

June 11, 2019

By Electronic Delivery

Honorable Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Re: *New York Independent System Operator, Inc., Proposed Tariff Revisions to Implement Modified Requirements for External Installed Capacity Suppliers; Docket No. ER19-____-000*

Dear Secretary Bose:

In accordance with Section 205 of the Federal Power Act¹ and Part 35 of the regulations of the Federal Energy Regulatory Commission (“Commission”), the New York Independent System Operator, Inc. (“NYISO”) submits proposed revisions to its Market Administration and Control Area Services Tariff (“Services Tariff”) to implement modified requirements for External Installed Capacity Suppliers and External Generators that are associated with an Unforced Capacity sale to New York using Unforced Capacity Delivery Rights or External-to-ROS Deliverability Rights² (collectively, “External Capacity Suppliers”).

The NYISO Management Committee approved the proposed revisions, without opposition, on May 20, 2019. The NYISO respectfully requests that the proposed revisions become effective on August 12, 2019 (two days after the end of the statutory 60-day notice period).

I. Documents Submitted

The NYISO respectfully submits the following documents with this filing letter:

1. A clean version of the proposed revisions to the Services Tariff (“Attachment I”); and
2. A blacklined version of the proposed revisions to the Services Tariff (“Attachment II”).

¹ 16 U.S.C. § 824d.

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

II. Background

The NYISO purchases a portion of its Installed Capacity (“ICAP”) from Resources located in neighboring Control Areas. Capacity Suppliers, including External Capacity Suppliers, have an obligation to submit Bids in response to a NYISO reliability call that is referred to as a Supplemental Resource Evaluation (“SRE”).³ However, under the currently effective Tariff rules, External Capacity Suppliers can fulfill their obligation to respond to a SRE by submitting high priced Bids to Import Energy to the New York Control Area (“NYCA”), of up to \$2000/MWh, that are unlikely to be economically scheduled. Unlike External Capacity Suppliers, NYCA Generators that submit Bids that exceed their demonstrated costs of responding to a SRE by more than a Tariff-specified threshold will have their Bids mitigated.⁴ In addition, NYCA Generators that are committed via the SRE process are assigned “must run” status, which ensures the Generator will receive a real-time commitment at its Minimum Generation level, and will be available to be economically scheduled to provide additional Incremental Energy, Synchronous Reserves, and other Ancillary Services for the duration of its SRE commitment.

Another concern that the NYISO faces with regard to External Capacity Suppliers is that the capacity Import from the neighboring Control Area to the NYCA must be backed by a Generator that is online and obligated to provide capacity to New York in order to be accorded capacity-backed priority. If the transmission service is not accorded capacity-backed priority in the neighboring Control Area, then there is a greater risk that the delivery of Energy to the NYCA may not occur under stressed system conditions. These concerns can lead to offers from External Capacity Suppliers not being scheduled to deliver Energy to the NYCA during a period of critical system need, resulting in unequal performance by External Capacity Suppliers when compared to NYCA Capacity Suppliers.

To address these concerns, the NYISO has worked with its stakeholders to develop a proposal to implement new requirements that will apply when External Capacity Suppliers respond to a SRE, including a proposed penalty for failure to comply with the SRE scheduling requirements. The proposed changes are expected to enhance the NYISO’s access to Energy from External Capacity Suppliers and to reduce the risk that capacity-backed transactions from External Capacity Suppliers to the NYCA will be curtailed. This improvement will enhance NYCA grid reliability by better aligning External Capacity Supplier obligations with the requirements that apply to Installed Capacity Suppliers located in the NYCA. Additionally, New York consumers are expected to benefit from supply that is delivered more reliably when called upon to meet peak needs.

³ See Services Tariff Sections 2.19 and 5.12.1.10.

⁴ See Services Tariff Sections 23.3.1.2.2.2 (conduct threshold), 23.3.2.1.2 (impact threshold), 23.3.2.1.3 (impact threshold), 23.3.1.2.3 (rest-of-state reliability mitigation thresholds).

