

June 22, 2011

**Submitted Electronically**

Honorable Kimberly D. Bose  
Secretary  
Federal Energy Regulatory Commission  
888 First Street N.E.  
Washington, D.C. 20426

Re: New York Independent System Operator, Inc. ER11-2547-000; Filing of Errata to Clarify the Import Supplier Guarantee Formula, Request Waiver of Notice and Comment Period, Request Expedited Action, and Alternatively Request Waiver

Dear Ms. Bose:

On December 28, 2010, the New York Independent System Operator, Inc. (“NYISO”) submitted proposed tariff revisions to its Market Administration and Control Area Services Tariff (“Services Tariff”) and Open Access Transmission Tariff (“OATT”) to implement more frequent transaction scheduling at the borders of the New York Control Area (“NYCA”).<sup>1</sup> The Commission conditionally accepted the amendments proposed in that filing on March 14, 2011.<sup>2</sup> This docket remains open however, while the NYISO completes its compliance obligations.

The NYISO is filing these errata to complete its proposed revision to Section 25 of the NYISO’s Services Tariff, included in the December filing. As is set forth below, these errata revisions are relatively minor in scope but are necessary to fully implement the NYISO’s May 18, 2011 software revision to the Import Supplier Guarantee Payment calculation and to avoid unintended inconsistencies between its settlement software and the Services Tariff.<sup>3</sup> The calculation revision was included in the information the NYISO shared with its Market Participants during the stakeholder governance process surrounding the EITC filing but was inadvertently not included in the Tariff amendments submitted as part of that project. The NYISO estimates that the financial impact of the calculation revision described herein is minor - revising by only about \$5000 the Import Guarantee payments made since the software was implemented, May 18, 2011.

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<sup>1</sup> *Letter to Secretary Kimberly D. Bose from Elizabeth Grisaru*, December 28, 2010, ER11-2547-000 (December Filing”).

<sup>2</sup> *New York Independent System Operator, Inc.* 134 FERC 61,186 (2011)

<sup>3</sup> The Commission accepted a revised effective date of May 18, 2011 in its *Order Granting Deferral of Effective Date and Waivers*, issued in this docket on June 20, 2011 (“June Order”).

Because its proposed errata are consistent with and address the same substantive issue as the revisions included in the NYISO's December filing in the above-captioned proceeding, the NYISO respectfully requests that the Commission waive any additional notice and comment period. Alternatively, the NYISO requests that the Commission establish the shortest possible notice and comment period. The NYISO also respectfully requests that the Commission act as expeditiously as possible to issue an order accepting the errata as of the same effective date that was established by the June Order, *i.e.*, May 18, 2011.

Should the Commission decline to establish a May 18, 2011 effective date for its proposed errata, the NYISO respectfully requests that the Commission grant it a limited waiver of Section 25.6.2 of the Services Tariff starting on May 18, 2011, the date that it implemented the software changes related to Import Supplier Guarantee Payments, and lasting until the date that the Commission allows the proposed errata to become effective.

The actions requested by the NYISO are necessary to avoid the several months of market disruption that could otherwise result if the NYISO were required to revise the calculation of the Import Supplier Guarantee until such time as the errata are accepted.

## **I. Description Of And Justification For Proposed Errata Clarifications**

In its December filing, the NYISO proposed to amend Section 25 of the Services Tariff to clarify the calculation of the existing Import Curtailment Guarantee Payment for transactions at the NYISO's Proxy Generator Buses which are curtailed at the direction of the NYISO for reliability reasons. It has since come to the NYISO's attention that the clarifications made in that filing were incomplete. The amendment to the formula in Section 25.6.2, included in the December filing, changed the formula's inputs but neglected to also change the netting process in the existing formula. As written, the formula provides for an interval-level payment based on the higher of the results of its specifically provided calculation and zero. The amendments provided in the December 2010 filing should have indicated that the NYISO was proposing to roll-up the interval calculations to the hourly level and compare that result to zero to determine payment. As properly amended, the formula would have shown, through a relocated parenthesis, and the addition of summation signs, that the intervals were summed over the hour, compared to zero to determine hourly payments which would also be summed over the day.

Requiring that the hourly sum of the interval-level calculations be compared to zero, rather than each interval-level calculation individually, allows the NYISO to account for the Importer's losses over the hour in a manner that is similar to the Day-Ahead Margin Assurance Payment provided to Generators whose dispatch is reduced by the NYISO for reliability reasons below its otherwise economic level. Because both these margin preservation payments operate to hold Suppliers harmless to losses that may result from reductions in real-time schedules imposed for reliability reasons, it is fair and equitable to calculate both payments in a comparable manner.

Specifically, the NYISO proposes to amend the text in Section 25.6.2 to indicate that the Import Supplier Guarantee Payment is the daily sum of the hourly payments for each hour of the Import, and that each hourly payment is the greater of the sum of the interval payments for the

hour (calculated pursuant to the existing formula) or zero. The NYISO also proposes to make these clarifications in the formula itself. Although the formula is proposed to be replaced in its entirety, the NYISO is only proposing to move a parenthesis to indicate the comparison to zero is at the hourly rather than the interval level and to add two summation signs at the beginning.

The NYISO also proposes to add definitions for the variables N and H which are proposed to be added to the formula to clarify the daily calculation. N stands for the number of hours in the Dispatch Day and H is the number of intervals in hour h. Other minor clarifications of the existing variable “i” are also proposed.

