

March 31, 2010**By Hand Delivery**

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

**Re: *New York Independent System Operator, Inc., Docket No.ER10-___ - ___*
 **Proposed Tariff Clarifications regarding Transmission Congestion
 Contracts****

Dear Ms. Bose:

Pursuant to Section 205 of the Federal Power Act,¹ the New York Independent System Operator, Inc. (“NYISO”) hereby submits proposed amendments to its Open Access Transmission Tariff (“OATT”) and Market Administration and Control Area Services Tariff (“Services Tariff”) to revise provisions concerning the Transmission Congestion Contracts (“TCCs”) market. This filing seeks to reorganize and clarify tariff provisions that set forth the rules that govern this market and to eliminate redundancy between the Services Tariff and the OATT. No substantive changes to Tariff provisions or current practice concerning the TCC market are being proposed.

TCC market tariff provisions describe the process by which the NYISO offers TCCs through Centralized TCC Auctions and Reconfiguration Auctions and the responsibilities and obligations imposed on customers participating in this market. The NYISO recently conducted an internal review of the TCC market provisions in its tariffs and identified opportunities to improve and clarify certain provisions.² The NYISO proposes to revise the provisions listed in Section II.

These Tariff amendments have been approved by the NYISO’s Management Committee.

¹ 16 U.S.C. §824d (2000).

² The NYISO conducted this internal review and is making this filing as part of an on-going comprehensive review of its tariffs to identify opportunities to improve and clarify them.

I. Documents Submitted

1. This filing letter;
2. A clean version of the proposed revisions to the NYISO's Open Access Transmission Tariff ("OATT") and Market Administration and Control Area Services Tariff ("Services Tariff") ("Attachment I"); and
3. A blacklined version of the proposed revisions to the NYISO's Open Access Transmission Tariff ("OATT") and Market Administration and Control Area Services Tariff ("Services Tariff") ("Attachment II").

II. Description of Proposed Tariff Revisions

A. Revisions to OATT Definitions

The NYISO proposes to amend Section 1.3r, the definition of "Centralized TCC Auction" to more concisely and accurately describe the Auction process. As a consequence of this change, the NYISO is proposing to delete the term "Centralized TCC Auction Period" currently located in Section 1.3s as it is no longer necessary. The NYISO proposes a minor change to Section 1.5.d to indicate that the NYISO collects Congestion Rent from purchasers in addition to Loads and to add a definition for "End-State Centralized TCC Auction," in a new Section 1.11b.1, to clarify the use of the term in Attachment M. Minor clarifying changes or grammatical corrections are proposed for the terms "ETA Agent," in Section 1.11c.2a, "Incremental TCC," in Section 1.1i, "Interface MW-Mile Methodology in Section 1.14q "Optimal Power Flow," in Section 1.28f, "Reconfiguration Auction," in Section 1.37.1 and "Residual Transmission Capacity," in Section 1.39b.1.

The NYISO is seeking to delete both the definition of Primary Owner, in Section 1.36b, and all references to the term in the NYISO's Tariffs. The NYISO also proposes to amend the term "Primary Holder" to clearly indicate that all Primary Owners are a subset of Primary Holders. Rights or obligations that exist as a function of the five Primary Owner acquisition types are contained in the body of Attachment M and do not depend on the identification of the Primary Holder as a Primary Owner. For instance, the NYISO settles TCCs with Primary Holders, whether the TCC is held by a Primary Owner or not. Under these circumstances, the continued use of the term Primary Owner is redundant; maintaining it in the Tariffs adds unnecessary confusion and the NYISO will replace it with the more generic term "Primary Holder."

The NYISO also seeks to simplify and streamline the definitions of "Secondary Holder," in Section 1.39h and "Secondary Market," in Section 1.39i. Revising "Secondary Holders" to mean TCC purchasers not certified as Primary Holders incorporates the intent of Subpart (i) and (ii) since the NYISO settles TCCs only with Primary Holders. In addition, Subpart (iii) is

outdated and should be deleted. Revising the definition for the term “Secondary Holder” allows the NYISO to also streamline the definition of the term “Secondary Market” by eliminating the unnecessary reference to congestion rent. Finally, the NYISO proposes numerous ministerial changes to the OATT definitions to consistently refer to the OATT instead of the tariff generally.

