

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

New York Independent System Operator, Inc.)

Docket No. ER16-168-000

**MOTION FOR LEAVE TO RESPOND, AND ANSWER OF THE
NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.**

Pursuant to Rules 212 and 213 of the Federal Energy Regulatory Commission’s (the “Commission’s”) Rules of Practice and Procedure,¹ the New York Independent System Operator, Inc. (“NYISO”) respectfully requests leave to submit the following answer (“Answer”) to the protest filed in this docket on November 19, 2015 by Long Island Lighting Company d/b/a Long Island Power Authority (“LIPA”) as amended by errata on November 20, 2015 (the “Protest”).² The Protest was submitted in response to the NYISO’s October 29, 2015 Federal Power Act Section 205 filing of *Proposed Amendments to its Market Power Mitigation Measures regarding Physical Withholding and Reflecting Fuel Costs in Reference Levels* (“October Filing”).

I. Motion for Leave to Respond

The NYISO recognizes that the Commission generally discourages answers to protests. However, the NYISO respectfully requests leave to submit this Answer. The Commission has allowed answers to protests when they help to clarify complex issues, provide additional information that will assist the Commission, correct inaccurate statements, or are otherwise

¹ 18 C.F.R. §§ 385.212 and 385.213.

² See *Errata to the Motion to Intervene, Protest, and Comments of the Long Island Power Authority* in Docket No. ER16-168-000.

helpful in developing the record in a proceeding.³ The NYISO's Answer meets this standard. This Answer clarifies matters in dispute, provides additional information that will assist the Commission, and will otherwise be helpful in the development of a complete record in this proceeding. The NYISO therefore respectfully requests that the Commission exercise its discretion and accept this Answer.

II. Answer to Protest

A. Summary of Concerns Raised in Protest and Brief Responses to Concerns Raised

The Protest asks the Commission to: (1) “require the NYISO to undertake further work with stakeholders on the appropriate terms governing the identification and treatment of unauthorized gas use and the identification of fuel cost information used in setting generating unit reference levels;” and (2) direct the NYISO to develop future modifications that: (i) define “unauthorized gas use;” and (ii) use criteria that can be equally applied to gas usage by any Generator⁴ regardless of the local distribution company (“LDC”) or pipeline.⁵ The concerns raised in the Protest should be rejected for the reasons explained in this Answer.

The proposed Tariff revisions were already discussed at numerous stakeholder working group and committee meetings between April and August 2015 and were approved by the NYISO's Business Issues Committee and its Management Committee. LIPA was the only entity to vote against the proposed Tariff revisions at the NYISO's Management Committee meeting

³ See, e.g., *Morgan Stanley Capital Group, Inc. v. New York Independent System Operator, Inc.*, 93 FERC ¶ 61,017 at 61,036 (2000) (accepting an answer that was “helpful in the development of the record ”); *New York Independent System Operator, Inc.*, 91 FERC ¶ 61,218 at 61,797 (2000) (allowing “the NYISO's Answer of April 27, 2000, [because it was deemed] useful in addressing the issues arising in these proceedings ”); *Central Hudson Gas & Electric Corp.*, 88 FERC ¶ 61,138 at 61,381 (1999) (accepting prohibited pleadings because they helped to clarify the issues and because of the complex nature of the proceeding).

⁴ Capitalized terms not specifically defined herein have the meaning set forth in the NYISO's Market Administration and Control Area Services Tariff or in its Open Access Transmission Tariff.

⁵ See Protest at p. 5.

(there were a number of abstentions) and was the only entity to file a protest in response to the NYISO's October Filing.

The NYISO's October Filing proposed Tariff revisions that address unauthorized natural gas use and the consumption of penalty gas. A primary purpose of the proposed Tariff revisions is to address natural gas LDC and pipeline concerns related to electric Generators recovering costs associated with unauthorized natural gas consumption from the NYISO's electricity markets. Each natural gas pipeline or LDC has on file with the Commission or with the New York Public Service Commission ("PSC") one or more tariffs that were developed to address the pipeline or LDC's particular system configuration (including known system constraints), loads and operating conditions that present recognized reliability concerns. Natural gas LDC and pipeline tariffs already identify unauthorized and penalty natural gas use and have prohibitions or financial mechanisms in place to deter undesirable natural gas consumption in order to ensure the reliable and efficient operation of the natural gas delivery system. Prohibitions and financial mechanisms included in the natural gas LDC and pipeline tariffs are designed to prevent unauthorized natural gas consumption when necessary to maintain natural gas system reliability. LIPA proposes that, instead of relying on the tariff rules that are in place for natural gas LDCs and pipelines, NYISO should develop a uniform, one-size-fits-all set of rules to apply to all Generators that operate using natural gas in New York. Any uniform set of rules NYISO develops will not be tailored to address the operating circumstances each gas LDC or pipeline faces, and could conflict with the terms and conditions set forth in natural gas LDC or pipeline tariffs.

