

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

Grid Reliability and Resilience Pricing

)

Docket No. RM18-1-000

**REPLY COMMENTS OF THE
NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.**

In accordance with the *Notice Inviting Comments* issued by the Commission on October 2, the New York Independent System Operator, Inc. (“NYISO”) hereby submits these reply comments. The purpose of this filing is to reiterate the NYISO’s position that if the Commission decides to take some action in this proceeding then the Commission must accommodate regional differences instead of requiring a “one-size fits all” solution.¹

Specifically, the NYISO’s initial comments explained that although the NYISO shared the Secretary of Energy’s concerns for reliability and resiliency as a general proposition, the Notice of Proposed Rulemaking (“NOPR”) in this proceeding² is inconsistent with the NYISO’s experience and with conditions in New York.³ The NYISO demonstrated that there was no imminent threat to reliability in New York due to retirements of fuel-secure generation,⁴ that the resiliency risks of potential future “Polar Vortex” events have been ameliorated,⁵ and that New

¹ *Comments of the New York Independent System Operator, Inc.*, Docket No. RM18-1-000 (October 23, 2017) (“NYISO Initial Comments”) at 16. The NYISO’s silence with respect to other issues raised by other parties’ initial comments should not be construed as agreement with or acceptance of them.

² Department of Energy, Notice of Proposed Rulemaking, *Grid Resiliency Pricing Rule*, 82 Fed. Reg. 46,940 (Oct. 10, 2017) (“NOPR”).

³ See NYISO Initial Comments at 3.

⁴ See NYISO Initial Comments at 4-5.

⁵ See NYISO Initial Comments at 5-7.

York's resource mix and risk of future retirements by fuel-secure generation are much different than what the NOPR envisions.⁶

Accordingly, the NYISO's initial comments asked the Commission not to adopt the approach set forth in the NOPR.⁷ Instead, the NYISO proposed that if the Commission determines that its markets are not fully valuing resiliency benefits that it should then "direct the NYISO to work with its stakeholders to define the appropriate attribute to address a specific need, value that attribute, and determine the minimum amount of qualified capacity necessary to meet it."⁸ In that case, the NYISO should "be permitted to develop market rules to select among all eligible resources to meet the need in the most economically efficient manner."⁹ The NYISO explained further that "other affected ISOs/RTOs should have an opportunity to evaluate whether their existing market designs already sufficiently address grid resiliency concerns in their region."¹⁰ To the extent that they identify additional grid resiliency needs "then that ISO/RTO should work with its stakeholders to develop revised market rules to procure and compensate resiliency resources to the extent that they are needed" and "[e]ach region should be permitted to define what resiliency services should be priced given its system conditions and market design."¹¹ The NYISO urged the Commission not to "attempt to impose uniform implementation on all RTOs/ISOs" because each "employs different pricing methods, has

⁶ See NYISO Initial Comments at 7-9.

⁷ See NYISO Initial Comments at 14.

⁸ NYISO Initial Comments at 14.

⁹ *Id.*

¹⁰ *Id.* at 15.

¹¹ *Id.*

different market rules, relies on a different mix of resources and uses different software to implement its markets.”¹²

The NYISO does not believe that any commenter has shown that there is a need for Commission-directed action in New York to address resilience issues or that the NOPR’s specific proposal is appropriate for the NYISO given the reliability, resource mix, and market conditions that exist in New York. Similarly, no commenter has shown that resiliency attributes should always be compensated without determining that an actual need for specific resiliency services exists and selecting the resources that can address the need at least cost. Nor has any commenter demonstrated that “one-size fits all” solutions would be reasonable or practicable given the differences between the ISO/RTO regions. This includes commenters that have called for the NOPR’s proposal to be implemented without modification¹³ and those that have devised resilience compensation schemes of their own without regard for regional differences.¹⁴ By contrast, many commenters,¹⁵ including several that support some form of action in this

¹² *Id.*

¹³ See, e.g., *Comments of the American Coalition for Clean Coal Electricity and National Mining Association in Support of the Department of Energy’s Grid Reliability and Resilience Pricing Proposed Rule*.

¹⁴ For example, FirstEnergy Service Company and its affiliates (“FirstEnergy”) has proposed a package of *pro forma* tariff and service agreement language to provide fifteen years of cost-based compensation to any resource that satisfies the NOPR’s eligibility requirements. FirstEnergy asserts that each ISO/RTO subject to the NOPR should be able to implement its provisions with relatively little difficulty. See *Comments of FirstEnergy Service Company et al in Support of the Grid Reliability and Resilience Pricing Notice of Proposed Rulemaking*. FirstEnergy’s proposed Resiliency Support Resource (“RSR”) rules and agreement are not just and reasonable because the proposed compensation rules are overly generous to RSR generators and the proposed operating and performance requirements are overly forgiving of failure to perform by RSR generators. The terms and conditions of service set forth in the NYISO’s *pro forma* RMR Agreement that the Commission accepted with modifications as part of the NYISO’s Generator Deactivation Process present a more reasonable neutral starting point for developing an RSR agreement than FirstEnergy’s submission. See 155 FERC ¶ 61,076 at PP 139-140 (2016).

