

July 26, 2010

By Electronic Filing

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

**Re: *New York Independent System Operator, Inc.*, Docket No.ER10-____ - ____
Proposed Tariff Clarifications regarding Real-Time Energy Offers**

Dear Ms. Bose:

Pursuant to Section 205 of the Federal Power Act,¹ the New York Independent System Operator, Inc. (“NYISO”) hereby submits proposed revisions to its Open Access Transmission Tariff (“OATT”) and Market Administration and Control Area Services Tariff (“Services Tariff”) to revise provisions concerning Real-Time Energy offers. These provisions will allow Generators to increase the price of Energy already scheduled Day-Ahead for re-evaluation in the real-time market. The opportunity to re-offer Energy already scheduled Day-Ahead at a higher price in real-time will allow Generators to reflect in their real-time offers the cost implications of circumstances that arose following the Day-Ahead commitment, such as fuel outages or fuel cost increases. This functionality provides an opportunity to manage the risk of these unexpected fuel cost increases. It also improves the ability for the NYISO’s real-time commitment and dispatch software to reflect such unexpected circumstances in real-time Location Based Marginal Pricing (“LBMP”).

These Tariff amendments have been approved by the NYISO’s Management Committee and the NYISO’s Board of Directors.

I Documents Submitted

1. This filing letter;
2. A clean version of the proposed revisions to the NYISO’s Open Access Transmission Tariff (“OATT”) and Market Administration and Control Area Services Tariff (“Services Tariff”); and
3. A blacklined version of the proposed revisions to the NYISO’s Open Access Transmission Tariff (“OATT”) and Market Administration and Control Area Services Tariff (“Services Tariff”).

¹ 16 U.S.C. §824d (2000).

II Background

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 reasons such as the need to switch to an alternate fuel due to fuel curtailment or otherwise. Currently, generators are not permitted to increase their Energy offer on capacity that received a DAM schedule² and no other NYISO mechanism exists for generators to manage or hedge these post-DAM increases in costs. Thus, Generators must either run to their Day-Ahead schedule at their increased cost, or take a derate. Such unplanned derates, however, will impact the Generator’s future Unforced Capacity calculation and may compromise real-time reliability.

The enhancement proposed here will 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 face Balancing Market obligations but these obligations are likely to be less than the cost of operating to its DAM schedule at its higher costs. As such, this feature will improve 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. This functionality 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 will not be allowed to increase their Minimum Generation Cost or MW. This ensures that the NYISO’s Security Constrained Unit Commitment (“SCUC”)-scheduled Day-Ahead units will be online and available to provide Energy above their minimum generation levels, if the need for such dispatch materializes.³ In addition, units will remain unable to increase their Start-Up Costs since the SCUC software reflected this cost in the generator’s DAM schedule and settlement.

This project is dependent on successful deployment of the Reference Level Software (“RLS”) project, since generators’ reference levels may need to be updated when they experience cost increases which they want to incorporate into their real-time offers. Pursuant

² Generators currently are allowed to increase their Energy offers in the Hour-Ahead Market only for capacity that was not committed in the DAM although they may lower their offers in the Hour-Ahead Market for DAM committed Energy.

³ Generators economically dispatched above their minimum generation levels will not be additionally compensated, for Energy previously scheduled Day-Ahead, at real-time LBMPs or otherwise.

to the proposed tariff amendments related to the RLS project, Market Participants will be able to submit fuel type and fuel cost information with their updated real-time offers. RLS will use the Market Participant-submitted fuel data to adjust reference levels, subject to RLS rules. For other cost increases, Market Participants will continue to contact Market Mitigation and Analysis (via the Reference Level Software application) with reference level adjustment requests.

III Description of and Justification for Proposed Tariff Revisions

The NYISO proposes to add a new term to the Services Tariff, Section 2.18 and OATT, Section 1.18: “Real-Time Scheduling Window” defined as

The period of time within which the ISO accepts offers and Bids to sell and purchase Energy and Ancillary Services in the real-time market which period closes seventy-five (75) minutes before each hour, or eighty-five (85) minutes before each hour for Bids to schedule External Transactions at the Proxy Generator Buses associated with the Cross-Sound Scheduled Line, the Neptune Scheduled Line, or the Linden VFT Scheduled Line.

