

July 30, 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; Docket No. ER10-____-____.

Dear Ms. Bose:

Pursuant to Section 205 of the Federal Power Act,¹ the New York Independent System Operator, Inc. ("NYISO") hereby submits proposed amendments to the Market Power Mitigation Measures ("MMM") that are set forth in Attachment H to its Market Administration and Control Area Services Tariff ("Services Tariff"). The NYISO proposes amendments to its MMM that will permit it to implement new reference level software ("RLS") functionality that will enable Market Parties² 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 proposed in this filing:

- (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;

¹ 16 U.S.C. § 824d (2010).

² Capitalized terms that are not otherwise defined herein shall have the meaning specified in the Services Tariff or in the MMM.

- (c) proposes 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); and
- (d) propose corresponding/reciprocal revisions to the NYISO's Market Monitoring Plan³ where the Market Monitoring Unit's duties are affected by the proposed changes to the MMM.

The proposed improvements will 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 will improve 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.

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 MMM;
3. a blacklined version of the proposed revisions to the MMM;
4. a clean version of the proposed revisions to the Market Monitoring Plan; and
5. a blacklined version of the proposed revisions to the Market Monitoring Plan.

³ The Market Monitoring Plan is set forth in Attachment O to the Services Tariff.

II. COPIES OF CORRESPONDENCE

Correspondence concerning this filing should be served on:

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III. BACKGROUND

Section 23.3.1.4 of the NYISO's MMM addresses the development of reference levels. Dollar-denominated reference levels, such as start-up, minimum generation and incremental energy reference levels, are generally intended to reflect a Generator's marginal cost of providing a service.⁴ 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.⁵ Even where the NYISO is not expressly required by the Tariff to fuel index a particular type of reference level, it incorporates fuel costs where appropriate to more accurately reflect Generators' marginal costs.

The NYISO has developed improved RLS that will permit it to implement a number of upgrades to the determination of Generator reference levels. In this filing, the NYISO proposes rules that will permit it to use up-to-date fuel price and fuel type information submitted by Market Parties to more accurately fuel index their Generators' reference levels. Over the past two weeks, the NYISO has also requested that the Commission accept Tariff revisions that will (1) improve the method that the NYISO uses to calculate reference levels for Generators that are committed in the Day-Ahead Market or via Supplemental Resource Evaluation to start late in the Dispatch Day and that need to run on the following Dispatch Day to complete their minimum run time ("Late Day Start"),⁶ and (2) permit Generators to increase their Real-Time Market Bids to reflect an increased cost of producing incremental energy that was scheduled in the Day-Ahead Market ("Increased Bids in Real Time" or "IBRT").⁷ The proposed IBRT improvements are dependent upon the suite of RLS and

⁴ See, e.g., MMM §§ 23.3.1.4.1.1(ii), 23.3.1.4.1.2(iii), 23.3.1.4.1.3, 23.4.2.1.

⁵ See, e.g., MMM §§ 23.3.1.4.1.1, 23.3.1.4.1.2, 23.3.1.4.4.1.

⁶ See Docket No. ER10-1866-000.

⁷ See Docket No. ER10-1977-000.

market software improvements that support the Tariff revisions proposed in this filing. The NYISO's ability to implement IBRT is directly dependent upon the Commission's acceptance of the Tariff revisions proposed in this filing.

In the Day-Ahead Market, the NYISO proposes to permit Market Parties to submit information identifying the type of fuel that their Generator will burn if it is committed. This information is relevant to fuel-indexing the reference levels of Generators that are capable of burning more than one fuel type, that burn different fuel blends, or that are connected to multiple fuel sources that have distinct prices.⁸ The proposed Tariff revisions are designed to permit the NYISO to implement a fuel type screening process that will require NYISO approval to change a Generator's fuel type to a new fuel type. Market Parties will typically be able to designate their intended fuel choice from one of several pre-approved fuel types for each Generator. The automated screening process will not permit a Market Party to select a fuel type that has not been pre-approved.

All of the changes described above for the Day-Ahead Market will also apply to the Real-Time Market. However, in the Real-Time Market, Market Parties will have the ability to submit fuel price information in addition to fuel type information. This additional real-time capability is appropriate because, while there is reliable day-ahead fuel price information available in published indices, little or no real-time or intra-day fuel price information is publicly available. The day-ahead fuel prices that the NYISO uses to fuel index generator reference levels may not accurately reflect the fuel costs that a generator committed in the Real-Time Market must pay. For this reason, the NYISO proposes to give Market Parties the ability to submit real-time fuel price information for their Generators.