¹⁵ See, e.g., *Comments of the Pennsylvania Public Utilities Commission*, at 23 (“The PAPUC recommends that each RTO/ISO be permitted to make their own determinations regarding the many complex and market-influencing issues that will need to be addressed during the implementation process. These decisions should not be determined on a “one-size, fits all” basis.”); *Comments of the American*

proceeding,¹⁶ have echoed the NYISO in recognizing that regional differences are real and must be accommodated.

The importance of recognizing regional variations is highlighted by comments addressing price formation issues and proposals applicable to PJM. In its initial comments, PJM explains that it is considering the use of an “extended LMP method” to allow inflexible units to set prices and thereby address price-setting issues that have arisen during “non-convex” pricing conditions in PJM.¹⁷ PJM is also pursuing potential reforms to its shortage pricing and operating reserve demand curve mechanisms.¹⁸ Two of PJM’s member transmission owners have asked the

Public Power Association on the Proposed Rule, at 17 (“Finally, the NOPR would impose a “one size fits all” remedy in response to a concern – adequate grid resilience – that should take into account regional differences, including different resource mixes. Even though the Eastern RTOs appear to be the only ones covered by the NOPR, as explained in section III.D. of these comments, there are likely to be important distinctions even among these regions that would make imposition of a single remedy unjust and unreasonable.”); *Comments of the ISO/RTO Council*, at 33 (“When promulgating new market requirements, the Commission frequently espouses a respect for regional differences and flexibility, and in fact often eschews requests that the Commission require uniformity. The Commission should not abandon this policy by adopting the NOPR’s one-size-fits-all compensation proposal.” [footnote omitted]).

¹⁶ See, e.g., *Initial Comments of Entergy Services, Inc.*, at 8 (“Given the flexibility the Commission has afforded each RTO to develop its markets to fit the needs of its members, a one-size-fits-all approach to the current proposed rule could degrade markets in any particular RTO.”); *Motion to Intervene and Comments of the AES Companies*, at 19 (“There is no “one-size-fits-all” formula for how much of one type of resource is needed or what the right mix is. Each RTO/ISO footprint is different and should be afforded some flexibility to optimize the reliability and resiliency needs as well as the means to incentivize the development of certain resources to achieve their goals.”); *Comments of Duke Energy Corporation*, at 5 (“It cannot be emphasized enough that, as this rule is implemented, variation in ISOs’/RTOs’ configuration and operation should be respected. . . . The varied market attributes and membership in the RTOs should necessarily impact how these proposed rules are considered. There should not be a “one size fits all” approach to these new rules.”).

¹⁷ See *Initial Comments of the PJM Interconnection, L.L.C. on the United States Department of Energy Proposed Rule* (“PJM”), at 39-47.

¹⁸ See PJM at 47-48.

Commission to invoke its authority under Section 206 of the Federal Power Act to direct PJM to immediately adopt these proposed reforms.¹⁹

The NYISO takes no position on PJM's proposed reforms at this time other than to emphasize that they are not applicable to New York. Similarly, the NYISO takes no position on the question of whether the Commission should initiate Section 206 proceedings in PJM, other than to note that doing so in PJM does not mean it needs to be done in New York. The Commission has ample discretion to take action under Section 206 in one region while concluding that in other regions either no action is necessary or that a more limited process is appropriate, such as the one suggested in the NYISO's initial comments (and referenced above).²⁰

PJM's comments clearly indicate that PJM "understands not all regions face the same need for action."²¹ PJM also acknowledges that the scheduling model bifurcation that is part of its "extended LMP" concept "already occurs in regions such as MISO, ISONE, and NYISO who all have sophisticated procedures for fast-start pricing"²² and that the NYISO "currently employs a hybrid-pricing methodology that appropriately allows resources to set prices in their regions when needed."²³ The NYISO has regularly updated and enhanced its energy and ancillary services markets to procure the products that are needed to provide reliable service to New York

¹⁹ See *Comments of the PSEG Companies*, at 5-6, 29-30; *Comments of Exelon Corporation*, at 5, 9-23. By contrast, PJM's Independent Market Monitor strongly opposes permitting inflexible units to set prices in PJM. See *Comments of the Independent Market Monitor for PJM*, at 34-42.

²⁰ See *supra* n. 11.

²¹ PJM at 48.

²² PJM at 46.

²³ PJM at 42.

loads.²⁴ Consequently, if the Commission decides to initiate a Section 206 proceeding to consider PJM's reforms it should be a PJM-specific proceeding.

In conclusion, if the Commission decides to take some form of action in this docket, it should follow the approach recommended by the NYISO in its initial comments. In particular, to the extent that the Commission requires ISOs/RTOs to consider, or to adopt, new rules concerning resiliency it should allow each ISO/RTO to explore solutions that are best suited to the needs of its individual region and reject "one-size fits all" proposals.

Dated: November 7, 2017

Respectfully submitted,

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²⁴ See, e.g., *New York Independent System Operator, Inc.*, 151 FERC ¶ 61,057 at P 19 (2015) ("We agree with NYISO that the changes to its operating reserves procurement requirements and the revisions to its operating reserve demand curves, regulation service demand curve, and transmission shortage cost values should improve market efficiency and pricing transparency, in addition to improving generator performance during critical operating periods. As NYISO's Market Monitoring Unit explains, the proposed revisions should lead to more efficient congestion management, reserve scheduling, and pricing during periods when NYISO is maintaining reliability under tight system conditions." [footnote omitted]).

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 7th day of November 2017.

By: /s/ John C. Cutting

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