The availability of a term describing the real-time bid submission time frame reduces the length of the description of this opportunity and thereby improves the clarity of provisions in the Services Tariff that describe it.

The NYISO also proposes to amend Services Tariff Section 4.1.8, titled “Commitment for Reliability.” Previously, Generators required to operate in response to specific reliability-based requests from the NYISO, could recover, pursuant to this provision, start-up and minimum generation costs not recovered in the Dispatch Day. With the ability to include increased incremental Energy costs in the units’ real-time bid, the NYISO proposes to limit the application of this section to costs that were not bid, and that were not known prior to the close of the Real-Time Scheduling Window. Additional costs for Energy scheduled Day-Ahead will no longer be covered by this provision. These limitations are necessary to ensure that units bid their increased costs into the real-time market where the real-time economic dispatch could replace their more expensive Energy with less expensive supply. The balance of the changes to this section clarify that: i) any increased costs not recovered in the Dispatch Day and eligible for recovery under this Section are treated for Attachment C purposes as if bid, since Attachment C discusses only bids; and ii) the reference to the recovery of payments made under this Section applies to reliability calls for local and statewide reliability.

The NYISO also proposes to amend Section 4.4.2.2.1 of the Services Tariff, which addresses the submission of real-time bids, to indicate that Generators may increase the bid-price, or the mitigated bid-price, as applicable, of Day-Ahead scheduled incremental Energy unless otherwise prohibited from doing so by other provisions of the tariff. The proposed caveat is necessary because, as is described in detail below, the NYISO proposes new mitigation measures that will permit it to prohibit Suppliers bidding a particular Generator from using the opportunity to increase the price of a Day-Ahead scheduled unit in real-time under a set of circumstances that the NYISO proposes to specify in its Market Power

Mitigation Measures (“MMM”).⁴ The NYISO also proposes to continue the existing prohibition found in Section 4.4.2.2.1 of the Services Tariff, on increasing Minimum Generation and Start-up Bids for Day-Ahead scheduled Energy. As mentioned above, for system reliability, the NYISO needs to be able to rely on the Day-Ahead commitment of Generators sufficient to serve expected real-time Load. Maintaining the Minimum Generation and Start-up Bids for Day-Ahead scheduled Generators allows the NYISO to rely on them for incremental Energy, should the need arise.

The NYISO proposes to add a new Section 5.2.2 titled “Suspension of the Ability of Generators to Increase their Bids in Real-Time” to set forth the circumstances under which the NYISO would temporarily suspend this new functionality, market-wide. This suspension opportunity is patterned after the existing Section 5.2.1 describing the suspension of Virtual Transactions, and is necessary for the same reasons as that previously accepted Tariff provision. The functionality allowing Generators to increase Bids on Day-Ahead scheduled Energy in real-time is very new to this market design. While the NYISO has complete confidence that it will work as intended, and will not present reliability or market efficiency risks, the NYISO believes that it is necessary, and prudent, to be able to discontinue this functionality if a problem, nonetheless arises. Thus, the NYISO proposes that the opportunity to submit real-time Incremental Energy Bids on Energy scheduled Day-Ahead at higher prices than were submitted Day-Ahead be suspended if the use of this bidding opportunity: i) creates a market aberration that impairs the functioning of the ISO-administered markets; or ii) substantially impairs the reliability of the electric system. As mentioned, this suspension functionality is patterned after the suspension functionality for Virtual Transactions and authorizes suspension for the same reasons.

The NYISO also proposes to notify the Commission and Market Participants of a suspension of the opportunities for generators to submit real-time Incremental Energy Bids on Energy scheduled Day-Ahead at higher prices on the same time frame and with as much detail as it currently uses to report a suspension of the submission of Virtual Transactions. That is, the NYISO proposes to report as soon as practicable the reasons for the suspension, the actions necessary to restore the functionality and the time required to restore the functionality.

