

February 17, 2016

By Electronic Delivery

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

Re: Hudson Transmission Partners, LLC v New York Independent System Operator, Inc., Docket No. EL12-98-001 and-002, Further Compliance Filing, Docket No. ER16-____-000

Dear Ms. Bose:

The New York Independent System Operator, Inc. (“NYISO”) respectfully submits this further compliance filing in response to the Commission’s November 19, 2015 *Order on Rehearing, Clarification and Compliance Filing* (the “November 2015 Order”).¹ The November 2015 Order denied rehearing of an earlier order that had denied most aspects of a complaint by Hudson Transmission Partners, LLC (“HTP”). The complaint concerned the NYISO’s application of its buyer-side capacity market power mitigation measures (“BSM Rules”)² to HTP’s 660 MW merchant transmission facility (“HTP Project”). Among other things, the November 2015 Order upheld the NYISO’s use of a scaling methodology to adjust its estimates of HTP’s energy revenues to reasonably account for imperfections in coordination between the markets administered by the NYISO and the neighboring PJM Interconnection, LLC (“PJM”). The November 2015 Order also required the NYISO to file additional compliance tariff revisions to “provide the conceptual basis and general framework” for the methodology the NYISO will use to project likely Energy and Ancillary Services revenues for controllable transmission lines in its buyer-side mitigation determinations.³ The Commission specified that the proposed

¹ *Hudson Transmission Partners, LLC v. New York Independent System Operator, Inc.*, 153 FERC ¶ 61,191 (2015).

² The BSM Rules are set forth in Section 23.4.5.7 *et seq.* of the NYISO’s Market Administration and Control Area Services Tariff (“Services Tariff”). At the time HTP initiated this proceeding, the BSM Rules applied only to new entry into New York City. Subsequently, the BSM Rules were revised to apply to additional Mitigated Capacity Zones. The proposed tariff revisions, described in Section II are to the currently effective version of the BSM Rules.

³ November 2015 Order at P 94.

revisions must be “sufficiently broad and flexible to allow for the kinds of variations that exist with respect to [Unforced Capacity Deliverability (“UDR”)] projects.”⁴

This further compliance filing proposes the tariff revisions required by the November 2015 Order. The NYISO respectfully requests Commission action within sixty days from the date of this filing, *i.e.*, by April 15, 2016 (as the Commission is not open on the 60th calendar day after this filing) to provide the NYISO and stakeholders with timely notice that the changes proposed herein have been accepted. As described in Section V below, the NYISO requests a flexible effective date.

In support of this filing, the NYISO submits the confirming affidavit of Julia N. Popova, PhD, an economist for the NYISO in the NYISO Market Mitigation and Analysis since 2008. Dr. Popova is a subject matter expert on the matters described in this filing.⁵

I. DOCUMENTS SUBMITTED

In addition to this transmittal letter the NYISO is submitting:

1. A clean version of proposed modifications to the Services Tariff (“Attachment I”);
2. A blacklined version of the proposed modifications to the Services Tariff (“Attachment II”); and
3. A confirming affidavit of Julia N. Popova (“Attachment III”).

II. PROPOSED COMPLIANCE TARIFF REVISIONS APPLICABLE TO FUTURE BSM RULE DETERMINATIONS FOR UDR PROJECTS

The revisions proposed in this filing establish clear tariff rules to govern the computation of net Energy and Ancillary Services revenue estimates used in BSM determinations for UDR projects. They also provide transparency to stakeholders while remaining sufficiently flexible to

⁴ *See Id.* Controllable transmission lines participate in the NYISO’s capacity market with Unforced Capacity Deliverability Rights (UDRs”). The BSM Rules refer to these projects as “UDR facilities” and “UDR projects”, interchangeably. (As described below, the proposed tariff provisions include conforming the provisions to only use the term “UDR projects.”) UDRs, “[w]hen combined with Unforced Capacity which is located in an External Control Area or non-constrained NYCA region either by contract or ownership, and which is deliverable to the NYCA interface in the Locality in which the UDR transmission facility is electrically located, ... allow such Unforced Capacity to be treated as if it were located in the Locality.” *See* Services Tariff Section 2.21. Thus, a UDR project must have one terminus in a Locality. The other terminus can either be in the Rest of State or in an External Control Area.

⁵ The Confirming Affidavit of Dr. Popova is Attachment III to this filing.

permit the NYISO to utilize a methodology that will suit the different characteristics of individual UDR project.

A. Guiding Principles

The proposed tariff revisions delineate guiding principles the NYISO would use to develop the methodology for each UDR project for which it is calculating a Unit Net CONE pursuant to Services Tariff Section 23.4.5.7. The guiding principles establish the conceptual basis and framework for those methodologies to the extent practicable given the anticipated differences among a UDR projects and the relevant markets and areas.