## **II. Request for May 18, 2011 Effective Date**

As was noted above, the proposed errata revisions correct inadvertent errors included in tariff changes that were previously accepted by the Commission. The revisions would ensure that the Services Tariff’s Import Supplier Guarantee Payment calculation rule performs as expected by the NYISO and its stakeholders. There is no valid reason to allow the inaccurate language in the existing tariff to be effective for any period of time. As is noted below, in Section III., doing so could result in harmful market uncertainty. There is thus good cause for the Commission to exercise its discretion, waive the standard sixty day notice period, and make the proposed errata effective as of May 18, 2011.

## **III. Alternative Request For Limited Waiver**

To the extent the Commission declines to adopt an effective date of May 18, 2011 for the errata proposed herein, the NYISO respectfully requests a limited waiver of Services Tariff Section 25.6.2 to permit the NYISO to maintain the software’s calculation of the hourly Import Supplier Guarantee payment for the period from May 18, 2011, the effective date for the software enhancements described in the December filing, and the effective date determined by the Commission for these errata. Without a May 18, 2011 effective date for these errata, or this waiver, the NYISO would be required to recalculate the Import Supplier Guarantee Payments made between May 18, 2011 and the effective date of these errata established by the Commission, leading to market disruption and Supplier uncertainty.

The Commission’s evaluation of whether it should permit tariff waivers has focused on several key points, including whether: (1) the entity seeking the waiver acted in good faith; (2) the waiver is of limited scope; (3) a concrete problem needs to be remedied; and (4) the waiver will not have undesirable consequences, such as harming third parties.<sup>4</sup> In this case, the waiver is necessary as the NYISO has been calculating the Import Supplier Guarantee Payment using its updated software since May 18, 2011 notwithstanding the unintended omission of the interval-

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<sup>4</sup> *ISO New England, Inc.*, 117 FERC ¶ 61,171 at P 21 (2006); *see also Wisvest-Connecticut*, 101 FERC ¶ 62,551 (observing that errors was “an inadvertent mishap”); *Great Lakes Gas Transmission Limited Partnership*, 102 FERC ¶ 61,331 (2003); *TransColorado Gas Transmission Co.*, 102 FERC ¶ 61,330 (2003); *Northern Border Pipeline Co.*, 76 FERC ¶ 61,141 (1996).

level clarification described herein. The duration and scope of the requested waiver are limited and, as described, there is a concrete problem that needs to be resolved.

The waiver will not have undesirable consequences. The financial impact of the change in the actual calculation of the Import Supplier Guarantee Payment is only about \$5,000.<sup>5</sup> The NYISO acted in good faith to ensure that these errata revisions to the tariff were filed as quickly as possible after discovery of the inadvertent omission. Moreover, the calculation clarifications that are the subject of these errata were discussed with Market Participants during the EITC working group meeting discussions and no objections were voiced.<sup>6</sup> A tariff waiver will allow the Import Supplier Guarantee Payments made to Importers to remain as calculated, undisrupted. The NYISO, therefore, respectfully requests that the Commission grant a limited waiver of Section 25.6.2 of the Services Tariff as described herein.

#### **IV. Request for Expedited Action and for Waiver of Comment Period**

The NYISO respectfully asks that the Commission act as expeditiously as possible to issue an order accepting the errata revisions effective May 18, 2011, or in the alternative, grant the limited waiver described in Section III above. Expedited action will avoid inefficient cost impacts and market uncertainty.

To the extent necessary to permit expedited action, the NYISO also respectfully asks that the Commission waive its usual comment period, or shorten it as much as possible. Eliminating or shortening the comment period would not harm any potentially interested party because the errata corrections included in this filing raise no new issues and have to do with the same substantive matters that were already the subject of notice and comment procedures in this docket.

#### **V. Documents Submitted**

The NYISO submits the following documents:

1. This filing letter;
2. A blacklined version of the revisions to Section 25 of the NYISO's Services Tariff ("Attachment I"); and
3. A clean version of the revisions to Section 25 of the NYISO's Services Tariff ("Attachment II").

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<sup>5</sup> The NYISO has paid about \$54,000 in Import Supplier Guarantee Payments in the month since May 18, 2011. Had the software performed the calculation described in the tariff, the payment would have been about \$59,000.

<sup>6</sup> See: [http://www.nyiso.com/public/webdocs/committees/bic\\_miwg/meeting\\_materials/2010-06-07/Agenda\\_04\\_EITC\\_Scheduling\\_Pricing\\_Concept.pdf](http://www.nyiso.com/public/webdocs/committees/bic_miwg/meeting_materials/2010-06-07/Agenda_04_EITC_Scheduling_Pricing_Concept.pdf), discussion at p. 42.

## **VI. 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, to all parties listed on the Commission's official service list in Docket No. ER11-2457-000 and to the New Jersey Board of Public Utilities. In addition, the complete filing will be posted on the NYISO's website at [www.nyiso.com](http://www.nyiso.com).

## **VII. Conclusion**

The NYISO respectfully requests that the Commission accept this errata filing with an effective date of May 18, 2011 or otherwise waive the tariff / software inconsistency from May 18, 2011 to the date it accepts this errata filing.

Respectfully submitted,

/s/Mollie Lampi

Mollie Lampi

Assistant General Counsel

New York Independent System Operator, Inc.

## **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 22<sup>nd</sup> day of June, 2011.

/s/ Joy Zimmerlin

Joy Zimmerlin

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