time dispatch hour.

Generators able to update their real-time offers in the event of real-time cost increases may also include a lower risk premium in their Day-Ahead Market offers, appropriately benefiting Loads by moving the risk for real-time cost increases from Day-Ahead load to real-time load. IBRT also improves real-time market efficiency by making up-to-date cost information available to the real-time market software, thereby allowing real-time LBMPs to more accurately reflect in-day Energy production costs.

Generators still aren't allowed to increase their Minimum Generation Cost or MW. This ensures that Generators with Day-Ahead schedules will be online and available to provide Energy above their minimum operating level, if the need for such dispatch materializes.<sup>11</sup> IBRT is not available to increase a Generator's Start-Up Costs since the NYISO's Security Constrained Unit Commitment software reflected this cost in the Generator's Day-Ahead Market schedule and settlement.

The Commission's IBRT Order accepted the IBRT tariff revisions proposed in this filing subject to refund and subject to certain specific compliance conditions related to the NYISO's application of mitigation and/or imposition of penalties for inappropriate use of IBRT. As explained above, the NYISO does not propose any substantive changes to the language that the Commission accepted on September 29, 2010 in this filing. The NYISO intends to address the conditions that the Commission included in its Order in a future compliance filing. The NYISO's compliance filing will propose modifications to the tariff provisions that the NYISO submits herewith in order to achieve compliance with the requirements of the IBRT Order.

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<sup>11</sup> Generators economically dispatched above their minimum generation level despite their higher real-time Bid are not additionally compensated, for Energy previously scheduled Day-Ahead.

### **C. BPCG Strategic Tariff Review**

In Docket No. ER10-1866 the NYISO is proposing revisions to the Services Tariff which, as a general matter, relocate, from various sections of the Services Tariff to Services Tariff Attachments C and J, eligibility rules and calculations for BPCG and Day-Ahead Margin Assurance Payments (“DAMAP”), respectively. Where necessary, existing term definitions are clarified or new terms defined, generic calculations are eliminated in favor of calculations separately described for separate situations to provide additional clarity. Services Tariff provisions have been revised to describe the availability of DAMAP and BPCG payments without duplicating the more specific language in the Attachments. The NYISO’s proposed revisions also add consistent capitalization, and broaden existing terminology to provide clarity.

The NYISO’s proposed BPCG Strategic Tariff Review revisions include three substantive changes. All three changes relate to the calculation of BPCG in Supplemental Event Intervals. Supplemental Events include both Large Event Reserve pickups and Maximum Generation pickups. Large Event Reserve pickups and Maximum Generation pickups are called by the NYISO’s Operations Department when the NYISO is experiencing abnormal system conditions and rapid response by New York Control Area Generators is needed to address the situation.

First, the proposed Supplemental Event BPCG will protect Energy Bids for all intervals including those during which a Generator is ramp rate constrained down. Generators who are directed to reduce output during a Supplemental Event, but are constrained by their ramp from moving as fast as their basepoint directs, should have their Energy costs protected during this NYISO-directed output reduction, as LBMPs may drop rapidly. Thus, the NYISO proposal ensures that concerns about cost recovery will not hinder a Generator, directed to reduce output during one of these Supplemental Event situations, from doing so as quickly as possible.

The second change to the current BPCG calculation for Supplemental Event intervals is to exclude from a Large Event Reserve pickup (Supplemental Event) BPCG, Generators that are ineligible for a BPCG payment during non-Supplemental Event intervals (*e.g.*, because they are bidding as fixed resources). Generators are not eligible for a real-time BPCG, if they use the Self-Committed Fixed Bid Mode, or the Self-Committed Flexible Bid Mode with minimum generation levels that exceed those submitted Day-Ahead. These units are putting themselves at specified operating levels, rather than asking the NYISO to dispatch them to those levels based on the real-time LBMPs. Since their schedules are not the result of an economic dispatch, their costs should not be protected through a BPCG for a Large Event Reserve pickup. It is appropriate, however, to continue their eligibility for a Supplemental Event BPCG during Maximum Generation pickups as they are expected to increase output notwithstanding their bid type during these intervals.