A. Proposed Obligation for External Capacity Suppliers to Perform all Prerequisite Steps and to Deliver Energy to the NYCA in Response to an SRE

The NYISO proposes that when it issues a SRE:

- (a) each External Capacity Supplier that is subject to the SRE will be required to Bid an Import into the NYCA at the applicable minimum offer price (ordinarily negative \$1000/MWh today);
- (b) the physical resource(s) associated with the External Capacity that is obligated to the NYCA must be operating during the period specified in the SRE request; and
- (c) the External Capacity Supplier must transmit the requested Energy from its External Resource(s) to the NYCA border if its Import to the NYCA is scheduled by the NYISO.

If an External Capacity Supplier fails to meet the proposed requirements, it may be subject to a financial penalty, which is based on 1.5 times the applicable ICAP Spot Market clearing price in the sink location for each MWh that is not delivered.

An External Capacity Supplier will not be subject to the penalty if and to the extent it demonstrates to the NYISO's satisfaction that the failure or inability to deliver Energy to the NYCA from the assigned Resource(s) occurred due to an outage or other circumstance outside its control. Examples of reasons that the NYISO will ordinarily consider to be outside of an External Capacity Supplier's control include: (1) a forced outage of the External Generator that is associated with the Capacity obligation,⁵ or (2) if the External Capacity Supplier demonstrates that it procured long-term firm transmission service from its External Generator and offered to pay all congestion costs associated with delivering the Energy, then the inability of a neighboring Balancing Authority Area to deliver Energy to the NYCA border will ordinarily be excused, or (3) if and to the extent a SRE request would require an off-line Generator to start-up faster than it is physically capable of starting-up.⁶

The proposed requirements are explained in greater detail in Section III below.

B. Process for Issuing SREs to External Resources

When the NYISO identifies a reliability need for Energy that was not fully addressed by the scheduling software, it can issue a SRE. This reliability tool allows the NYISO to call for Energy Bids from resources it has determined are necessary to address a supply need. The

⁵ Declaring a forced outage will reduce the amount of UCAP that the External Capacity Supplier can sell to the NYCA in the future. The NYISO may request additional information from an External Capacity Supplier to substantiate the outage and to ensure that the outage was not declared to withhold the Resource.

⁶ Even if an External Capacity Supplier's off-line Generator is not physically able to start-up to operate for the entire duration of a SRE request, the External Generator will be expected to start-up if it can operate for a portion of the requested SRE duration.

NYISO has the authority to issue a SRE for both Internal and External Installed Capacity Suppliers. While the NYISO has the ability to issue a SRE for individual Installed Capacity Suppliers, the NYISO intends to issue SRE calls to External Capacity Suppliers by requesting that *all* of the External Capacity Resources that schedule their Energy to the NYCA at a selected external proxy bus respond to the SRE request. Affected External Capacity Suppliers will be notified of the SRE request via a posting to the NYISO public website, and are also notified via an email sent to the External Capacity Supplier's designated contact. The web posting will identify the external proxy buses at which External Capacity Suppliers are being SREd, as well as the selected hours of the operating day for which the SRE will apply. When the NYISO issues a SRE call for a particular proxy bus, all External Installed Capacity Suppliers with an obligation to offer energy at that proxy bus will be required to fulfill the SRE requirements proposed in this filing, unless they have suffered an outage, or are otherwise unable to do so for a permissible reason.