The NYISO proposes to publicly post the thresholds it will use to screen changes in fuel type or fuel price in advance. At times when fuel prices are extremely volatile (for example, when natural gas prices are spiking or when gas is not available in the winter months due to heating demand), the NYISO will post less stringent screening thresholds to permit Market Parties to react to changes in the gas markets. At times when fuel prices are relatively stable, the NYISO will post more stringent thresholds. The purpose of the proposed screening thresholds is to identify which proposed fuel price changes need to be manually reviewed by NYISO staff before they are permitted to take effect. Changes in fuel price and/or type that are timely submitted and that accurately reflect the cost of the fuel that a Generator needs to burn will be eligible for recovery, even in cases where the NYISO is not able to timely review and approve a change to a more (or less) expensive fuel type.

Fuel type and fuel price information that is used to determine a Generator's reference levels can directly impact market clearing prices or a particular Generator's guarantee payment compensation. Because fuel costs are incorporated into a Generator's reference levels, applying mitigation *will not* prevent a Generator that submits inaccurate fuel price or fuel type information from receiving a financial benefit. For this reason, the NYISO proposes

⁸ For example, if a Generator has indicated that it usually buys gas at either the "Transco Zone Six New York" spot price or at the "Algonquin City Gates" spot price, and both fuels are included by the NYISO on the Generator's pre-approved list of available fuels, a change by the Generator from one pipeline to the other would constitute a change in fuel "type."

two methods of addressing cases where Market Parties submit inaccurate fuel type or fuel price information for their Generators. First, where a Market Party submits fuel price or fuel type information that is determined to be biased in the submitting entity's favor (measured over a period of at least one week), the NYISO may require manual review by its Market Mitigation and Analysis Department ("MMA") of all fuel type and fuel price information submitted for the affected Generator before proposed fuel price or fuel type changes are permitted to take effect. The first time the NYISO determines that a Market Party submitted biased fuel type or fuel price information, the NYISO proposes to require manual MMA review for up to six months from the end of the period during which fuel price or fuel type information was being misreported. For subsequent occurrences, the NYISO proposes to require manual MMA review for up to one year from the end of the period during which fuel price or fuel type information was being misreported.

Second, the NYISO proposes to apply a penalty when (1) a Market Party submits inaccurate fuel price and/or fuel type information for one or more Generators, and (2) the inaccurate information is used by the NYISO to develop reference levels for the Generators, and (3) the resulting inaccurately developed reference levels permit the Market Party to Bid the Generator(s) in a manner that increases the guarantee payments to one or more of the Market Party's Generators, or the market clearing prices at the Market Party's Generator locations, or the Market Party's Day-Ahead Transmission Congestion Contract ("TCC") revenues, above the payment that the Market Party would have received had it submitted accurate fuel price/type information. In order for a penalty to apply, the guarantee payment or market clearing price must increase by more than the NYISO's proposed conduct and impact thresholds for at least one of the Market Party's Generators.

The proposed penalty is calculated based on the difference between the compensation the Market Party received based on the inaccurate fuel type and/or fuel price information it submitted and the compensation the Market Party would have received if it had submitted accurate information. The NYISO proposes to apply a multiplier of between 1* and 1.5* to the results of the penalty calculation, based on its consideration of the facts and circumstance presented by the Market Party in the consultation process. The NYISO's discretion in applying the penalty is constrained, because the lowest permissible penalty multiplier is 1*, which effectively requires the NYISO to take back any gains that the Market Party received due to its submission of inaccurate information, without regard for culpability. The Market Monitoring Unit will have the opportunity to review and comment on the NYISO's proposed penalty before it is applied.

Consistent with the rules described above, the NYISO proposes to clarify the consultation rules that apply to Generator reference levels. In particular, the proposed revisions clarify that Market Parties are responsible for ensuring that fuel cost information they submit to the NYISO (including fuel price and fuel type information) is accurate. Market Parties are also required to report significant changes (upward or downward) to the cost components used to develop their Generators' reference levels to the NYISO. Where the NYISO uses a published fuel price index to fuel-adjust reference levels, Market Parties are not required to report when their fuel cost is less than the index price. This is appropriate because, presumably, the fuel could sometimes be resold to a third party at a price higher than

the cost originally paid by the Market Party. In this case the opportunity cost of the fuel exceeds the original price paid by the Market Party.

The NYISO proposes corresponding/reciprocal revisions to the NYISO's Market Monitoring Plan where the Market Monitoring Unit's duties are affected by the NYISO's proposed changes to the MMM.