Finally, the NYISO proposes to include Supplemental Event intervals in this calculation even if they occur across midnight. The BPCG for Supplemental Events includes bid protections for the three intervals following the conclusion of the Supplemental Event to protect the Generator’s Bids while it returns to an economically determined output level.

Although BPCG calculations, as a rule, conclude with the last interval in the day, Generators responding to Supplemental Events that conclude just prior to midnight should be protected for these three additional intervals even if they cross midnight.

In its filing in Docket No. ER10-1866 the NYISO requested a September 30, 2010 effective date for the tariff revisions associated with BPCG Strategic Tariff Review. The NYISO has timely implemented the measures needed to implement its proposed BPCG Strategic Tariff Review revisions. The NYISO has not included tariff Sections that were only revised to address BPCG Strategic Tariff Review in this filing because the NYISO is not proposing to change the requested September 30, 2010 effective date for those tariff sheets.<sup>12</sup>

However, some of the BPCG Strategic Tariff Review revisions are inextricably intertwined with the tariff revisions that are needed to implement Late Day Start, and the NYISO is requesting a revised November 2, 2010 effective date for the Late Day Start tariff revisions. Because the proposed BPCG Strategic Tariff Review and Late Day Start revisions were prepared in conjunction with each other and filed together, separating the Late Day Start tariff revisions from the BPCG Strategic Tariff Review revisions that they were filed with would have significantly delayed the NYISO's ability to submit this filing. For this reason, the NYISO did not attempt to segregate the BPCG Strategic Tariff Review revisions from the Late Day Start revisions in this filing.

The Commission has not yet ruled on the NYISO's filing in Docket No. ER10-1866. As explained above, the NYISO is both willing and able to implement the proposed BPCG Strategic Tariff Review revisions on September 30, 2010, and is not seeking a modified effective date for those revisions. If the Commission rejects the NYISO's proposed BPCG Strategic Tariff Review revisions, the NYISO can and will completely remove the effect of the revisions from its market settlement results.

#### **D. Late Day Start**

In Docket No. ER10-1866 the NYISO also proposes tariff revisions to permit the NYISO to more accurately implement a requirement of its Mitigation Measures that Generator start-up reference levels incorporate costs related to satisfying minimum run time requirements.

Many classes of generating units are designed and manufactured to run for a period of several consecutive hours at a stretch. Starting and rapidly shutting down these classes of generators, in violation of these minimum run requirements, can cause significant additional wear and tear, and reduce their useful life. In the New York markets, the physical/operational need for a Generator to be committed for some minimum number of hours is reflected in the minimum run time Bid parameter. A Generator that needs to run into the next Dispatch Day in order to complete its minimum run time may have to offer its minimum output at a price

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<sup>12</sup> Examples of tariff Sections that the NYISO proposed to revise in Docket No. ER10-1866 that the NYISO does not propose to revise in this filing include Services Tariff Sections 2.4, 2.5, 2.9, 4.2, 4.5, 5.12, 15.3 and 15.4, and OATT Sections 1.4, 1.5, 1.9, 1.16, 6.1 and 26.

below its actual cost in order to ensure that the Generator continues to be scheduled for the full minimum run period. The period of operation on the day following the Dispatch Day on which the Generator was started will necessarily include off-peak hours (between midnight and 6:00 a.m.).

The NYISO's Mitigation Measures include provisions designed to permit Generators that must run over midnight and into the next Dispatch Day in order to complete their minimum run time the opportunity to include in their Start-Up Bids the net costs (net of LBMP revenues) they reasonably expect to incur on the next Dispatch Day. In cases where it is reasonable to expect that a Generator's total cost for completing its minimum run time will exceed the Generator's LBMP for the relevant hours it is appropriate to permit Generators to include those costs in their Bids.

To date, the NYISO has implemented its obligation to permit Generators to incorporate costs that they were not able to recover when operating on the day after the Dispatch Day in order to meet minimum run time requirements into their Dispatch Day Bids by reviewing Generators' consultation requests and manually reversing incorrectly applied mitigation after-the-fact. Mitigation of legitimate costs that are incorporated into Generator Bids can skew the dispatch and reduce market efficiency.