In order to address situations where electric system reliability and natural gas system reliability must be balanced, the proposed Tariff revisions allow electric Generators to obtain

authorization from their natural gas LDC or pipeline to burn natural gas that would otherwise be considered unauthorized under the applicable natural gas tariff, rate or contract. The NYISO's proposed Tariff revisions do not allow the NYISO to consider natural gas consumption unauthorized if the Generator obtains authorization from the relevant natural gas LDC or pipeline to consume the gas.⁶

B. Response to Arguments

1. Stakeholder Process for Tariff Revisions

LIPA argues that the Commission should require “the NYISO to undertake further work with stakeholders on the appropriate terms governing the identification and treatment of unauthorized gas use and the identification of fuel cost information used in setting generating unit reference levels.”⁷ The NYISO engaged in a lengthy stakeholder process to develop the proposed Tariff revisions submitted with its October Filing. The proposed Tariff revisions were discussed at five stakeholder meetings between April 2015 and August 2015 and the Reference Level Manual revisions were discussed at six stakeholder meetings between January 2015 and August 2015. The NYISO's stakeholder process for the proposed Tariff revisions culminated with a Management Committee vote that approved the proposed revisions with an 88.98% affirmative vote, LIPA was the only Market Participant voting against (there were 23 abstentions). The NYISO's stakeholders also approved the Reference Level Manual revisions with a 74.76% affirmative vote by the Business Issues Committee (“BIC”), with LIPA and PSEG Energy Resource & Trade, LLC voting against the proposal (there were 31 abstentions). The NYISO even delayed the BIC vote on the proposed Tariff revisions and Reference Level Manual revisions by one month, at LIPA's request, in an effort to review and address LIPA's concerns.

⁶ See October Filing proposed Services Tariff Section 23.3.1.4.6.2.1.2.

⁷ See Protest at p. 5.

During the delay, the NYISO worked with LIPA and the other stakeholders to further develop the proposed language in Market Administration and Control Area Services Tariff (“Services Tariff”) Sections 23.3.1.4.6 and 23.3.1.4.6.1 and to modify the Reference Level Manual revisions.

2. Unauthorized Natural Gas Use Classification

The October Filing explained why it is appropriate to preclude charges for unauthorized natural gas use from being included in the development of reference levels, and to preclude the recovery of costs associated with unauthorized natural gas use. Namely, to prevent the NYISO’s reference level rules from undermining the charges and penalties implemented in the tariffs, rate schedules and customer contracts of natural gas pipelines and LDCs in order to discourage natural gas consumption that could compromise gas system reliability.⁸

It would be unreasonable for the NYISO to supplant the terms and conditions of the gas pipeline and LDC tariffs by developing its own definition of the “unauthorized use” of natural gas on a pipeline or LDC system that differs from the definitions actually used by the gas pipelines and LDCs themselves. Each established definition of unauthorized use (and identification of circumstances that constitute unauthorized use) reflects the individual circumstances of pipeline and LDC systems in a way that a generic NYISO-created definition could not. The NYISO is not a gas company and does not have the ultimate responsibility for maintaining the reliability of natural gas pipelines or distribution systems. It is thus entirely reasonable for the NYISO to look to existing gas tariffs to determine what natural gas pipelines and LDCs deem to be unauthorized use and what natural gas consumption is subject to a penalty charge. Any definition of “unauthorized use” or “penalty gas” that the NYISO develops is likely

⁸ See October Filing at pp. 3-4.

to be inferior to, and could conflict with, the more specific rules set forth in pipeline and LDC tariffs. A NYISO-developed uniform definition could also create conflict among the various LDCs and pipelines regarding the circumstances that cause natural gas consumption to be unauthorized or that merit the imposition of a financial penalty.

