

New York Independent System Operator, Inc.) **Docket Nos. ER12-1653-002,**
) **RM11-7-000, AD10-11-000**

Pursuant to Rule 213 of the Commission’s Rules of Practice and Procedure,¹ the New Independent York System Operator, Inc. (“NYISO”) respectfully answers certain of the comments filed by Beacon Power LLC (“Beacon”)² and the New York Transmission Owners (“NYTOs”)³ in the above captioned proceeding. Both sets of comments address the NYISO’s January 22, 2013 filing of tariff revisions⁴ to comply with the Federal Energy Regulatory Commission’s (“Commission’s”) directives in its *Order on Compliance Filings*.⁵ The NYISO’s Compliance Filing proposed mitigation measures specific to Regulation Movement that will adequately mitigate any exercise of market power by Generators⁶ bidding Regulation Movement

⁶ Capitalized terms not specifically defined herein have the meaning set forth in the NYISO's Market Administration and Control Area Services Tariff or in its Open Access Transmission Tariff.

in compliance with the Commission's directives in Order No. 755.⁷ The NYISO proposal also included a request for an effective date between June 12 and June 26, 2013.

Beacon, a 20 MW flywheel, Limited Energy Storage Resource, has been selling Regulation Service in the NYISO market since 2011. Beacon supports the NYISO's proposed modifications to its Market Administration and Control Area Services Tariff ("Services Tariff") but requests that the Commission order an earlier effective date. The NYISO explains below why the Commission should reject Beacon's arguments and accept the NYISO's requested June 2013 effective date as necessary and appropriate.

While the NYTOs support the NYISO's January Compliance Filing, they request additional tariff language be added to Attachment H of the Services Tariff (the "Market Mitigation Measures") describing how the NYISO should determine the marginal cost of providing Regulation Movement. The NYISO explains below why the Commission should reject the NYTOs' proposal and accept the NYISO's tariff revisions proposed in the January compliance filing as reasonable.

I. ANSWER

A. The Commission Should Reject Beacon's Request for an Effective Date no Later than April 1, 2013. The Market Mitigation Redesign Ordered by the Commission Cannot be Implemented Earlier than June 2013.

The Commission should reject Beacon's request for an effective date earlier than June 12, 2013.⁸ Its assertion that the remaining software revisions ordered by the Commission "should not take four months to test and implement"⁹ is unsupported and its concern that its investors'

⁷ *Frequency Regulation Compensation in the Organized Wholesale Power Markets*, Order No. 755, 137 FERC 61,064 (2011), *reh'g denied*, Order No. 755-A, 138 FERC ¶ 61,123 (2011) ("Order No. 755").

⁸ Beacon Comments p. 6-7.

⁹ *Id.* p. 7

expectations will be unmet if the Commission fails to order an earlier effective date unpersuasive. The four month window requested by the NYISO for implementation of the NYISO's Regulation Service market redesign is not arbitrary nor is it unnecessary. While the change in the software code may appear to be minor, when compared with the code revisions for this market design already performed, the software revisions cannot be developed and tested in isolation. Any revision to a market system software code such as this requires that the market system code be tested as a whole to ensure that the revisions have not introduced unintended consequences or errors and that the market system itself can continue to successfully interact with all related NYISO systems like unit commitment, pricing, mitigation and settlement. The Regulation Service market redesign, with these required revisions, must be re-tested as an entire system.¹⁰ Current resource estimates for developing and testing these software revisions are over 2,100 man hours.

The requested June effective date is not arbitrary. The NYISO pursues software revisions through structured and scheduled software development cycles. Structured, pre-planned development cycles, like the one that will be used to manage the changes to the Regulation Market, allow the NYISO to accommodate project development, meet design, coding, testing, and deployment milestones and effectuate the resulting market revisions when promised. The NYISO's software development cycles generally follow quarterly release (*i.e.* installation) dates.