The proposed Late Day Start tariff revisions implement a set of rules that will:

- (1) enable the NYISO's new RLS to calculate start-up reference levels that vary by hour, and that incorporate estimated hourly LBMP revenues for the day following the Dispatch Day;
- (2) enable Generators to reflect the net costs that they reasonably expect to incur (if any) when operating on the day following the Dispatch Day in which the Generator is started in their Start-Up Bids; and
- (3) test Start-Up Bids that include the expected cost of operating on the day following the Dispatch Day for possible mitigation against start-up reference levels that incorporate the Generator's expected cost of operating on the day following the Dispatch Day to meet its minimum run time. The proposed improvements will apply to Generators that are committed in the DAM or via a Supplemental Resource Evaluation ("SRE").

For Generators that need to run on the day following the Dispatch Day in order to satisfy their minimum run time, with the addition of Late Day Start the NYISO's new and improved RLS will calculate a start-up reference level that incorporates the following cost and revenue components:

- the Generator's fuel-indexed start-up cost for the hour in which the Generator is scheduled to start-up;
- the number of hours that the Generator must run on the day following the dispatch day in order to satisfy its minimum run time;
- the Generator's fuel-indexed, hourly minimum generation MW and \$ reference levels; and
- an estimate of the expected LBMP revenues for each hour that the Generator must run on the day following the dispatch day in order to satisfy its minimum run time.
  - Estimated LBMPs are calculated hour-by-hour, ordinarily using a seven-day rolling average of LBMPs for that hour, at the Generator's location.

The difference between the minimum generation costs and the expected LBMP revenues for the hours of the day following the Dispatch Day that the Generator must run in order to complete its minimum run time is called the “shortfall ratio.” It is calculated on an hourly basis, and then summed over the entire period that the Generator is expected to run on the day following the Dispatch Day.<sup>13</sup> Positive revenues in hours where LBMPs are expected to exceed minimum generation costs offset negative revenues in hours where minimum generation costs are expected to exceed LBMP revenues, and *vice-versa*. While expected positive LBMP revenues may “zero out” the expected cost to a Generator of operating on the day after the day in which it is started-up, expected LBMP revenues are not permitted to reduce a Generator’s unmodified start-up reference level.

In order to implement the proposed improvements, and to achieve consistency between and among market rules, several ancillary changes to the NYISO’s mitigation, market and settlement rules are necessary. Necessary changes include:

- Limiting a committed Generator’s eligibility to receive a start-up payment following a scheduled start-up for the full period of the Generator’s minimum run time, plus the hour that follows the conclusion of such minimum run time;
- Limiting the minimum run time Bid parameter to a maximum of 24 hours. Permitting minimum run times to extend more than one day beyond the Dispatch Day would significantly complicate and increase the cost of developing the software necessary to automate the Tariff rules described in this filing letter;
- Excluding both the costs and revenues associated with operating the Generator at its minimum operating level from the calculation of BPCG payments on the day following the Dispatch Day, for the hours that the Generator needs to run in order to meet its minimum run time (because these costs were already reflected in the Start-Up Bid and recovered on the Dispatch Day);
- Excluding from the ISO’s development of Bid-based reference levels Minimum Generation Bids (or Incremental Energy Bids for combustion turbines) that are submitted for the hours of the day following the Dispatch Day that the Generator must operate in order to satisfy its minimum run time. This exclusion is appropriate because the Generator is expected to Bid to ensure its commitment for those hours, not to reflect its marginal operating cost;
- Excluding from the ISO’s development of LBMP-based reference levels the hours of the day following the Dispatch Day that the Generator must operate in order to satisfy its minimum run time. This exclusion is appropriate because the Generator is expected to Bid to ensure its commitment for the full minimum run time, and the hours that the Generator must operate on the day following the Dispatch Day in order to meet its minimum run time will, necessarily, include a substantial number of off-peak hours (HB0-HB6) during which LBMPs are likely to be lower than the Generator’s marginal costs; and

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<sup>13</sup> The calculation of the shortfall ratio is addressed in Section 23.3.3.4.4.3.2 of the proposed Mitigation Measures.