LIPA argues that the NYISO must nevertheless develop a one-size-fits-all method of determining when it will not permit recovery of gas costs because looking to LDC and pipeline natural gas tariffs is prohibited by the policy against incorporating other rate schedules by reference into Commission-accepted tariffs. The NYISO does not agree that this policy is applicable under the facts presented. The NYISO proposes to look to established gas tariffs to ascertain relevant facts. Is a Generator's use of natural gas unauthorized under the relevant gas tariff? If the Generator runs will it be consuming penalty gas? The proposed Tariff revisions are not asking the Commission to approve or endorse the underlying gas tariff provisions or any other determination by any other regulator. The NYISO is not impermissibly "incorporating" anything into its own Tariffs. It is merely proposing to add language clearly stating that, for each Generator, the NYISO will look to the gas tariff, rate schedule or contract under which that Generator takes service to determine when its use of gas is unauthorized and when it would be consuming penalty gas. The Commission should reject LIPA's attempt to misapply the policy against incorporation by reference in order to compel the NYISO to ignore obviously relevant and important information about how natural gas LDCs and pipelines actually define and specify the unauthorized use of natural gas.⁹

⁹ To the extent that the Commission nevertheless believes that proposed reference to individual natural gas tariff definitions may be inconsistent with Section 35.1(a) of the Commission's Regulations, the NYISO respectfully requests that the Commission grant a limited waiver of Section 35.1(a). Such a waiver would be consistent with Commission tariff waiver precedent because it would permit the NYISO to have tariff language that addresses a concrete issue, *i.e.*, the need to prevent costs associated with unauthorized gas use or consuming gas that LDCs and pipelines developed financial penalties to deter from being included in Generator reference levels in order to protect gas system reliability (on which electric system reliability may, in turn, depend). The requested waiver is limited in

The NYISO's proposed Tariff revisions are intended to align electric market payments with the economic disincentive and prohibitions that pipelines and LDCs rely on to prevent Generators from burning natural gas when such consumption places the reliable delivery of gas to consumers at risk. The New York LDCs' Comments in Support of NYISO ("Comments in Support") state that "the NYISO's proposal supports the mechanisms that natural gas pipelines and LDCs have built into their tariffs to maintain natural gas system reliability."¹⁰ The New York LDCs are in a much better position to address the reliable operation of the natural gas system and their Comments in Support go on to state that "the NYISO's proposed change to comport the electric market system with the needs of the natural gas system is critical for the continued reliable operation of both systems, and recognizes their interdependence."¹¹ The New York LDCs further support the NYISO's Filing because it addresses the concerns they voiced by eliminating "the unintended electric market incentive for Generators to continue to use natural gas in circumstances when such usage is harmful to and could inadvertently jeopardize the reliability of the natural gas system."¹²

LIPA's Protest articulates a specific concern regarding natural gas use that triggers a balancing (not *penalty*) charge but is still *an authorized use* of gas.¹³ As long as the natural gas tariff does not classify gas use as an "unauthorized use" or subject the gas consumption to a

scope to this single instance where referring to gas tariffs is reasonable and practically necessary. A waiver also would not harm third parties because any NYISO Market Participant would have ready access to the relevant gas tariff.

¹⁰ See *Comments in Support of the NYISO* in Docket No. ER16-168-000 at p. 3, submitted by Central Hudson Gas and Electric Corporation ("Central Hudson"), Consolidated Edison Company of New York, Inc. ("Con Edison"), New York State Electric and Gas Corporation ("NYSEG"), National Fuel Gas Distribution Corporation ("National Fuel"), National Grid USA ("National Grid"), Orange and Rockland Utilities, Inc. ("Orange and Rockland"), and Rochester Gas and Electric Corporation ("RGE") (jointly "New York LDCs").

¹¹ See *Comments in Support of the NYISO* at p. 4.

¹² See *Comments in Support of the NYISO* at p. 3.

¹³ See Protest at p. 7 (emphasis in original).

“penalty,” the NYISO will allow balancing charges and similar costs to be included in reference levels. The NYISO will objectively review natural gas tariff provisions that expressly reference “unauthorized use” or “penalties” to identify prohibited gas consumption.¹⁴

The NYISO’s proposed Tariff revisions allow Generators to obtain authorization from LDCs or pipelines to use natural gas that would otherwise be considered unauthorized.¹⁵ The proposed Tariff revisions permit the NYISO to accept an authorization that a Generator obtains from its natural gas LDC or pipeline demonstrating that the natural gas consumed is or was authorized. Once a Generator demonstrates that the natural gas use was authorized by the relevant LDC or pipeline, the costs can be included in reference levels or in *ex-post* cost recovery requests for certain reliability commitments.¹⁶

