

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

**Available Transfer Capability Standards for Wholesale
Electric Transmission Services**

Docket No. AD15-5-000

COMMENTS OF THE NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.

In accordance with the Commission's May 1, 2015 *Notice of Extension of Time* the New York Independent System Operator, Inc. ("NYISO") respectfully submits these comments in response to the Commission's April 21, 2015 workshop in the above-captioned proceeding ("Workshop").

Specifically, the NYISO asks that the Commission not take any immediate action to develop new rules relating to the calculation of available transfer capability ("ATC") or associated values. The Commission should allow the North American Energy Standards Board ("NAESB") to complete its ongoing work on ATC posting-related business practice standards before advancing new rules of its own. It may well be that NAESB's completed standards will obviate any need for additional Commission requirements. As was suggested at the Workshop, at this time the Commission staff can best ensure that its open access concerns are addressed by participating in, and by providing informal "educational" guidance to, the NAESB stakeholder process.

In addition, the NYISO asks that any new ATC-related rules that may be developed by the Commission be sufficiently flexible to accommodate the NYISO's financial reservation transmission model. For Independent System Operators ("ISOs") and Regional Transmission Organizations ("RTOs"), flexible ATC rules would not undermine the Commission's ability to

adjudicate ATC-related undue discrimination claims because ISOs and RTOs have no incentive to engage in undue discrimination.

I. BACKGROUND

The Workshop was prompted by the pending North American Electric Reliability Corporation (“NERC”) proposal to modify its existing reliability standards pertaining to ATC and to retire various requirements.¹ NERC is seeking to refocus its requirements on the reliability implications of ATC calculations and to leave commercial matters to business practice standards that are currently being developed by NAESB.² The Commission’s Staff sponsored the Workshop because it wishes to ensure that open access to transmission service is not diminished as multiple ATC-related requirements transition from NERC to NAESB.³

ATC regulations have often raised complex compliance issues for the NYISO because of the nature of its transmission service model. As the NYISO has explained in previous filings, it employs a “financial” model that differs from the “physical reservation model” envisioned by the *pro forma* Open Access Transmission Tariff (“OATT”) under Order Nos. 888 and 890.⁴ Under the financial model, transmission service within the NYISO is scheduled “implicitly” when customers submit spot market energy schedules or arrange for bilaterals. There are no express

¹ NERC’s proposal is currently pending before the Commission in the rulemaking: *Modeling, Data, and Analysis Reliability Standards*, Notice of Proposed Rulemaking, Docket No. RM14-7-000 (June 26, 2014).

² See, e.g., the December 18, 2014 status report filed by NAESB in Docket Nos. RM05-5-000 and RM14-7-000.

³ See, e.g., *Supplemental Notice of Workshop on Available Transfer Capability Standards: Agenda* (January 30, 2015); Workshop Transcript at 8 (“As the notice issued and the dockets indicate we are interested in getting more information to help us understand how the switch over is going to work and to consider how to ensure that the intent of the Commission’s ATC rules and protections are appropriately addressed.”)

⁴ The NYISO’s financial reservation model has been found to be consistent with or superior to the physical reservation model on multiple occasions. See, e.g., *New York Indep. Sys. Operator, Inc.*, 123 FERC ¶ 61,134 (2008) (accepting NYISO’s compliance filing explaining that its financial reservation model was consistent with or superior to the *pro forma* OATT revisions adopted by Order No. 890).

physical transmission reservations within the NYISO and customers may schedule transactions between any two points so long as doing so is not inconsistent with a security-constrained economic dispatch. All desired uses of the transmission system are scheduled to the extent that customers are willing to pay congestion charges (which can be hedged using financial rights). ATC thus generally functions as an “advisory” value in the NYISO system and normally does not determine whether customers can schedule transmission service.

Due to the nature of its financial reservation system, the NYISO has had to obtain waivers of various Commission and NAESB ATC requirements that are not applicable to it.⁵ The NYISO also devoted substantial time and resources to ensuring that its method of complying with the currently effective NERC ATC standards was fully understood and accepted. This effort included obtaining a formal NERC interpretation⁶ and making multiple Commission filings in 2010 and 2011.⁷

To be clear, the NYISO has not had to take these actions because it failed to raise its concerns in the NERC or NAESB stakeholder processes. It has actively participated in all ATC related stakeholder discussions at both organizations and will continue to do so. Nevertheless, as a practical matter, because physical reservation models are much more common than financial