Proposed Sections 23.4.5.7.3.8.1(a) and (b) provide for the NYISO to use a methodology that considers the design of the proposed project and its unique operating characteristics. The NYISO will also consider the location and manner in which a UDR project's terminus is interconnected in the NYCA, and, if UDR facility is connecting to an External Control Area, its terminus' interconnection to the neighboring system. These elements are consistent with the Commission's directive that the NYISO use methodologies that "reflect the specific characteristics of future UDR projects and the interactions between the system with which each project is interconnecting and NYISO."⁶ These elements will allow the NYISO to assess the projected potential for energy to flow over the actual UDR project and also the project's capability to provide Ancillary Services.

The proposed guiding principle in Section 23.4.5.7.3.8.1(c) would require the NYISO to consider the potential effect of transactions utilizing the UDR project on NYCA and in External Control Areas prices. This provision provides for the methodology to recognize a UDR project's effects on interconnected systems and markets, and thus on the UDR project's net revenues.

Proposed Sections 23.4.5.7.3.8.1(d) and (e) specify that a NYISO methodology will reasonably project the costs, including fees, to acquire, transmit, and provide into the Mitigated Capacity Zone Energy and Ancillary Services, and revenues therefrom. If the UDR project design as proposed in the Class Year is bi-directional, the methodology would also account for potential net sales into the External Control Area.

Proposed Section 23.4.5.7.3.8.1(f) establishes that a NYISO methodology will account for "projected opportunity costs (including fees) of selling energy, capacity, and any other product associated with the sale of energy, into an area in lieu of a sale transaction into the Mitigated Capacity Zone." Thus, for example, the capacity in an External Control Area that might be available to be transmitted over a UDR project could also be sold into that area or another neighboring Control Area. In that instance, it would be appropriate for the NYISO's methodology to consider the projected profitability of sales other than those utilizing the UDR project.

⁶ See November 15 Order at P 94.

Proposed Section 23.4.5.7.3.8.1(g) provides for a NYISO methodology to project revenues from the sale of energy and ancillary services, and associated market products, with reference to market-based clearing price mechanisms, or if the Control Area does not have market-based pricing, then a reasonable substitute, in the NYISO's judgment. Thus, the NYISO would account, as applicable to the project, for the forward market market-based clearing prices as in PJM and ISO-NE, but also for revenues available from the non-market area of Hydro-Quebec, and Ontario's Independent Electricity System Operator which has a single clearing price market. This provision will allow the NYISO the flexibility to make reasonable adjustments to account for interregional differences that exist at the time of its Unit Net CONE determination for a specific UDR project. It will also enable the NYISO to reasonably project revenues utilizing available data or making appropriate adjustments in the absence of data, such as when a new market rule has recently been established.

Proposed Section 23.4.5.7.3.8((h) would ensure that a NYISO methodology considers "[t]he effect of scheduling uncertainty and imperfect arbitrage on the projected costs and revenues from the purchase and sale of energy and ancillary services that are reasonable projected" to be transmitted utilizing the UDR project. A methodology established in accordance with this principle would appropriately account for arbitrage and forecast limitations.

The guiding principles are designed to ensure that the NYISO will use methodologies that properly account for each UDR project's attributes. The NYISO's methodologies will also consider the market structures at each project's termini. As recognized in the November 2015 Order, allowing the NYISO the necessary flexibility to develop UDR project-specific methodologies, reasonably bounded by the proposed guidelines, will allow the NYISO to reasonably estimate net revenues of UDR projects in light of the multitude of unpredictable similarities and differences among individual UDR projects. The proposed approach will also permit the NYISO to account for the evolution of market rules over time, as necessary. For example, the NYISO, PJM, and ISO New England, Inc. have been working on to reduce seams, such as interregional scheduling enhancements, which readily may impact the estimated net Energy and Ancillary Services revenues for a project. The guiding principles would enable the NYISO to consider such developments. The proposed guiding principles also provide transparency to stakeholders regarding the factors that will be reflected in future methodologies.

B. Implementation

The proposed tariff revisions also include certain implementation steps. Consistent with other provisions of the BSM Rules, proposed Section 23.4.5.7.3.8.2(a) specifies that the NYISO will be required seek input from the Market Monitoring Unit ("MMU") when it is establishing the methodology for an individual UDR project, including regarding the inputs to be used in the methodology. Proposed revisions to Services Tariff Attachment O, Section 30.4.6.2.12, contain the MMU's specific obligations to provide that input. Proposed Section 23.4.5.7.3.8.2(b) requires the NYISO to post on its web site a description of methodology. These provisions are

modeled on similar requirements currently in the BSM Rules⁷ and are designed to foster developers' and other stakeholders' confidence in the determinations. The web site postings of other determinations under the BSM Rule have fostered transparency and provided useful information. It is reasonable to expect that the MMU's input, the posting of a description of the methodology, under these revisions, will have similar beneficial effects.

The NYISO notes that current Services Tariff Section 23.4.5.7.6.8 and Services Tariff Section 30.4.6.12 specify that the MMU will prepare a written report confirming whether the NYISO's Offer Floor and exemption determinations were conducted in accordance with Section 23.4.5.7.6 and identifying any flaws.⁸ Thus, the MMU's current obligation to prepare a report will include a discussion of whether the methodology and the NYISO's application of it are in accordance with its tariff obligations and identify any flaws.