Generators can obtain pre-approval from their pipeline or LDC for circumstances that they regularly encounter, clarifying authorization if the gas LDC or pipeline tariff is unclear, or after the fact written approval if the urgency of the situation does not provide time to obtain written pre-approval. If a natural gas LDC or pipeline will not provide authorization to burn “unauthorized” or “penalty” natural gas, the NYISO will assume that such authorization is withheld because the gas use could cause a reliability issue on the natural gas system. “Such coordination and specific authorization to use natural gas that would otherwise be considered unauthorized properly balances the reliability needs of both the electric and the natural gas system.”¹⁷

¹⁴ See October Filing proposed Services Tariff Section 23.3.1.4.6.2.1.1(iv).

¹⁵ See October Filing proposed Services Tariff Section 23.3.1.4.6.2.1.2.

¹⁶ See Services Tariff Section 23.3.3.3.2.

¹⁷ See *Comments in Support of the NYISO* at pp. 4-5.

LIPA's Protest poses a series of questions with respect to the "specific authorization" that the NYISO will accept to consider natural gas use as authorized and includable in reference levels.¹⁸ NYISO responds to LIPA's questions below.

LIPA Question: Is it [the specific authorization] specific to a particular day or transaction?

NYISO Response: Authorization from the natural gas LDC or pipeline may be specific to a particular day or a particular transaction, but this is not necessary. The NYISO will accept blanket authorizations and conditional authorizations.

LIPA Question: Can there be a blanket authorization?

NYISO Response: Yes.

LIPA Question: How is the authorization documented - in writing or verbally?

NYISO Response: The authorization should be documented in writing whenever possible. In the event of an emergency or urgent electric system condition that only allows a Generator to obtain verbal authorization from its LDC or pipeline, the NYISO will accept the verbal authorization to allow the Generator to Bid and run to maintain electric system reliability. The NYISO will also consider written authorization that is obtained after the actual gas consumption when necessary. The proposed Tariff revisions provide that "[d]ocumentation obtained after the fact will be considered" to address LIPA's concern.¹⁹

The NYISO's proposed Tariff revisions and BIC-approved Reference Level Manual revisions were developed to allow the NYISO to implement each of the responses provided above.

¹⁸ See Protest at p. 12.

¹⁹ See October Filing proposed Services Tariff Section 23.3.1.4.6.2.1.2.

3. NYISO's Development of Reference Levels

Services Tariff Section 23.3.1.4 addresses the NYISO's development of reference levels. Reference levels are a long-standing element of the NYISO's markets that the Commission has considered and accepted on numerous occasions.²⁰ The dollar-denominated reference levels for a Generator's Energy and Ancillary Service Bids are intended to reflect the Generator's marginal costs.²¹ As part of the marginal cost the NYISO is required to include the fuel costs incurred by a Generator to provide energy in reference levels. 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.²²

LIPA's Protest argues that its Generators are at risk of being exposed to balancing charges when real-time operations differ from day-ahead schedules.²³ In October 2010, the NYISO implemented Commission-accepted Tariff revisions to permit Market Parties to submit up-to-date fuel type and fuel price information for their Generators with their Real-Time Market Bids.²⁴ The NYISO's Reference Level Software ("RLS") uses the Market Participant-submitted fuel price and type data to adjust reference levels. This bidding function allows Generators to

²⁰ See, e.g., *New York Independent System Operator, Inc., et al.*, 89 FERC ¶ 61,196 (1999), *order on compliance and reh'g*, 90 FERC ¶ 61,317, *clarified*, 91 FERC ¶ 61,154 (2000) (orders addressing the NYISO's proposed Market Mitigation Measures); *New York Independent System Operator, Inc., et al.*, 99 FERC ¶ 61,246 (2002) (order on the NYISO's comprehensive mitigation measures filing); *New York Independent System Operator, Inc.* 103 FERC ¶ 61,291, at P 17 n.11 (2003); *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. ER10-2062-000 and -001 (June 27, 2014).

²¹ Services Tariff Section 23.3.1.4.1.3 ("A level determined in consultation with the Market Party submitting the Bid or Bids at issue, provided such consultation has occurred prior to the occurrence of the conduct being examined by the ISO, and provided the Market Party has provided data on a Generator's operating costs in accordance with specifications provided by the ISO. The reference level for a Generator's Energy and Ancillary Service Bids are intended to reflect the Generator's marginal costs").

