

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

New York Independent System Operator, Inc.)))	Docket No. ER16-425-000
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**REQUEST FOR LEAVE TO ANSWER AND ANSWER OF
THE NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.**

Pursuant to Rules 212 and 213 of the Rules of Practice and Procedure promulgated by the Federal Energy Regulatory Commission (“Commission”), 18 C.F.R. §§ 385.212 and 385.213, the New York Independent System Operator, Inc. (“NYISO”) hereby submits this Request for Leave to Answer and Answer in response to the protest filed by the Utility Intervention Unit of the New York State Department of State (“UIU”) in the above-referenced docket on December 21, 2015 (“UIU Protest”).

On November 30, 2015, the NYISO filed proposed revisions to its Market Administration and Control Area Services Tariff (“Services Tariff”) and Open Access Transmission Tariff (“OATT”) to improve its current scarcity pricing logic (“Comprehensive Scarcity Pricing”).¹ Scarcity pricing refers to the pricing rules utilized for Energy and certain Ancillary Services in real-time during periods when the NYISO has called upon Emergency Demand Response Program (“EDRP”) resources and/or Special Case Resources (“SCRs”) to provide load reduction to assist in maintaining system reliability. Scarcity pricing does not define the rules by which the NYISO activates EDRP resources and SCRs or how demand side resources can participate directly in the wholesale energy market. The purpose of scarcity pricing is to ensure that real-

¹ Docket No. ER16-425-000, *New York Independent System Operator, Inc.*, Proposed Revisions to Services Tariff and OATT to Implement Improved Scarcity Pricing (November 30, 2015) (hereinafter referred to as the “Comprehensive Scarcity Pricing Filing”). Capitalized terms not otherwise defined herein shall have the meaning specified in Section 2 of the Services Tariff and Section 1 of the OATT.

time prices appropriately reflect the costs associated with deploying EDRP resources and SCRs.²

The Comprehensive Scarcity Pricing proposal will replace the current, *ex post* scarcity pricing methodology by incorporating scarcity pricing into the real-time optimization.³

The UIU Protest opposes the Comprehensive Scarcity Pricing proposal and requests that the Commission reject it. In its protest, UIU contends that the NYISO should have pursued a fundamental redesign of the rules and procedures associated with the EDRP and SCR program instead of the Comprehensive Scarcity Pricing proposal.⁴ It appears that such proposed redesign would be intended to require energy market bidding requirements for demand response resources in order to provide for the ability to commit and dispatch such resources in a manner similar to generators.⁵ UIU also contends that the Comprehensive Scarcity Pricing proposal fails to provide benefits to consumers.⁶

Contrary to UIU's position, the Comprehensive Scarcity Pricing is a material enhancement to the current, *ex post* scarcity pricing methodology. The Comprehensive Scarcity Pricing proposal will improve real-time price formation, ensure consistency between real-time dispatch decisions and pricing outcomes, facilitate more efficient interchange transaction scheduling and provide the potential for achieving energy cost savings for consumers during

² Scarcity pricing is a similar concept to the pricing rules applicable to fast-start, block-loaded resources (*i.e.*, the NYISO's hybrid pricing rules). The hybrid pricing rules allow certain fast-start, block-loaded resources to participate in the setting of real-time energy prices, while the actual dispatch of such resources is addressed separately. *See, e.g., New York Independent System Operator, Inc.*, 95 FERC ¶ 61,121 (2001); Docket No. ER05-1123-000, *New York Independent System Operator, Inc.*, Proposed Tariff Revisions to Remedy Real-Time Market Price Volatility Attributable to Forecasting Uncertainties and Request for Expedited Treatment (June 17, 2005); and *New York Independent System Operator, Inc.*, 112 FERC ¶ 61,075 (2005).

³ Comprehensive Scarcity Pricing Filing at 3-9.

⁴ UIU Protest at 2-3.

⁵ *Id.*

⁶ *Id.* at 3.

EDRP and/or SCR program activations. Accordingly, the NYISO respectfully requests that the Commission issue an order accepting the proposed tariff revisions associated with the Comprehensive Scarcity Pricing proposal on or before January 29, 2016.

I. REQUEST FOR LEAVE TO ANSWER

Rule 213 of the Commission's Rules of Practice and Procedure generally prohibits answers to certain pleadings, including protests.⁷ The Commission, however, has discretion to waive such prohibition.⁸ The Commission has previously determined that a waiver is appropriate in circumstances where an otherwise prohibited answer: (a) will lead to a more accurate and complete record; (b) helps the Commission understand the issues; (c) clarifies matters in dispute or errors; or (d) provides information that will assist the Commission in rendering a decision.⁹ 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. Accordingly, the Commission should accept this answer.

