

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

Carbon Pricing in Organized Wholesale Electricity Markets) Docket No. AD20-14-000

COMMENTS OF THE NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.

In accordance with the *Notice of Proposed Policy Statement* issued by the Federal Energy Regulatory Commission (“Commission” or “FERC”) on October 15, 2020 in the above-referenced proceeding (“Proposed Policy Statement”), the New York Independent System Operator, Inc. (“NYISO”) hereby submits comments supporting the Proposed Policy Statement for the Commission’s consideration. The NYISO concurs with the two primary conclusions expressed in the Proposed Policy Statement. “[W]holesale market rules that incorporate a state-determined carbon price in RTO/ISO markets can fall within the Commission’s jurisdiction as a practice affecting wholesale rates.”¹ “[P]roposals to incorporate a state-determined carbon price in RTO/ISO markets could, if properly designed and implemented, significantly improve the efficiency of those markets.”² The NYISO welcomes the Commission’s proposed policy to encourage efforts by RTOs/ISOs and their stakeholders to explore, or continue exploring, wholesale market rules that incorporate state-determined carbon prices in RTO/ISO markets.³

The NYISO commends the Commission for holding the September 30, 2020 Technical Conference⁴ and for issuing the Proposed Policy Statement on a topic that the NYISO has been

¹ Proposed Policy Statement at P. 8.

² Proposed Policy Statement at P. 15.

³ Proposed Policy Statement at P. 15.

⁴ On September 30, 2020, the Commission convened a technical conference (“Technical Conference”) on state-determined carbon pricing in organized wholesale electricity markets operated by regional transmission organizations (“RTOs”) and independent system operators (“ISOs”) in this Docket No. AD20-14-000.

actively working on since 2016. The competitive wholesale electricity markets administered by RTOs/ISOs have provided, and continue to provide, significant benefits to electricity consumers, including fuel cost savings, improved generation efficiency, reduced reserve requirements, and reduced emissions. Enhancing the RTOs'/ISOs' wholesale markets by incorporating a state-determined carbon price is the best way to maintain these benefits and preserve the economic efficiency of existing wholesale market signals, while more fully considering the direct economic implications of state and regional initiatives to promote environmental programs.

CARBON PRICING PROGRAMS AFFECT FERC-JURISDICTIONAL RATES

The NYISO shares the view that numerous Technical Conference participants clearly expressed on September 30, 2020, that the Commission has the authority to review and accept a Federal Power Act ("FPA") section 205 filing by a jurisdictional RTO/ISO to incorporate a state-determined carbon price in its markets. The FPA's core goal is to promote the orderly development of adequate electricity supplies at reasonable rates. To facilitate this goal, the FPA requires FERC to ensure that rates and charges for wholesale electricity are just, reasonable, and not unduly discriminatory. Since RTO/ISO market prices and market rules are FERC-jurisdictional rates and would be directly affected by the introduction of a state-determined carbon price, FERC has jurisdiction to review any specific proposal that an RTO/ISO submits under FPA section 205 to incorporate a state-determined carbon price into the RTO/ISO market rules. The Commission's review should align with its review of any other FPA section 205 filing to establish or modify wholesale market rules to determine if the proposal is just, reasonable, and not unduly discriminatory.

The FPA makes clear that FERC has exclusive jurisdiction over the rates and charges that RTO/ISO market rules facilitate in connection with the transmission or sale of electric energy

and matters that directly affect those jurisdictional rates. The directly affects standard generally extends to rules governing operations of RTO/ISO markets, particularly when the rules address matters that are directly intertwined with the jurisdictional rate. As acknowledged in the Proposed Policy Statement, and as expressed by many panelists during the Technical Conference, market rules that incorporate a state-determined carbon price into wholesale electric markets can govern how resources participate in the wholesale markets, how resources are dispatched by system operators, and how resources are compensated or charged through the wholesale markets.⁵ These market rules could inextricably link the state-determined carbon price and numerous fundamental aspects of the wholesale electricity markets to provide the Commission jurisdiction over a FPA section 205 proposal and to satisfy the core goal of promoting the orderly development of adequate electricity supplies at reasonable rates.

THE PROPOSED POLICY STATEMENT PROVIDES VALUABLE GUIDANCE MOVING FORWARD

The Proposed Policy Statement is a valuable procedural step following the Technical Conference as regions around the country grapple with various state laws, regulations, or policies that drive substantial or complete decarbonization of the electricity sector in the coming decades.