The NYISO also proposes to exclude, from eligibility for Day-Ahead Margin Assurance Payments (“DAMAP”), calculated pursuant to the Services Tariff Attachment J, those hours for which Generators have increased their real-time bids on Day-Ahead scheduled Energy. DAMAP payments reimburse a Generator for lost Day-Ahead Margin when the NYISO has scheduled a Generator in such a way that reduces its Day-Ahead Margin. This happens typically when the NYISO has reduced for reliability reasons the real-time schedule of a Day-Ahead scheduled Generator. In this case, however, the reduced real-time dispatch is the result not of NYISO actions but of the Generator’s increased real-time bid and a DAMAP is not warranted.

In addition, the NYISO proposes to also exclude from DAMAP the two hours before and following the hour(s) for which the unit has submitted an increased real-time Bid on Day-Ahead scheduled Energy. Depending on a unit’s ramp rate, the NYISO will begin to ramp a

⁴ The MMM are set forth in Attachment H to the NYISO’s Services Tariff.

Generator to its new schedule as many as two hours ahead. By the same token, it may take the NYISO as many as two hours to return a unit to its Day-Ahead schedule from an hour's schedule based on an increased real-time bid. For the same reasons that no DAMAP should be paid for hours for which the increased real-time offer has been made, no DAMAP should be payable for the two hours preceding and the two hours following the hour(s) for which the increased real-time offer was made.

Finally, the NYISO is also proposing new mitigation provisions to prevent unjustified interactions between a Market Party's virtual bidding and the submission of real-time Incremental Energy Bids on capacity that was scheduled Day-Ahead. As a general matter, the NYISO's proposal allows it to revoke the ability for any Market Party to increase hourly realtime Bid(s) on Day-Ahead scheduled capacity for a Generator ("increased real-time bid functionality") if the NYISO makes the following determination:

1. A Market Party has submitted an increased Energy offer for the generator for an hour that exceeds the unit's justifiable real-time reference level by the lower of \$100/MWH, \$300, or the in-city threshold for an in-city Generator when an interface or facility into the area where the Generator is located is constrained;
2. The Market Party also has a scheduled Virtual Load transaction for the same hour;
3. A virtual market penalty (described below) calculated for the Market Party (whether or not imposed) would not be zero; and
4. The Market Party has not been able to demonstrate that its increased real-time bid was consistent with competitive behavior.

The virtual market penalty is calculated by multiplying the Virtual Load MW by the amount by which the integrated real-time LBMP exceeds the Day-Ahead LBMP applicable to the Virtual Load MW. Virtual Load MW are defined as the scheduled MW of Virtual load bid by the Market Party for the same hour in which the Market Party submitted the incremental Energy real-time Bid.

Should the NYISO revoke the opportunity for any Market Party to use the increased real-time bid functionality when bidding a particular Generator, the NYISO also proposes to add the ability to impose a penalty on the Market Party that used the increased real-time bid functionality in conjunction with the scheduling of Virtual Load. The penalty will recover the difference between Real-Time LBMPs and Day-Ahead LBMPs at the locations where the Market Party scheduled Virtual Load. Although the NYISO does not propose to add a "penalty multiplier," losses on scheduled Virtual Load Transactions in an hour will not offset profits on scheduled Virtual Load Transactions in the same hour for purposes of calculating the NYISO's proposed penalty. The mitigation of the authority to use the increased real-time bid functionality on a particular Generator will be an ongoing mitigation measure that can be imposed for up to six months, consistent with Section 23.4.8 of the MMM. The application of the virtual market penalty would be a one-time penalty (although potentially a multi-hour penalty) related to the circumstances pursuant to which the increased real-time bid functionality on that Generator was revoked.

The proposed mitigation measure and associated penalty should deter Market Participants from unjustifiably increasing their real-time bids to manipulate the settlement of Virtual Load Transactions they have also scheduled.