- Prorating the start-up component of the Generator's Dispatch Day BPCG calculation based on the Generator's actual performance for the minimum run time submitted with its Start-Up Bid. If the Generator's minimum run time Bid parameter was 12 hours, but the Generator only operated for 11 hours, it would be paid 11/12 of its Start-Up Bid (or of its mitigated Start-Up Bid, as appropriate).

In its filing in Docket No. ER10-1866 the NYISO requested a September 30, 2010 effective date for the tariff revisions associated with Late Day Start.<sup>14</sup> However, The NYISO has determined that due to interactions between and among RLS, IBRT and Late Day Start it will not be ready to implement Late Day Start until November 2, 2010.

#### IV. DETAILED DESCRIPTION OF SPECIFIC TARIFF PROVISIONS

The substance of the tariff revisions that are submitted herewith are described by the NYISO in the following filings:

**IBRT:** *Proposed Tariff Clarifications Regarding Real-Time Energy Offers*, submitted in Docket No. ER10-1977 on July 26, 2010; *Errata to July 26, 2010 Filing*, submitted in Docket No. ER10-1977 on July 30, 2010; *Errata Filing*, submitted in Docket No. ER10-1977 on August 10, 2010; and *Errata Filing*, submitted in Docket No. ER10-1977 on September 29, 2010.

**BPCG Strategic Tariff Review and Late Day Start:** *Proposed Tariff Clarifications Addressing Guarantee and Margin Assurance Payments, and Rules for Implementation of Improved Reference Levels for Generators that Are Not Able to Complete their Minimum Run Time Within the Dispatch Day*, submitted in Docket No. ER10-1866 on July 21, 2010; *Errata to Filing to Revise Provisions Concerning Guarantee and Margin Assurance Payments and Rules for Implementation of Improved Reference Levels for Generators that Are Not Able to Complete their Minimum Run Time Within the Dispatch Day*, submitted in Docket No. ER10-1866 on August 10, 2010; and *Errata to Filing to Revise Provisions concerning Guarantee and Margin Assurance Payments and Rules for Implementation of Improved Reference Levels for Generators that Are Not Able to Complete their Minimum Run Time Within the Dispatch Day and Request for Expedited Treatment*, submitted in Docket No. ER10-1866 on September 28, 2010.

**RLS:** *Proposed Amendments to its Market Power Mitigation Measures to Permit Improved Fuel Indexing of Generator Reference Levels*, submitted in Docket No. ER10-2062 on July 30, 2010.

The substance of the IBRT and RLS filings has already been ruled on by the Commission in its September 29, 2010 IBRT and RLS Orders. The Commission has not yet ruled on the BPCG Strategic Tariff Review/Late Day Start tariff revisions that were submitted in Docket No. ER10-1866, however the NYISO is not proposing any further substantive tariff

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<sup>14</sup> The Commission has not yet acted on the NYISO's filing in that Docket.

changes in this filing. The only changes proposed herein are to the requested IBRT, RLS and Late Day Start effective dates. For the foregoing reasons, and in the interest of brevity, the NYISO is not including item-by-item descriptions of each of its proposed tariff revisions in this filing. Instead, the NYISO incorporates by reference the descriptions of its proposed tariff revisions that are included in the filings identified above.

The proposed tariff revisions are submitted in both clean and redlined versions. For the reasons explained above, it is not possible to timely segregate the Late Day Start tariff revisions from the BPCG Strategic Tariff Review tariff revisions.