Finally, the NYISO proposes to clarify that it is not necessary to calculate real-time reference levels for Spinning Reserves, 10-Minute Non-Synchronized Reserves, or 30-Minute Reserves because Generators that are capable of providing these products are assigned real-time Availability Bids of zero for the amount of Operating Reserves they are capable of providing. The NYISO also proposes to clarify the methods it will use to develop reference levels for Operating Reserves in the Day-Ahead Market.

IV PROPOSED TARIFF REVISIONS

The NYISO proposes the following changes to the MMM:

- Section 23.3.1.4.1 – revised to indicate that the NYISO is proposing additional exceptions to the general rule set forth in this Section.
- Sections 23.3.1.4.1.1, 23.3.1.4.1.2 and 23.3.1.4.4.1 – revised to indicate that adjustments for changes in fuel prices are now addressed in Section 23.3.1.4.7.
- Section 23.3.1.4.6 – a new Section that clarifies that it is not necessary for the NYISO to calculate real-time reference levels for Spinning Reserves, 10-Minute Non-Synchronized Reserves, or 30-Minute Reserves because Generators that are capable of providing these products are assigned real-time Availability Bids of zero for the amount of Operating Reserves they are capable of providing. The NYISO also proposes to clarify the methods it will use to develop reference levels for Operating Reserves in the Day-Ahead Market in this Section.
- Section 23.3.1.4.7 – a new Section that sets forth rules for fuel indexing Generator reference levels.
- Section 23.3.1.4.7.1 – requires Market Parties to monitor their Generators' reference levels and to timely contact the NYISO to request an adjustment when a Generator's fuel type or fuel price changes.
- Section 23.3.1.4.7.2 – authorizes the NYISO to use both automated and manual processes to screen fuel price and fuel type information. The purpose of the screening process is to prevent inaccurate fuel type or fuel price information from affecting market clearing prices and guarantee payments.
- Section 23.3.1.4.7.3 – sets forth the methods that Market Parties must use to submit fuel price and fuel type information. If a Market Party's fuel type or fuel price information fails the automated screening thresholds, it must be submitted for review

by MMA via a separate submission process. The consequence of failing the automated screening process is that review/approval by MMA is required before the new or revised fuel type or fuel price information is permitted to be used to develop reference levels for a Generator. To reduce processing time, new or revised fuel type or fuel price information can be simultaneously submitted both to the automated system and for manual review by MMA.

- Section 23.3.1.4.7.4 – states what the NYISO will do with the fuel type and fuel price information that Market Parties submit. The NYISO is expected to use the fuel type and fuel price information that Market Parties submit to develop Generator reference levels unless (a) the information is inaccurate, (b) the information was not timely submitted (and the untimely submission is not excused in accordance with proposed Section 23.3.1.4.7.7), or (c) a ban has been placed on the automated submission of fuel type and fuel price information for that Generator in accordance with proposed Section 23.3.1.4.7.8. Even in cases where a ban on automated acceptance of fuel type or fuel price information has been applied, new or revised fuel type and fuel price information can be submitted to MMA for its review. Once reviewed and approved by MMA, the new or revised fuel type and fuel price information will be used to develop the Generator's reference levels.
- Section 23.3.1.4.7.5 – sets forth what the NYISO will do to correct the compensation to a Market Party if (1) the NYISO is not able to review timely submitted, accurate fuel type or fuel price information, and (2) the Bid(s) for the Generator are tested and mitigated using incorrect reference levels.
- Section 23.3.1.4.7.6 – requires public posting of the thresholds that the NYISO will use to automatically screen fuel type and fuel price information. Again, failing the automated screen means that MMA review and approval is required before the fuel type and/or fuel price information is used in the reference level development process.
- Section 23.3.1.4.7.7 – defines what “timely” notice or submission to the NYISO of fuel type and fuel price information requires. Includes provisions for excusing late submission of fuel type and fuel price information under extraordinary circumstances. An example of an extraordinary circumstance could be the last-minute reliability commitment of a Generator by the NYISO or by a Transmission Owner, where the Generator must scramble just to get a timely Bid into the Market Information System and does not have time to update its fuel type or fuel price information. Proposed Section 23.3.1.4.7.7 also addresses the obligation for Market Parties to retain and to be able to produce invoices and other data supporting the fuel type and fuel price information they submit to the NYISO.
- Section 23.3.1.4.7.8 – sets forth the proposed mitigation measure described on pages 4 and 5 of this filing letter. Because the proposed mitigation measure includes review by the Market Monitoring Unit, the relevant provisions are duplicated in the Market Monitoring Plan.