¹⁰ The NYISO, however, is able to effectuate ("turn-on") *the existing Regulation redesign software* as Beacon suggests in the alternative (p. 8) but only for the interim period between now and June 2013. Of course, such an outcome would require the Commission to reverse course and approve the NYISO's original design *in its entirety* since the existing software includes the temporary restriction on Regulation Movement Bids which the Commission rejected in November 2012. Even if the Commission were to approve the existing redesign for this interim period, the NYISO strongly rejects Beacon's suggestion that a retroactive mitigation "true-up" should also be made available. Not only does the NYISO not have tariff authority for such true-ups, the Regulation Movement Bid mitigation, currently include in the software, impacts Day-Ahead and real-time market outcomes that cannot be rerun, undone or revised. Since the existing software will prevent acceptance of Regulation Movement Bids that violate the cap, such Bids will simply not be evaluated for commitment or dispatch unless their Regulation Movement Bids are at or below \$2.47/MW.

These development cycles are designed to accommodate whatever set of market system revisions require the same timeline for project development, design, coding, testing, and deployment. This bundled approach to software development and installation promotes efficient use of NYISO resources and better ensures high quality implementation of new or revised market rules. The software development cycle that is being used to manage the required revisions to the Regulation Market has bundled those code modifications with the software revisions that are necessary to add enhanced scarcity pricing to the NYISO's Energy and Ancillary Services markets (See Docket No. ER13-909-000).

Bundled development is not a new or novel approach to software installations. The NYISO's April filing in this docket¹¹ explained the use of a bundled software development cycle when explaining how it intended to meet the Commission's October effective date for Order No. 755 market redesign. There, the NYISO explained that it was coding and testing its proposed Order No. 755 Regulation Service market compliance redesign with the code necessary to meet its compliance obligations in ER12-718-000 (Market-to-Market congestion relief with PJM).

Nor is a development cycle with an earlier installation date available for these code revisions, as Beacon implies.¹² Following the Commission's late November 2012 rejection of the mitigation measures included in the NYISO's proposed Regulation market redesign, the NYISO immediately incorporated the need for software revisions into its next-available software development cycle which was already underway to accommodate implementation of Market Participant-approved revisions to scarcity pricing.

¹¹ *New York Independent System Operator, Inc.*, Docket ER12-1653, Letter to Secretary Bose from Mollie Lampi, April 30, 2012.

¹² Beacon Comments p. 6.

The development cycle which Beacon suggests is available to the NYISO, and which includes an April 1, 2013 effective date, was well underway when the Commission's November Order was received.¹³ This cycle, which includes revisions required in Docket ER09-1142-000, was started before November 2012 in order to accommodate the required effective date of April 1, 2013. This development cycle has neared completion and its software revisions will be ready for installation in mid-March.

Finally, the Commission should allow the NYISO to activate its new Regulation Service redesign in June, 2013 to avoid disrupting the NYISO's software development program for 2013, a program that includes the NYISO's compliance with FERC Order No. 760.¹⁴ An effective date earlier than June, 2013 would require the NYISO to shift resources away from other software projects already in development - compromising the quality and jeopardizing the delivery date for this and other software revisions already underway or planned for completion in 2013. The Commission has consistently recognized that the implementation of new market software can be complex and has traditionally accepted implementation timetables,¹⁵ especially software coding and testing schedules, developed by ISOs/RTOs.¹⁶ The Commission should follow this precedent and reject Beacon's request to alter the NYISO's proposed implementation timeline.

¹³ Beacon Comments p. 6.

¹⁴ Enhancement of Electricity Market Surveillance and Analysis through Ongoing Electronic Delivery of Data from Regional Transmission Organizations and Independent System Operators, Order No. 760, 139 FERC ¶ 60,053 (2012) ("Order No. 760").