## **V. REQUEST FOR TEMPORARY WAIVER OF OBLIGATION TO IMPLEMENT RLS, IBRT AND LATE DAY START TARIFF REVISIONS**

Consistent with the NYISO's original request in Docket Nos. ER10-1977 and ER10-2062, the Commission's September 29, 2010 IBRT and RLS Orders permitted the tariff revisions that the NYISO's proposed in those two Dockets to become effective on September 30, 2010. The NYISO also requested a September 30, 2010 effective date for the BPCG Strategic Tariff Review and Late Day Start tariff revisions it proposed in Docket No. ER10-1866. However, as the NYISO explained in the filing it submitted on September 28, 2010 in all three Dockets, it will not be ready or able to implement the IBRT or RLS tariff revisions in a tariff-compliant manner until the October 21, 2010 Day-Ahead and Real-Time Market day and it will not be ready to implement the Late Day Start tariff revisions until November 2, 2010. The NYISO is prepared to implement its proposed BPCG Strategic Tariff Review revisions as of September 30, 2010, and is not requesting a change to the effective date of those Tariff revisions or a waiver of its obligation to implement them on September 30, 2010 in this filing.

The reason for the delay in implementation and for the NYISO's requested temporary waiver is the same in each case. The tariff rules and implementing software for Late Day Start, IBRT and RLS are all intertwined. In performing its quality assurance testing of the new software that is designed to implement these three measures, the NYISO identified instances in which the software does not adequately handle interaction between the three new sets of market rules. The most significant concerns identified in the NYISO's quality assurance testing process relate to the interaction between Late Day Start and the other two measures, necessitating a slight additional delay in the NYISO's implementation of Late Day Start. The NYISO apologizes for its late discovery of these software issues, but believes its decision to provide last-minute notice to the Commission and to delay deployment of the software until the concerns it identified are addressed was the correct decision to make under the circumstances.

For the foregoing reasons, the NYISO respectfully requests that the Commission temporarily waive its obligation to implement the RLS and IBRT tariff revisions from September 30, 2010 (the date on which the Commission permitted the proposed tariff revisions to become effective, subject to conditions) until the October 21, 2010 Day-Ahead

and Real-Time Market Day. To the extent necessary,<sup>15</sup> the NYISO respectfully request that the Commission temporarily waive its obligation to implement the Late Day Start tariff revisions until November 2, 2010.

## **VI. REQUEST FOR EXPEDITED CONSIDERATION AND SPECIFIC EFFECTIVE DATES**

In order to limit the delay in the NYISO's implementation of market improvements that received broad-based support from the NYISO's Market Participants<sup>16</sup> to the briefest period possible, the NYISO respectfully requests that the Commission shorten the notice-and-comment period and issue an order or orders addressing the RLS and IBRT provisions included in this filing by October 19, 2010,<sup>17</sup> and addressing Late Day Start by October 29, 2010.

The NYISO respectfully requests that the RLS and IBRT tariff revisions be permitted to become effective on October 21, 2010, less than 60 days after the date of this filing. The NYISO respectfully requests that the Late Day Start tariff revisions be permitted to become effective on November 2, 2010, less than 60 days after the date of this filing. Specific Section-by-Section effective dates are included in Section I. of this filing letter.

## **VII. STAKEHOLDER APPROVAL**

The NYISO's stakeholders approved the proposed IBRT, RLS and Late Day Start tariff revisions.

## **VIII. 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 electric utility regulatory agency of New Jersey. In addition, the complete filing will be posted on the NYISO's website at [www.nyiso.com](http://www.nyiso.com).

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<sup>15</sup> As explained above, the Commission has not yet issued an Order in Docket No. ER10-1866 setting an effective date for the NYISO's proposed Tariff revisions.

<sup>16</sup> No protests were filed in Docket Nos. ER10-1866, ER10-1977 or ER10-2062.

<sup>17</sup> As noted above, the Commission ruled on the substance of the IBRT and RLS filings in its September 29, 2010 orders in Docket Nos. ER10-1977 and ER10-2062.

## IX. CONCLUSION

WHEREFORE, for the foregoing reasons, the New York Independent System Operator, Inc. respectfully requests that the Commission (a) accept the proposed tariff changes identified in the Attachments hereto, with the proposed effective dates specified above, (b) grant the waivers that the NYISO requests to permit delayed implementation of IBRT, RLS and Late Day Start, and (c) expedite its consideration of this matter in a manner consistent with Section VI. of this filing letter.

Respectfully submitted,

/s/ Alex M Schnell

Mollie Lampi, Assistant General Counsel

Alex M. Schnell

New York Independent System Operator, Inc.