C. Cost Recovery

External Capacity Suppliers may incur costs in responding to a SRE that may not be offset by Energy market revenues. External Capacity Suppliers will be eligible to recover incremental costs that are demonstrated to be reasonably related to responding to the SRE request in accordance with the proposed revisions to Services Tariff Section 4.1.8. Under the proposed rules, losses resulting from the difference in External Transaction settlement prices between an External Control Area and the NYCA will only be recoverable if and to the extent (i) a counterflow Export from the NYCA offered by the Market Party at the External Interface where the Capacity delivery obligation applies is not scheduled due to NYCA reliability concerns, or is curtailed to address NYCA reliability concerns; or (ii) no opportunity exists to schedule a counterflow Export from the NYCA at the External Interface where the Capacity delivery obligation applies.⁷ The proposed rules addressing counterflow transactions enhance efficiency by preventing unnecessary out-of-market payments to External Capacity Suppliers.

D. Scheduling Counterflow Transactions to Hedge Risk Associated with Delivering Energy to the NYCA from External Capacity Resources

An External Capacity Supplier that submits a counterflow transaction solely to hedge legitimate risks associated with delivering its Energy to the NYCA in response to a SRE request is engaging in an appropriate business activity that the Commission should not consider an impermissible "wash trade," so long as the counterflow Bid is submitted consistent with the proposed provisions of Section 4.1.8 of the Services Tariff.⁸ However, the Commission's review should continue to take into account all relevant facts and circumstances. For example, the

⁷ For example, it is not possible to schedule a counterflow transaction on the Neptune or Hudson Transmission Partners Scheduled Lines because they are unidirectional transmission facilities. Power can only be scheduled to flow from PJM to the NYCA on those facilities.

⁸ See Order No. 670 *Prohibition of Energy Market Manipulation* at PP 59, 67 (2006) ("[I]f a market participant undertakes an action or transaction that is explicitly contemplated in Commission-approved rules or regulations, we will presume that the market participant is not in violation of the Final Rule.").

NYISO might have concerns if an External Capacity Supplier and/or its affiliates engage in a circuitous schedule around Lake Erie (achieved via one or several e-Tags), or fail to deliver scheduled Energy, at the same time it schedules a counterflow transaction.

III. Description of the Proposed Tariff Revisions

The NYISO proposes a purely ministerial revision to Section 5.12.1 of its Services Tariff, and substantive revisions to Sections 4.1.8, 5.12.1.10, 5.12.12.2 of its Services Tariff, to effectuate the proposed rule changes described above.

A. Proposed Revisions to Services Tariff Section 5.12.1.10; External Capacity Supplier Obligations

The NYISO proposes to apply two very similar sets of requirements to (a) External Generators that are External Capacity Suppliers, and (b) to External Control Area System Resources.

Under the proposed rules, in response to a SRE request, External Generators that supply Capacity to the NYCA are required to:

- Bid an Import from the relevant external Control Area to the NYCA in a MW quantity equal to the lesser of the ICAP equivalent of the Unforced Capacity (“UCAP”) sold, or the maximum MW the Generator is able to produce;
 - at the Proxy Generator Bus⁹ where the External Capacity Supplier has its delivery obligation;
 - at the applicable minimum Bid Price (\$-1000/MWh)
 - A \$-1000/MWh Locational Based Marginal Price (“LBMP”) Bid indicates that the External Capacity Supplier is willing to pay up to \$1000/MWh in transmission congestion in order to get its Import to the NYCA scheduled.
 - A \$-1000/MWh Coordinated Transaction Scheduling (“CTS”) Bid indicates that the External ICAP Supplier is willing to cover an LBMP/Locational Marginal Price (“LMP”) spread of \$1000/MWh or less in order to get its CTS Import scheduled;
- Ensure that the External Generator is operating and is available to provide all of the MW that were Bid to be imported into the NYCA, up to the ICAP equivalent of the UCAP sold, for the entire duration of the SRE request;
 - If the External Generator associated with the Capacity sale to the NYCA is not operating then the external Balancing Authority (“BA”) is not required to accord the associated transaction ICAP priority; and

⁹ A Proxy Generator Bus is “a proxy bus located outside the NYCA that is selected by the ISO to represent a typical bus in an adjacent Control Area and at which LBMP prices are calculated.” *See* Services Tariff Section 2.16.