²² See, e.g., Services Tariff Sections 23.3.1.4.1.1, 23.3.1.4.1.2, 23.3.1.4.4.1.

²³ See Protest at 5-6.

²⁴ See Services Tariff Section 23.3.1.4.6.3(i); *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).

include in their Bids and to recover fuel costs (including authorized natural gas balancing costs) that materialize in real-time if units are dispatched different from their day-ahead schedules. Updating the fuel cost information also allows Generators to include reasonable expectations of authorized gas balancing charges and changes in natural gas prices in real-time offers to reduce potential cost exposure when real-time dispatch varies from day-ahead schedules. This functionality can be used to reflect changing natural gas costs across the hours of a Real-Time Market day.

In June 2014, the NYISO implemented similar Commission-accepted Tariff revisions to permit submission of fuel type and fuel price information with Generator Bids in the Day-Ahead Market.²⁵ A Market Party has until 4:45 a.m. to submit revised fuel type or fuel price information with its Day-Ahead Bid.²⁶ The NYISO applies this set of updated fuel type and/or fuel price information to all hours of the Day-Ahead Market day.²⁷

Generators must endeavor to maintain accurate reference levels when a Generator's fuel type or fuel price change²⁸ and to submit Bids within the identified thresholds. Generators are only subject to mitigation if Bids are submitted that exceed a Generator's reference level by more than specified conduct and market impact thresholds.²⁹

Generators located outside the New York City Constrained Area are also afforded the opportunity to consult with the NYISO regarding the imposition of conduct and impact

²⁵ *New York Independent System Operator, Inc.*, Letter Order, Docket Nos. ER10-2062-000 and -001 (June 27, 2014).

²⁶ See Services Tariff Section 23.3.1.4.6.7.

²⁷ Later this month the NYISO is scheduled to deploy improved software functionality that will allow Market Parties to submit different fuel type and/or fuel price information for each hour of the Day-Ahead Market day.

²⁸ See Services Tariff Sections 23.3.1.4.6.1 ("Market Parties shall monitor Generator reference levels and shall endeavor to timely ... contact the ISO to request an adjustment to a Generator's reference level(s) when the Generator's fuel type or fuel price change")

²⁹ See Services Tariff Sections 23.3.1.2 and 23.3.2.1.

mitigation or financial sanctions.³⁰ The consultation process allows a Market Party to explain why it submitted increased fuel costs with its Bid for a Generator, or why the Market Party's behavior was consistent with competitive behavior, and to provide supporting documents, including proof of any cost(s) claimed.³¹ The NYISO may modify reference levels used for mitigation or determine that Bids were submitted consistent with competitive behavior if it receives information sufficient to support such a decision.³²

4. NYISO's Reference Level Manual

LIPA's Protest argues that the NYISO improperly embeds rates, terms, and conditions of service in its Reference Level Manual. At the same time LIPA points out that the Commission has found that manuals may contain "implementation details, such as instructions, guidelines, examples and charts, which guide internal operations and inform market participants of how the [ISO] conducts its operations under the [] tariff."³³ The NYISO's proposed additions to its Reference Level Manual contain exactly the sort of material that the Commission has stated are appropriate for inclusion in a manual. The proposed revisions to the Reference Level Manual include instructions and guidelines that explain how the NYISO implements the requirements of its Tariffs and how Market Participants can comply with the reference level development and market power mitigation requirements of the NYISO's Tariffs.

LIPA specifically complains about the NYISO's proposed addition of a statement that Market Parties "***must be able*** to produce upon request the following types of documentation" to justify a fuel cost update that incorporates gas balancing costs.³⁴ This language in the Reference

³⁰ See Services Tariff Sections 23.3.3.1 and 23.3.3.2.

³¹ *Id.*

³² See Services Tariff Sections 23.3.3.1.5 and 23.3.3.3.1.7.1.

³³ See Protest at p. 12 *citing Cal. Indep. Sys. Operator Corp.*, 122 FERC ¶ 61,271 at P 16 (2008).

³⁴ See Protest at p. 14 (emphasis in original).