⁵ See, e.g., *Central Hudson Gas & Electric Corp., et. al.*, 88 FERC ¶ 61,153 (granting NYISO partial waivers of then existing Commission ATC posting requirements); *New York Indep. Sys. Operator, Inc.*, 94 FERC ¶ 61,215 at 61,794 (additional ATC waivers). See also *New York Indep. Sys. Operator, Inc.*, 151 FERC ¶ 61,157 (2015) (accepting NYISO requested waivers of Version 003 of NAESB’s Wholesale Electric Quadrant business practice standards, including standards pertaining to ATC issues); *New York Indep. Sys. Operator, Inc.*, 127 FERC ¶ 61,005 at P 7 (granting waivers of earlier versions of NAESB OASIS and ATC-related standards).

⁶ See *North American Electric Reliability Corp.*, 132 FERC ¶ 61,239 (2010) (accepting a formal NERC interpretation of the ATC-related reliability standards which the NYISO had requested to ensure that those standards could accommodate its financial reservation model).

⁷ See, e.g., *New York Indep. Sys. Operator, Inc.*, 134 FERC ¶ 61,255 (2011) (conditionally accepting in part and rejecting in part NYISO’s compliance filing to set forth its ATC calculation methodology in Attachment C of its OATT); *Letter Order, Dockets Nos. ER11-2048-003 and -004* (June 6, 2011) (final acceptance of NYISO’s Attachment C revisions).

ones, NERC and NAESB have tended to create ATC rules that are geared towards physical reservation systems. The NYISO has thus often been left to seek waivers of some requirements, and to provide detailed explanations of its compliance with others. The NYISO is submitting these comments to remind the Commission of these circumstances to urge it to be mindful of them in devising any new requirements.

II. COMMENTS

The NYISO appreciates the Commission's concern that the proposed transfer of non-reliability ATC-related requirements from NERC to NAESB not harm open access requirements or result in undue discrimination. The NYISO does not believe that there is any risk that this could occur in New York given that ATC values generally do not determine the availability of NYISO transmission service. As a not-for-profit entity with no commercial stake in market outcomes, the NYISO also has no incentive to engage in undue discrimination regardless of what ATC regulations are in effect. Accordingly, there is no need for the Commission to develop new ATC rules to ameliorate potential "transition" issues in New York.

More generally, the discussion at the Workshop did not identify any specific area where new Commission rules were needed either to address transition issues or to enhance existing requirements. There were some customer representatives⁸ who favored greater transparency in certain calculations or greater coordination of calculations at certain common interfaces. It also appeared that Commission's Staff continued to believe it should do something to ensure that open access was preserved during and after the NERC-NAESB transition. But there did not appear to be any consensus support for specific rules to address specific issues. It seems likely,

⁸ The NYISO notes that none of these representatives were from the Northeast or addressing the NYISO's ATC calculation and posting procedures.

and it was suggested at the Workshop, that the specific concerns that were raised could be addressed in the first instance through the NAESB stakeholder process.

The NYISO therefore does not believe that the Commission should take any action to create new ATC rules at this time. As was suggested at the Workshop, Commission Staff should instead facilitate the ongoing NAESB effort by participating in stakeholder meetings and educating NAESB stakeholders regarding its open-access policy precedents and concerns.⁹ Taking this approach would spare the Commission from developing new rules prematurely. It would also give the NAESB process a chance to satisfy Commission Staff that open access will be preserved under NAESB business standards.

To the extent that the Commission adopts new ATC-related rules now or in the future the NYISO asks that they be sufficiently flexible to accommodate its financial reservation model. At the Workshop, Commission Staff expressed some reservations about ATC standards that provided too much flexibility, given the desire to find the right balance between requirements that were overly prescriptive and requirements that were not specific enough for the Commission to adjudicate undue discrimination claims. The NYISO respectfully submits that in the case of ISOs/RTOs there is no cause for concern that flexible ATC standards would result in undue discrimination. The Commission therefore need not be reluctant to develop rules that allow ISOs/RTOs to adopt compliance measures that are consistent with their transmission models and market designs.

Respectfully submitted,

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May 20, 2015

⁹ See, e.g., Workshop Transcript at 104.

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CERTIFICATE OF SERVICE

I hereby certify that I have this day caused the foregoing document to be served 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 Commission Rules of Practice and Procedure, 18 C.F.R. § 385.2010 (2013).

Dated at Washington, D.C. this 20th day of May, 2015.

/s/ Ted J. Murphy

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