- Obtain all reservations and transmission service necessary in the external Balancing Authority Area (“BAA”) to deliver all of the MW that were Bid to be imported into the NYCA or to a Locality from the Generator, up to the ICAP equivalent of the UCAP sold from the External Generator, at the approved Proxy Generator Bus.

If the External Generator is not able to Import Energy equal to the ICAP equivalent of the UCAP sold for every hour of the SRE request then it is expected to declare an outage,¹⁰ or to provide to the ISO an explanation of the reasons for its failure or inability to perform, including evidence demonstrating any physical operating limitations or other operational issues that prevented the Generator from Importing the quantity of Energy equal to the ICAP equivalent of the UCAP sold from the Generator to the NYCA. If and to the extent the ISO determines that the information and supporting evidence provided demonstrates that the failure or inability to deliver occurred for reasons outside the control of the External Capacity Supplier, then the deficiency charge that NYISO proposes to add to Section 5.12.12.2 of the Services Tariff will not be assessed. Examples of reasons for failure or inability to deliver that the NYISO will ordinarily consider to be outside of an External Capacity Supplier’s control are provided in Section II.A of this filing letter.

A Control Area System Resource is a set of Resources owned or controlled by an entity within a Control Area that also is the operator of such Control Area. Entities supplying Unforced Capacity using Control Area System Resources do not designate particular Resources as the suppliers of Unforced Capacity. The rules the NYISO proposes to apply to Control Area System Resources are very similar to the proposed rules for External Generators that are External Capacity Suppliers. The key differences are (1) because the obligation of a Control Area System Resource to supply Energy in response to a SRE is not tied to a specific Resource or to a limited set of Resources, the NYISO does not require a demonstration that any particular Generator is operating for the duration of its SRE request, and (2) in order to demonstrate that a Control Area System Resource was unable to deliver Energy to the NYCA for a reason that was outside the External Installed Capacity Supplier’s control, the External Installed Capacity Supplier must show that transmission outages prevented delivery of *all* available Resources to the NYCA. This requirement is appropriate because NYISO has purchased an undifferentiated right to rely on all of the assets that make up the Control Area System Resource.

Finally, Section 5.12.1.10 was revised to require that when an External Installed Capacity Supplier that is responding to a SRE request delivers its Energy to the NYCA at a Non-Competitive Proxy Generator Bus, it is required to ensure that neither the External Installed Capacity Supplier nor any of its Affiliates are offering other Imports to the NYCA at an equivalent or greater economic priority at the Non-Competitive Proxy Generator Bus. This requirement is appropriate because it increases the likelihood that Imports to the NYCA that

¹⁰ Declaring a forced outage will reduce the amount of UCAP that the External Capacity Supplier can sell to the NYCA in the future. The NYISO may request additional information from an External Capacity Supplier to substantiate the outage and to ensure that the outage was not declared to withhold the Resource.

have an ICAP priority will be scheduled, and that the associated Energy will continue to be delivered to the NYCA under emergency conditions.¹¹

B. Proposed Revisions to Services Tariff Section 5.12.12.2; Penalty Calculation

To the extent an External Capacity Supplier fails to fulfill its obligation to respond to a SRE request, and is not able to demonstrate that its failure or inability to deliver Energy from the designated Resource to the NYCA occurred for a reason outside its control, the External Capacity Supplier will be subject to a penalty that will be calculated in accordance with the formula proposed below.

$$Deficiency\ charge = 1.5 * PRICE * \left(\frac{1000kW}{1MW} \right) * \left(\frac{\sum_{n=1}^N (\max(ICAP_n^{MWh} - SRE_n^{MWh}, 0))}{N} \right)$$

The *PRICE* is the applicable spot market clearing price for the month in which the SRE occurred. This quantity is multiplied by (1000kw/1MW) in order to convert the clearing price to MWs. The last portion of the equation calculates the total number of MW hours (“MWh”) that the resource responded to SRE calls across the month, and compares that with the amount of MWh that the resource would have been expected to provide in response to SRE requests based on the ICAP equivalent of its UCAP sold.

$$\frac{\sum_{n=1}^N (\max(ICAP_n^{MWh} - SRE_n^{MWh}, 0))}{N}$$

The difference between the External Capacity Supplier’s expected response and its actual response is then divided by the total number of SRE call hours in the month, which produces a final MW deficiency value for the month.