The NYISO firmly believes that its Carbon Pricing Proposal⁶ is the best option to maintain efficient competitive wholesale electricity market outcomes and to provide New York State with a powerful tool to achieve the requirements set forth in the Climate Leadership and Community Protection Act (“CLCPA”). New York State law, through the CLCPA, mandates

⁵ Proposed Policy Statement at P. 10.

⁶ See NYISO’s Carbon Pricing Proposal at https://www.nyiso.com/documents/20142/7129597/6.20.2019_MIWG_Carbon_Pricing_MDC_FINAL.pdf/cf67ebb8-d0fc-7b4b-100f-c3756d6afae8.

ambitious development of renewable energy resources in addition to specific greenhouse gas emissions reduction. The CLCPA calls for growing the portion of load served by renewable resources to 70% by 2030 and mandates programs to procure specified megawatt levels of distributed solar resources, energy storage resources, and offshore wind resources. By 2040, the CLCPA requires a zero-emission electric demand system in New York. The CLCPA is just one example of a state law requiring decarbonization that will have a significant impact on an RTO/ISO-administered market.⁷

The overarching objective of the NYISO Carbon Pricing Proposal, and the benefit of incorporating a state-determined carbon price into any RTO/ISO market in an area with similar programs, is to maintain the integrity of the wholesale electricity markets under FERC's jurisdiction. Allowing wholesale electric markets to send more accurate price signals reflecting state-determined carbon prices, which are currently addressed through state subsidy programs, will encourage development of these new resources through market-based mechanisms that align pricing with the reliability needs of the system while minimizing consumer costs and consumer exposure to investment risk. Internalizing a state-determined carbon price in the NYISO's energy market pricing would send a meaningful financial investment signal to developers that identifies efficient ways to address State-mandated carbon emission reductions while more efficiently incenting resources to locate and perform according to the needs of the system.⁸

Efficient wholesale electricity markets depend on competition and transparent price signals that accurately reflect system needs. The price signals in the NYISO markets provide the

⁷ See e.g., Proposed Policy Statement at P. 2 and fn. 3.

⁸ See Analysis Group, Clean Energy in New York State: The Role and Economic Impacts of a Carbon Price in NYISO's Wholesale Electricity Markets at 37, <https://www.nyiso.com/documents/20142/2244202/Analysis-Group-NYISO-Carbon-Pricing-Report.pdf/81ba0cb4-fb8e-ec86-9590-cd8894815231?t=1570098837163>.

foundation for economically efficient generation, transmission, demand response, and energy efficiency investment decisions. Supply resources rely on prices to determine whether to offer into the NYISO's markets and operate. Investors and developers rely on transparent market signals to determine whether to build new facilities, what type of facility to build, and where to build. Wholesale market prices must accurately reflect system needs and resource costs in order to produce the most efficient investment and operational decisions, and ultimately the lowest costs for consumers. The NYISO supports the Proposed Policy Statement conclusion that properly reflecting a state-determined carbon price in wholesale markets could "significantly improve the efficiency of those markets".⁹

⁹ Proposed Policy Statement at P. 15.

CONCLUSION

The NYISO encourages the Commission to adopt this Proposed Policy Statement. Recognizing that any rules proposed to the Commission in a particular FPA section 205 filing will be reviewed based on the facts and circumstances of that proposal, the Commission has jurisdiction to accept market rules that incorporate a state-determined carbon price in RTO/ISO markets. The Proposed Policy Statement provides valuable guidance to the RTOs/ISOs to design market rules that efficiently incorporate a state-determined carbon price into the wholesale electricity markets.

Respectfully submitted,

/s/ James H. Sweeney

James H. Sweeney, Senior Attorney
New York Independent System Operator, Inc.

November 16, 2020

cc: Jignasa Gadani
Jette Gebhart
Kurt Longo
John C. Miller
David Morenoff
Larry Parkinson
Douglas Roe
Frank Swigonski
Eric Vandenberg
Gary Will

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 16th day of November 2020.

/s/ Joy A. Zimmerlin

Joy A. Zimmerlin
New York Independent System Operator, Inc.
10 Krey Blvd.
Rensselaer, NY 12144
(518) 356-6207