II. ANSWER

The Comprehensive Scarcity Pricing proposal constitutes a significant enhancement to the current, *ex post* scarcity pricing methodology due to its incorporation of scarcity pricing into the real-time optimization. This will: (i) ensure consistency between resource schedules and pricing outcomes in real-time during EDRP and SCR program activations, thereby reducing the

⁷ See 18 C.F.R. § 385.213(a)(2).

⁸ *Id.*

⁹ See, e.g., *New York Independent System Operator, Inc.*, 99 FERC ¶ 61,246 (2002) (accepting answers to protests that helped to clarify issues and did not disrupt the proceeding); *Morgan Stanley Capital Group, Inc. v. New York Independent System Operator, Inc.*, 93 FERC ¶ 61,017 (2000) (accepting an answer that was helpful in the development of the record); and *New York Independent System Operator, Inc.*, 91 FERC ¶ 61,218 (2000) (accepting an answer deemed useful in addressing issues arising in the proceeding at issue).

potential for uplift costs; and (ii) reflect the impacts of scarcity pricing at Proxy Generator Buses, thereby facilitating more efficient interchange transactions when EDRP and SCR program activations occur in real-time. Additionally, as compared to the current scarcity pricing methodology, the Comprehensive Scarcity Pricing proposal provides the potential to achieve energy cost savings for consumers in real-time during periods when the NYISO has called upon the EDRP and/or SCR program.

The Commission should reject UIU's request to disallow implementation of the Comprehensive Scarcity Pricing proposal in order to facilitate pursuing a fundamental redesign of the NYISO's demand response programs as beyond the scope of this proceeding.¹⁰ It appears that the intent of the reforms proposed by UIU would be to require that all demand response resources submit bids in the energy market in a manner consistent with the requirements for generators. As such, the NYISO would be able to commit and dispatch demand response resources based on the economics of the bids submitted by such resources, rather than deploying such resources based on forecasted system needs.

Such a fundamental program redesign far exceeds the scope of the project that was included as part of the stakeholder approved 2015 budget proposal for the NYISO. The Comprehensive Scarcity Pricing proposal is not intended to address the dispatch procedures for EDRP resources and SCRs. Instead, the proposal is intended to improve real-time price formation during the periods when such demand response resources are deployed by the NYISO, while simultaneously reducing the potential for uplift cost impacts during such periods. In the event that UIU desires to pursue such a proposed redesign, it should do so as part of the NYISO's normal stakeholder process. This will ensure that all interested parties have an

¹⁰ UIU Protest at 2-3.

adequate opportunity to review the merits of any such program redesign, as well as consider the appropriate priority to be assigned to such a project in light of other projects that are proposed for consideration.¹¹

UIU's contention that the Comprehensive Scarcity Pricing proposal fails to provide benefits to consumers is incorrect and should be rejected by the Commission.¹² Incorporation of scarcity pricing in the real-time optimization will improve real-time price formation, consistent with Commission's price formation objectives.¹³ The Comprehensive Scarcity Pricing proposal will ensure consistency between real-time dispatch and pricing. This consistency reduces the potential for uplift costs, thereby improving price formation and transparency.¹⁴ The NYISO's proposal also ensures that the impacts of scarcity pricing are appropriately reflected at Proxy Generator Buses. This will facilitate more efficient scheduling of interchange transactions

¹¹ The current uncertainty regarding jurisdiction over demand response that has arisen out of the ongoing litigation related to FERC Order No. 745 would also need to be carefully considered in determining whether it is appropriate to pursue fundamental changes to the NYISO's existing demand response programs at this time. The NYISO has previously received feedback from stakeholders (including consumer representatives) strongly urging the NYISO to avoid the dedication of significant resources to pursuing material revisions to its existing demand response programs in the midst of the ongoing jurisdictional uncertainty related to demand response.

¹² UIU Protest at 3.

¹³ *Settlement Intervals and Shortage Pricing in Markets Operated by Regional Transmission Organizations and Independent System Operators*, 152 FERC ¶ 61,218 at P 6 (2015).