- Section 23.3.1.4.7.9 – addresses how the NYISO will use fuel type and fuel price information to develop Bid and LBMP based reference levels. States that the NYISO will develop a distinct Bid based and/or LBMP based reference level for each fuel type or blend of fuel types. The NYISO proposes to treat multiple natural gas sources (pipelines) that have distinct/different published prices as different fuel “types” for purposes of reference level development.
- Section 23.3.1.4.8 – requires reporting of significant changes in the cost components used to develop Generator reference levels to the NYISO. This requirement is not limited to fuel type and fuel price information. Market Parties are not required to report when the fuel price for one of their Generators goes below the published fuel price that the NYISO is using to fuel index reference levels.
- Sections 23.3.2.2.1, 23.3.2.2.2, 23.3.3.3.1.6.2, 23.4.5.4.3, 23.4.5.5, 23.4.5.6, 23.4.5.7.2, and 23.4.7.2 – cross references to the Market Monitoring Plan have been updated to reflect recent additions to the Market Monitoring Plan and the resulting re-numbering of other Sections of the Plan.
- Section 23.3.3.1 – requires Market Parties to ensure that fuel cost information they submit to the NYISO is accurate. Limits the NYISO’s ability to adjust reference levels when a Market Party’s fuel cost information was not timely submitted or is inaccurate. States that unsupported speculation by a Market Party does not present a valid basis to determine that Bids are consistent with competitive behavior, or that costs are appropriate for inclusion in reference levels. The cross-reference to the appropriate section of the Market Monitoring Plan has also been updated to address recent additions to the Plan.
- Section 23.3.3.3.1.4.1 – requires Market Parties to ensure that fuel cost information they submit to the NYISO is accurate. Limits the NYISO’s ability to adjust reference levels when a Market Party’s fuel cost information was not timely submitted or is inaccurate.
- Section 23.4.3.2(v) – states that a financial penalty may be applied to Market Parties that submit inaccurate fuel type or fuel price information, where the inaccurate information is used by the NYISO to develop a reference level for a Generator and the resulting inaccurate reference level directly or indirectly impacts guarantee payments or market clearing prices paid to the Market Party.
- Section 23.4.3.3.3 – introduces the penalty for supplying inaccurate fuel type or fuel price information to the NYISO if the submission of inaccurate fuel type or fuel price information exceeds the NYISO’s proposed conduct thresholds and has the requisite market clearing price or guarantee payment impact. Requires consultation with the Market Party regarding the appropriate fuel price or fuel type and permits the NYISO not to apply a penalty if the Market Party shows to the NYISO’s satisfaction, that its behavior was consistent with competitive conduct. Alternatively, the NYISO is not required to (but is permitted to) assess a penalty if the penalty it calculates is less than \$10,000. The purpose of the \$10,000 exception is to permit the NYISO to set aside

relatively minor, likely unintended, impacts of submitting fuel type or fuel price information that is almost, but not quite, accurate. The consultation requirements of this Section provide for review and comment by the Market Monitoring Unit, so a corresponding change to the Market Monitoring Plan is proposed below.

- Section 23.4.3.3.3.1 – sets forth the Day-Ahead conduct and impact tests that must be exceeded for a penalty to apply. The conduct test is performed using a reference level that is the higher of⁹ either (a) a reference level calculated using the Generator’s actual fuel cost for the period being tested, or (b) the reference level that would have been in place for the Generator if the Market Party had not submitted inaccurate fuel type or fuel price information (the “Corrected Reference Level”). The NYISO uses the Corrected Reference Level to conduct test the Bid that was actually submitted for the Generator to determine if the Bid would have failed the conduct test at the appropriate threshold. The Day-Ahead impact test is performed in a similar manner, substituting the Corrected Reference Level for the inaccurate reference level that was originally used to perform the LBMP and guarantee payment market impact tests.
- Section 23.4.3.3.3.2 – sets forth the real-time conduct and impact tests that must be exceeded for a penalty to apply. The real-time conduct test is performed using the Corrected Reference Level in the same manner as the Day-Ahead conduct test. The real-time LBMP impact test is exceeded (failed) if the Corrected Reference Level is less than or equal to the LBMP that was determined for the Generator’s location and the original/inaccurately calculated reference level was greater than or equal to the LBMP at the Generator’s location.¹⁰ It is appropriate to perform the LBMP impact test in this manner because the NYISO cannot re-run its Real-Time Market.
- Section 23.4.3.3.3.3 – sets forth the Day-Ahead Market penalty calculation. The penalty calculation is based on the change to the Market Party’s Day-Ahead Market compensation caused by the use of inaccurate reference level(s) in the Day-Ahead Market, including changes in LBMP at the location(s) of all of the Market Party’s Generator(s), changes in the Market Party’s BPCG revenues for its Generators, and any increase in the Market Party’s TCC revenues. Losses by the Market Party in the TCC market are not permitted to offset increased LBMP or guarantee payment revenues. The NYISO will calculate the penalty by re-running the Day-Ahead Market with Corrected Reference Levels substituted for the reference levels that were calculated using inaccurate fuel type or fuel price information.
 - As explained above, the NYISO proposes to apply a multiplier of between 1* and 1.5* to the results of the penalty calculation, based on its consideration of

⁹ By “higher of” the NYISO means using the corrected reference level that is most beneficial to the Market Party that is potentially subject to a penalty.