Level Manual provides guidance to Market Participants on the types of data and/or documentation that the NYISO will accept to justify assertions of increased fuel costs due to the need to include gas balancing costs in Generator reference levels. During the hours of the gas-day when additional natural gas can still be procured, the NYISO proposes to require the Market Party to show that it could not purchase additional gas, so it would need to rely on gas balancing service in order to produce MWh beyond the MWh the Market Party already procured gas to produce. The proposed data requirement is open-ended. It permits the Market Party to provide evidence of increased real-time fuel costs due to lack of gas market liquidity or “some other demonstration that additional gas was not available for purchase in real-time.”³⁵ In effect, the NYISO is simply requiring the Market Party to provide some justification for its decision to include gas balancing costs in Generator reference levels during a time of the day when it should not ordinarily be necessary to use gas balancing service because it is still possible to purchase additional natural gas. The Reference Level Manual is not prescriptive as to the supporting documentation that must be provided.

During the hours when it is more difficult to procure additional gas in real-time (after trading hours have ended for the gas day), the NYISO simply requires the Generator to provide its gas nomination and cumulative gas burn, so the NYISO can compare the actual gas burn to the Bids submitted in each hour to determine if the gas balancing costs a Market Party asserted in its Bids for a Generator (or a portfolio of Generators) were justified. If a Generator is in a net underburn position for the day, it might not be reasonable for the Market Party to submit a fuel cost update that reflects significant additional expected gas balancing costs in the upcoming Real-Time Market hour. On the other hand, if the Generator is already in a substantial overburn

³⁵ See Reference Level Manual new section 6.3.2.3, *available at* http://www.nyiso.com/public/webdocs/markets_operations/documents/Manuals_and_Guides/Manuals/Under_Review/M-34_Reference%20Level_Redline.pdf (effective date “mm/dd/2015”).

position for the gas day, the expectation of incurring substantial additional gas balancing costs if the Generator receives an additional real-time commitment may be fully justified. It is difficult for the NYISO to conceive of a situation where a Market Party could not, after-the-fact, provide documentation of the actual hourly gas burn for a market-day to justify the Bids the Market Party submitted for its Generator or for its portfolio of Generators.

The guidance in the Reference Level Manual revisions generally includes flexibility for Market Parties to demonstrate Generator costs to the NYISO using several different methods. The primary objective of the manual revisions is to help Market Parties understand the documentation needed to comply with the NYISO Services Tariff because “[u]nsupported speculation by a Market Party does not present a valid basis for the ISO to determine that Bids ... are consistent with competitive behavior, or to determine that submitted costs are appropriate for inclusion in the ISO’s development of reference levels.”³⁶ The manual revisions use phrases such as “a supplier that uses natural gas might provide” or “Generators may propose other methods of demonstrating” to provide guidance to Generators regarding the NYISO’s expectations.³⁷ New Reference Level Manual section 6.3.1 also provides that “[o]ther evidence of RT gas costs temporarily above the gas reference index will also be considered.” The Reference Level Manual revisions NYISO developed, in general, only specify explicit directives when discussing a directive that also exists in the Services Tariff. For example, new Reference Level Manual Section 6.3.2.4 states that “Market Parties shall make every effort to clearly document authorization they obtain from an LDC or pipeline.” Identical language is included in proposed Services Tariff Section 23.3.1.4.6.2.1.2.³⁸

³⁶ See Services Tariff Section 23.3.3.1.5.

³⁷ See e.g., Reference Level Manual new section 6.3.1.

³⁸ See October Filing proposed Services Tariff Section 23.3.1.4.6.2.1.2.

The proposed revisions to Section 6.3.2.3 of the Reference Level Manual about which LIPA specifically complained were developed as guidance to inform Market Parties about the documentation NYISO may request to justify the submission of increased fuel costs that include gas balancing charges. If the Commission determines that the NYISO's broad directive on categories of documentation that could be submitted to justify the submission of increased natural gas balancing costs oversteps the NYISO's authority to specify in a manual, the NYISO is prepared to revise Section 6.3.2.3 to expressly specify that the list of categories of acceptable documentation is provided as guidance to assist Market Parties' efforts to justify fuel cost submissions that include natural gas balancing costs.

III. Conclusion

WHEREFORE, for the foregoing reasons, the New York Independent System Operator, Inc. respectfully requests that the Commission (i) accept this Answer to the Protest, and (ii) accept the NYISO's proposed Tariff revisions for filing without modification.

Respectfully submitted,

/s/ James H. Sweeney

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New York Independent System Operator, Inc.

Dated: December 8, 2015

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding in accordance with the requirements of Rule 2010 of the Rules of Practice and Procedure, 18 C.F.R. § 385.2010.

Dated at Rensselaer, NY this 8th day of December, 2015.

By: /s/ John C. Cutting

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