¹⁴ The New York Transmission Owners ("NYTOs") have previously raised concerns regarding the potential for uplift cost impacts related to the NYISO's current, *ex post* scarcity pricing logic. See, e.g., Docket No. ER13-909-000, *New York Independent System Operator, Inc.*, Motion to Intervene and Protest of the New York Transmission Owners at 3-10 (March 1, 2013); Docket No. ER13-909-000, *supra*, Motion for Leave to Answer and Answer of the New York Transmission Owners at 5-8 (March 20, 2013); and Docket No. ER13-909-001, *supra*, Comments of the New York Transmission Owners in Response to the New York Independent System Operator's Response to the Commission's Request for Further Information at 15-18 (May 30, 2013). In their comments in response to the Comprehensive Scarcity Pricing Filing, the NYTOs noted that the Comprehensive Scarcity Pricing proposal addresses their concerns regarding the potential for uplift costs resulting from inconsistencies between real-time schedules and prices during periods of EDRP and/or SCR program activations. Docket No. ER16-425-000, *supra*, Motion to Intervene and Comments of the New York Transmission Owners at 3 (December 21, 2015).

during periods when the NYISO has activated the EDRP and/or SCR program. Incorporation of scarcity pricing into the optimization facilitates the ability of the Real-Time Market software to make economic scheduling decisions that improve the reliability of the system and avoid unnecessarily triggering scarcity pricing when alternative, lower cost options exist.

The Comprehensive Scarcity Pricing proposal seeks to improve the accuracy of real-time prices and ensure that such prices accurately reflect system conditions and the costs of resources utilized to meet system needs. Efficient competitive wholesale markets depend on transparent prices that accurately reflect system needs and the cost of resources to meet such needs. These transparent and accurate price signals provide the foundation for economically efficient generation, transmission, demand response and energy efficiency investment decisions. Supply resources rely on prices to determine whether and when to operate. Investors and developers rely on prices to determine whether to build new facilities, what type of facility to build and where to build. Consumers also rely on prices to decide how much electricity to buy and help inform investment and operating decisions. Prices that fail to accurately reflect system needs and resource costs will result in incorrect signals, leading to inefficient decisions and ultimately higher costs for consumers.

As part of the stakeholder discussions related to the Comprehensive Scarcity Pricing proposal, the NYISO conducted an analysis to assess the potential consumer impacts of the proposal. The assessment analyzed the potential market outcomes that would have resulted had the NYISO's proposal been in effect during the EDRP and SCR program activations in 2013.¹⁵

¹⁵ See, NYISO, *Consumer Impact Analysis: Comprehensive Scarcity Pricing* (presented on September 8, 2015), available at: http://www.nyiso.com/public/webdocs/markets_operations/committees/bic_icapwg/meeting_materials/2015-09-08/CIA%20Comp%20Scarcity%20Pricing%2009082015%20MIWG.pdf.

The analysis identified the potential to achieve material energy cost savings for consumers during periods when the EDRP and/or SCR program are activated by the NYISO, compared to the current, *ex post* scarcity pricing methodology.¹⁶

Based on the foregoing, the Comprehensive Scarcity Pricing proposal will improve on the NYISO's current scarcity pricing methodology, as well as provide benefits to consumers and the marketplace as a whole. Accordingly, the Commission should reject UIU's contention that the NYISO's proposal is not beneficial.

¹⁶ The NYISO's analysis indicated the potential for the Comprehensive Scarcity Pricing proposal to achieve annual energy cost savings of approximately \$46.7 million in years when the EDRP and/or SCR program are activated by the NYISO, depending on the number of activations that occur in a given year. In the absence of any EDRP and/or SCR program activations in a given year, the NYISO's analysis indicated that the Comprehensive Scarcity Pricing proposal could result in an annual energy cost increase of approximately \$14.6 million. The potential for a cost increase is driven by the corollary changes necessitated by the proposal to ensure proper pricing outcomes (*i.e.*, the proposed increase to the SENY 30-minute reserve demand curve value and the proposed increase to the value of the middle price point of the Regulation Service Demand Curve).

III. CONCLUSION

The NYISO requests that the Commission accept this answer and reiterates its request for approval of the proposed tariff revisions related to the Comprehensive Scarcity Pricing proposal on or before January 29, 2016.¹⁷

Dated: January 5, 2016

Respectfully submitted,

/s/ Garrett E. Bissell

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¹⁷ The NYISO requested a flexible effective date with respect to implementation of the Comprehensive Scarcity Pricing proposal. The NYISO proposed to submit a compliance filing at least two weeks prior to the proposed effective date that will specify the date on which the proposed tariff revisions will take effect. The NYISO currently anticipates the proposed tariff revisions becoming effective on or before June 30, 2016. *See* Comprehensive Scarcity Pricing Filing at 16-17.

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 5th day of January, 2016.

By: /s/ John C. Cutting

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