The NYISO includes this mitigation measure in the NYISO Tariff by amending various Sections of Attachment H. Specifically, the NYISO proposes to amend Section 23.4.3.2 of Attachment H to include among the list of situations and circumstances pursuant to which the NYISO may impose a financial penalty, the circumstances described above wherein the NYISO has precluded a Market Party from increasing real-time bids on the Generator's Day-Ahead scheduled Energy. The NYISO proposes to add this phrase to 23.4.3.2 in a new subsection (vi):

[T]he opportunity to submit Incremental Energy Bids into the real-time market that exceed Incremental Energy Bids made in the Day-Ahead Market or mitigated Day-Ahead Incremental Energy Bids where appropriate, has been revoked for a Market Party's Generator pursuant to Sections 23.4.7.2 and 23.4.7.3 of these Mitigation Measures.

The NYISO proposes to amend the first sentence in 23.4.3.3.1 to exclude, from the standard penalty calculation found in Section 23.4.3.3 and 23.4.3.4, the virtual market penalty described in Section 23.4.3.3.4. The NYISO also proposes to add a placeholder Section, Section 23.4.3.3.3, for the penalty calculation to be introduced in a filing the NYISO intends to make within a few days of this filing. Finally, the NYISO proposes a ministerial change to this first sentence to indicate that the penalty calculation described in 23.4.3.3.2 is also an exclusion from the standard penalty calculation otherwise found in Sections 23.4.3.3 and 23.4.3.4.

The virtual market penalty is proposed to be added to Attachment H as new Section 23.4.3.3.4. It could be imposed on a Market Party, as described above, if the Market Party used the increased real-time Bid functionality for a Generator and the NYISO has, as a result of the Market Party's actions and pursuant to new Sections 23.4.7.2 and 23.4.7.3 of this Attachment H, revoked the opportunity for any Market Party to use the increased real-time Bid functionality for that Generator. The virtual market penalty is calculated as described above.

The NYISO also proposes a new Section 23.4.7 to describe the potential mitigation applicable under the circumstances described above when a Market Party uses the increased real-time Bid functionality. In Section 23.4.7.1, the NYISO describes the purposes of the increased real-time functionality - to permit Market Parties to include additional costs they would incur to provide incremental Energy in real-time for Energy scheduled Day-Ahead, where such additional costs were not known prior to the close of the Day-Ahead Market.

The NYISO's proposed new Section 23.4.7.2 describes its monitoring and mitigation implementation approach. If a Market Party uses the increased real-time Bid functionality and also has scheduled a Virtual load bid(s) for the same hour(s), the NYISO will ask the Market Party to demonstrate that its real-time bid was consistent with competitive behavior if:

- 1) its real-time bid for the hour exceeded the reference level for the Generator that can be justified after-the-fact by more than:
 - i) the lower of \$100/MWh or 300%; or
 - ii) If the Market Party's Generator is located in a Constrained Area, for intervals in which an interface or facility into the area in which the Generator or generation is located has a Shadow Price greater than zero, then a threshold calculated in accordance with Sections 23.3.1.2.2.1 and 23.3.1.2.2.2 of the Mitigation Measures; and
- 2) a virtual market penalty, if calculated for the Market Party for the hour, would produce a positive number.

If the Market Party is unable to demonstrate to the satisfaction of the NYISO that its real-time bid was consistent with competitive behavior, the NYISO shall revoke the use, by any Market Party, of the increased real-time Bid functionality on that Generator, pursuant to Section 23.4.7.3. As with other mitigation measures provided in Attachment H, this measure expires in six months pursuant to Section 23.4.8. If the NYISO imposes the mitigation measure identified in 23.4.7.3, it may impose the virtual market penalty described in Section 23.4.3.3.4.

IV Effective Date

The NYISO requests an effective date of September 30, 2010.

V Requisite Stakeholder Approval

The NYISO's Management Committee approved this proposal May 19, 2010. The Board of Directors approved these proposed tariff amendments June 15, 2010.

VI Communications and Correspondence

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

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VII Service

The NYISO will send an electronic link to this filing to the official representative of each of its customers, 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.

VIII Conclusion

Wherefore, for the foregoing reasons, the New York Independent System Operator, Inc. respectfully requests that the Commission accept this filing to be effective September 30, 2010.

Respectfully submitted,

/s/ Mollie Lampi

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