¹⁵ The Commission in the past has recognized the complexities involved in determining effective dates that depend on the progress of software development programs. The Commission has provided flexibility when necessary to achieve the orderly functioning of the markets. *New York Independent System Operator, Inc.*, Order Conditionally Accepting Proposed Tariff Revision and Granting Waiver, 134 FERC ¶ 61, 186 (2011); *New York Independent System Operator, Inc.*, Order Granting Deferral of Effective Dates and Waivers, 135 FERC ¶ 61, 256 (2011).

¹⁶ See, e.g., *PJM Interconnection, L.L.C.*, 134 FERC ¶61,246 at P 28 (2011) (accepting PJM's proposed implementation date due to the need to allow sufficient time for software changes, despite protests from market participants requesting that an earlier date be set); *New York Independent System Operator, Inc.*, Docket No. ER09-

B. The Commission Should Reject the NYTO's Proposal to Insert a New Tariff Section Regarding Marginal Costs

The Commission should reject the NYTOs' request that specific information on how the marginal costs for Regulation Movement should be calculated for reference level purposes be inserted in the NYISO's Market Mitigation Measures.¹⁷ The NYTOs' request is inconsistent with the NYISO's existing tariff and unnecessarily limits the NYISO's administrative responsibilities for managing mitigation.

The NYISO has been using marginal costs to develop reference levels for all products, including Regulation Service, since 1999. The NYTOs have not made a showing that the NYISO is somehow unequipped to pursue development of Regulation Movement reference levels, given its 12 year experience in this field, or that the task is so undefined that tariff clarifications are necessary. The Market Mitigation Measures already require that ancillary service reference levels be based on marginal costs and the ancillary service product known as "Regulation Movement" is defined in the NYISO Tariff.¹⁸

Moreover, the NYTOs' proposed approach unnecessarily limits the NYISO's administrative responsibilities for managing mitigation - with potential unintended consequences. Under both Sections 23.3.1.4.1.3 and 23.3.1.4.2.1, the NYISO is required to "consult" with or seek "appropriate input from" the Generator in determining the appropriate

1317-000 (July 7, 2009) (unpublished letter order accepting motion to defer effective date of tariff revisions to allow additional time to develop underlying software); *see also California Independent System Operator Corp.*, 119 FERC ¶ 61,076 at P 670 (2008) (expressing the Commission's view that it essential that major software and market design changes be implemented properly, finding that it would "not allow market operations and service reliability to be sacrificed for the sake of expedience," citing *California Independent System Operator Corp.*, 116 FERC ¶ 61,274 at PP 1380 (2006)).

¹⁷ NYTO Comments p. 3.

¹⁸ *See* proposed Services Tariff § 2.18 that was accepted by the Commission in its November Order (**Regulation Movement:** The absolute value of the change in Energy or Demand Reduction over a six second interval, measured in MW, that a Regulation Service provider is instructed to deliver for the purpose of providing Regulation Service).

reference level. The NYTOs' proposal would adversely impact that consultation by predetermining what marginal costs can be reflected in the Regulation Movement reference level and limiting the ability of the NYISO to reflect other marginal costs, as appropriate. The NYISO and New York Generators have developed a process by which they reasonably determine appropriate marginal costs and the NYTOs have not demonstrated why this well-established process is not appropriate or adequate in this circumstance.

The NYTOs' request for additional tariff language would also redefine the term Regulation Movement, which could have unintended consequences in the Regulation Service redesign. The NYISO and Generators within the New York Control Area should remain free to calculate reference levels for Regulation Movement based on the marginal costs of that product, as that term is defined in the NYISO Tariff, in accordance with the standard practices they currently utilize for other Energy and Ancillary Services products.

II. CONCLUSION

WHEREFORE, for the reasons set forth above, the NYISO respectfully requests that the Commission reject the comments and suggestions as discussed herein, and accept the NYISO's January Compliance Filing without requiring any modifications.

Respectfully submitted;

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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 27th day of February, 2013.

/s/ Mohsana Akter

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