Proposed Section 23.4.5.7.8.2(c) makes clear that if a UDR project withdraws from a Class Year and then enters another Class Year (regardless of whether it has the same or a different interconnection queue position,) the ISO may utilize a different methodology than previously used, following the guiding principles and implementation requirements set forth in Section 23.4.5.7.8. This provision increases transparency by eliminating any possible ambiguity regarding the NYISO's authority to change methodologies if a UDR project withdraws from a Class Year and enters another Class Year. It will also foster confidence in the reasonableness of the methodology and the BSM Rule determinations based thereon.

III. MINISTERIAL REVISIONS

As described in footnote 4, the BSM Rules refer to proposed controllable transmission lines that plan to participate in the capacity market as "UDR facilities" and "UDR projects", interchangeably, with the same meaning. For avoidance of confusion, the NYISO proposes to revise the several uses of "UDR facility" to "UDR project". These incidental clarifying adjustments are similar to ones that the Commission has allowed the NYISO to include in prior compliance filings.⁹

⁷ See, e.g., Section 23.4.5.7.6.8.

⁸ Services Tariff Section 30.10.4 includes this report among the reports the MMU is required to prepare.

⁹ See, e.g., *New York Independent System Operator, Inc.*, 125 FERC ¶ 61,206 at P 41 (2008) (accepting revisions proposed in a compliance filing "as needed to implement the modifications directed" in an order, even though the order did not specifically direct the filing of such revisions). See also *New York Independent System Operator, Inc.*, 127 FERC ¶ 61,042 at 12 (2009) (accepting revisions that "make ministerial changes that permit the effective implementation" of the proposal that is the subject of the compliance filing).

IV. STAKEHOLDER AND INDEPENDENT MARKET MONITORING UNIT INPUT

The NYISO met with stakeholders on January 19, 2015 to discuss the development of the proposed compliance tariff revisions. A draft of the tariff language was sent to the stakeholders on February 8, 2015 and a conference call in which the NYISO reviewed the draft with stakeholders and received their input was held on February 11, 2015.

Further, the NYISO's independent Market Monitoring Unit reviewed the proposed compliance tariff revisions and authorizes the NYISO to state that it believes they are reasonable and can be implemented effectively.

V. REQUESTED EFFECTIVE DATE

The NYISO respectfully requests a flexible effective date so that its proposed compliance tariff revisions become effective two weeks after the occurrence of the later of the following two events (1) the completion of Class Year 2015, and (2) the Commission's issuance of an order accepting the proposed tariff revisions. The NYISO will promptly notify the Commission, parties to the proceeding, and its stakeholders after those events occur. It will file the effective date and will refile these eTariff sections to reflect the effective status of the accepted revisions on the identified date.¹⁰

The NYISO is presently examining Examined Facilities in Class Year 2015 pursuant to the BSM Rules. The requested flexible effective date would ensure clear application of all provisions (including web site postings) and avoid confusion.¹¹

The NYISO respectfully requests Commission action within sixty days from the date of this filing, by April 15, 2016,¹² so that the NYISO, parties to the proceeding, and other stakeholders have timely notice that the changes proposed herein have been accepted. Such timely action by the Commission will: (a) allow the NYISO to proceed with certainty to fulfill its obligations to apply the current BSM Rules to Class Year 2015 determinations; (b) ensure clarity of the BSM Rules and the obligations thereunder, including for projects presently in the Interconnection Queue that will be eligible to enter Class Year 2016.¹³

¹⁰ The NYISO emphasizes that it already has authority under its existing tariff provisions to consider the factors referenced in the guiding principles when estimating projected net Energy and Ancillary Services revenues for UDR projects. The NYISO must necessarily account for the characteristics of individual UDR projects and market realities (such as the impossibility of perfect arbitrage) in fulfilling its existing tariff obligation to make reasonable estimates. The proposed compliance tariff revisions will provide greater transparency regarding the NYISO's approach and reinforce that may not exercise unlimited discretion.

¹¹ See Services Tariff Section 23.4.5.7.9.

¹² The 60th day is April 17, 2016, which is not a Commission business day.

¹³ See Open Access Transmission Tariff Section 25.5.9.

No Examined Facility or Market Participant will be prejudiced by this request because the proposed rules are consistent with the NYISO's current process for establishing a methodology for BSM Rule determinations for UDR projects.

VI. SERVICE

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

VII. COMMUNICATIONS AND CORRESPONDENCE

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

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VIII. CONCLUSION

For the reasons specified above, the New York Independent System Operator, Inc. respectfully requests that the Commission issue an order accepting this further compliance filing, without requiring any modifications or imposing any conditions, effective on the date described in Section V.

Respectfully submitted,

/s/ Gloria Kavanah

Gloria Kavanah
Counsel for the
New York Independent System Operator, Inc.

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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 17th day of February 2016.

By: /s/ John C. Cutting

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