C. Proposed Revisions to Services Tariff Section 4.1.8; Cost Recovery

The NYISO proposes to permit External Capacity Suppliers to recover NYISO-verified incremental costs they incur to respond to SRE requests, to the extent such costs exceed the ISO-verified Energy market revenues the External Capacity Supplier receives. It is the obligation of the External Capacity Supplier to demonstrate its costs and revenues to the NYISO’s satisfaction. Recoverable costs may include the incremental cost of producing Energy using the obligated Installed Capacity, the incremental cost of transmitting Energy produced by the Installed Capacity to the NYCA, and opportunity costs associated with lost expected revenues.

An example of a potentially recoverable opportunity cost is the difference between the LMP the Control Area the External Capacity Supplier is located in would be expected to pay for

¹¹ This requirement was developed to ensure that an External Installed Capacity Supplier at a Non-Competitive Proxy Generator Bus will not be able to partially avoid its obligation to deliver Energy to the NYCA at times when system conditions are stressed by scheduling Imports to the NYCA that do not have an ICAP priority, and then recalling the associated Energy after the transactions are scheduled.

the Resource's Energy during the period of a SRE call, and the NYCA LBMP that the Installed Capacity Supplier receives for its Import. However, under the proposed rules, losses resulting from the difference in External Transaction settlement prices between an External Control Area and the NYCA will only be recoverable if and to the extent (i) a counterflow Export from the NYCA offered by the Market Party at the External Interface where the Capacity delivery obligation applies is not scheduled due to NYCA reliability concerns, or is curtailed to address NYCA reliability concerns; or (ii) no opportunity exists to schedule a counterflow Export from the NYCA at the External Interface where the Capacity delivery obligation applies.¹² The proposed rules addressing counterflow transactions enhance efficiency by preventing unnecessary out-of-market payments to External Capacity Suppliers.

The NYISO proposes to allocate any cost recovery it is required to pay to External Capacity Suppliers to all of its Transmission Customers in accordance with Section 6.1.13 of Rate Schedule 1 to the NYISO's Open Access Transmission Tariff.

IV. Effective Date

The NYISO respectfully requests that the proposed tariff revisions become effective on August 12, 2019 (two days after the end of the statutory 60-day notice period).

V. Stakeholder Process

The Management Committee approved the proposed revisions to the Services Tariff, without opposition, on May 20, 2019. The NYISO Board of Directors approved the proposed tariff revisions on June 4, 2019.

VI. Communications and Correspondence

Please direct all communications and service in this proceeding to:

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¹² For example, it is not possible to schedule a counterflow transaction on the Neptune or Hudson Transmission Partners Scheduled Lines because they are unidirectional transmission facilities. Power can only be scheduled to flow from PJM to the NYCA on those facilities.

VII. Service

The NYISO will send an electronic link to this filing to the official representative of each of its customers, each participant on its stakeholder committees, the New York State Public Service Commission, and the New Jersey Board of Public Utilities. The NYISO will also post the complete filing on its website at www.nyiso.com.

VIII. Conclusion

The NYISO respectfully requests that the Commission accept the proposed tariff revisions attached hereto without modification, with an effective date of August 12, 2019.

Respectfully submitted,

/s/ Alex M. Schnell

Alex M. Schnell

Assistant General Counsel/

Registered Corporate Counsel

New York Independent System Operator, Inc.

cc: Anna Cochrane
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