¹⁰ If both the original/inaccurate reference level and the Corrected Reference Level are equal to the LBMP that was determined at the Generator’s location, the NYISO’s proposed penalty formula will not result in a penalty to the Generator. It is difficult to conceive of a scenario in which a Market Party reported fuel price and fuel type information inaccurately, but where the corrected reference level comes out the same as the original reference level.

the facts and circumstance presented by the Market Party in the consultation process. The NYISO's discretion in applying the penalty is constrained, because the lowest permissible penalty multiplier is 1*, which effectively requires the NYISO to take back any gains that the Market Party received due to its submission of inaccurate information, without regard for culpability. The Market Monitoring Unit will have the opportunity to review and comment on the NYISO's proposed penalty before it is applied.

- Section 23.4.3.3.4 – sets forth the Real-Time Market penalty calculation. It necessarily differs from the Day-Ahead penalty calculation because the NYISO is not able to re-run its Real-Time Market in an integrated manner to determine the full market impact that a Market Party's submission of inaccurate fuel type or fuel price information causes. The real-time penalty calculation is performed for the hours during which (a) inaccurate fuel type or fuel price information was provided, and (b) at least one of the Market Party's Generators failed the real-time conduct and impact tests that are described above. The NYISO proposes to use the difference between the inaccurate reference level that was originally used to evaluate the Generator's Real-Time Market Bids and the Corrected Reference Level to approximate the LBMP impact of the Market Party's behavior for each affected Generator. Similarly, the NYISO proposes to perform a simplified guarantee payment impact calculation to estimate the impact that the submission of incorrect fuel type or fuel price information had on real-time Bid Production Cost guarantee payments to affected Generators. To address the full potential impact of the submission of incorrect fuel price or fuel type information, the NYISO will use the greater of the Generator's Day-Ahead scheduled MWs, its real-time scheduled MWs, or its actual real-time output for each hour. This is appropriate to better capture disruptions to economic dispatch that may be caused by the submission of inaccurate fuel price information. A multiplier is proposed. Its operation is the same as the multiplier proposed for the Day-Ahead Market.

The NYISO proposes the following changes to the Market Monitoring Plan:

- Section 30.4.6.2.3 – the proposed change sets forth the Market Monitoring Unit's role in reviewing determinations by the NYISO regarding the possible application of a mitigation measure to address a Market Party's submission of inaccurate fuel type or fuel price information. Corresponds to proposed Section 23.3.1.4.7.8 of the MMM.
- Section 30.4.6.2.6 – updates the language of the Market Monitoring Plan to incorporate changes that are proposed to Section 23.3.3.1 of the MMM.
- Section 30.4.6.2.8 – sets forth the Market Monitoring Unit's role in reviewing and commenting on Market Party responses to consultation that could result in the application of a penalty for submitting inaccurate fuel type or fuel price information to the NYISO. Corresponds to proposed Section 23.4.3.3.3 of the MMM.

The tariff revisions proposed in this filing are submitted herewith in both clean and redlined versions.

V. EFFECTIVE DATE

The NYISO respectfully requests that the tariff revisions proposed in this filing be permitted to become effective on September 30, 2010; more than 60 days after the date of this filing.

VI. STAKEHOLDER APPROVAL

On May 19, 2010 the tariff revisions proposed in this filing were unanimously approved by the NYISO's Management Committee. However, some Market Participants that own Generators indicated that, although they voted in favor of the measure or abstained, they do not support the NYISO's proposal to add to Section 23.3.1.4.7.8, authority for the NYISO to preclude Generators that have submitted inaccurate fuel price or fuel type information to the NYISO on two or more occasions, from submitting fuel price and fuel type information for a period of up to one year.

VII. SERVICE LIST

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 the proposed tariff changes identified in the Attachments hereto, with an effective date of September 30, 2010.

Respectfully submitted,

/s/ Alex M Schnell

Alex M. Schnell

New York Independent System Operator, Inc.