B. OATT Attachment M Revisions

In conducting its review process, the NYISO made numerous revisions to the OATT Attachment M, which, while they appear substantial, are organizational or clarifying in nature. These amendments are designed to create an Attachment that eliminates redundancy, uses consistent terminology, and is logically structured for ease of use. No substantive changes to the Attachment are proposed.

Throughout Attachment M, the NYISO proposes to consistently refer to auctions as either Centralized TCC Auctions or Reconfiguration Auctions rather than generically as Auctions and to replace the term “Primary Owners” with the term “Primary Holders” as discussed above. The NYISO also proposes to replace the phrase “bilateral transfers” with the phrase “Secondary Market transfers” for clarification purposes.

Section 1: The NYISO proposes to expand the existing list of opportunities to obtain TCCs in this Section to more accurately and completely describe all possible TCC acquisition opportunities. The NYISO also proposes to move the subsection titled “Preservation of Tax-Exempt Financing” from the existing Section 2B to a newly created subsection 1.1. This subsection, related to the tax-exempt status of the Long Island Power Authority (“LIPA”), is more properly placed in the Overview portion of the Attachment.

The NYISO proposes to relocate language from existing Section 1, which generally describes the actions taken by the NYISO when preparing to conduct a Centralized TCC Auction, to the more thorough discussion of the Auction process contained in Section 8 of Attachment M. Descriptions of NYISO’s actions prior to the first Centralized TCC Auction are proposed to be eliminated as of only historical significance and no longer necessary to the administration of the NYISO TCC auctions. The NYISO also proposes to relocate: (i) the obligations of Transmission Owners (“TO”) with regard to their Existing Transmission Capacity for Native Load (“ETCNL”), Original Residual TCCs and their Grandfathered TCCs (“GFTCC”) to subsection 8.3; and (ii) the description of TOs as Primary Holders to the newly created Section 7 which consolidates all provisions related to Primary Holders.

Section 2: The NYISO proposes to re-title Section 2 “Award of TCCs Other Than Through TCC Auctions: Fixed Price TCCs and Incremental TCCs” and to relocate to Section 8, or eliminate if redundant, paragraphs one through five, seven and eight of the existing Section 2. These paragraphs introduce the Initial and End-State auction processes and more properly belong in other Sections. The NYISO proposes to retain the existing subsections 2A and 2B but

renumber them subsections, 2.1 and 2.2 respectively, to conform to the numbering scheme used in this Attachment.

The new subsection 2.1, “Converting Transmission Capacity Associated with Expired, Terminated, or Expiring ETAs Into Fixed Price TCCs,” which opens with existing paragraph six, incorporates existing provisions regarding Fixed Price TCCs, but renumbers the subparts to be consistent with the numbering scheme used throughout this Attachment. New subpart 2.1.4, pertaining to the responsibilities of LSEs that obtain Fixed Price TCCs, was moved from the existing subpart 9.4a. This subpart more properly belongs in the portion of the Attachment related to Fixed Price TCCs.

The NYISO also proposes to renumber the subparts of the new subsection 2.2, “Awards of Incremental TCCs,” to introduce the subsection with an “Overview” subpart numbered 2.2.1. Other minor changes are proposed including minor grammatical clarifications. Throughout subsection 2.2 the NYISO proposes to replace references to the “effective date of this Section” with “November 1, 2008,” now that the effective date of the procedures regarding awards of Incremental TCCs is known.³ The NYISO proposes to add a sentence indicating that any award determinations made prior to November 1, 2008, or pending as of that date, will remain in effect as described in the NYISO’s Automated Market System. A few clarifications related to the finality of the awards are also proposed. In subpart 2.2.1, a proposed sentence clarifies that the NYISO shall not award Incremental TCCs before the finality provisions of subpart 2.2.5b have been fulfilled. In subpart 2.2.5b, the NYISO clarifies that this subpart lists the criteria for awards to become final and that awards of Incremental TCCs are only effective after they are final.

Section 3: The NYISO proposes to move the existing Section 3, which describes the process by which ETCNL and certain Grandfathered TCCs may be reduced to ensure auction feasibility, into Section 8 as the new subsection 8.2 and to amend the title to clarify that it applies to Reducible ETCNL/GFTCCs. This language more properly belongs in the new Section 8 of Attachment M which describes the NYISO’s process of setting up for and running auctions.

Section 4: The NYISO proposes to renumber this as Section 3 (since the existing Section 3 was moved into Section 8 as described above) and to make minor changes to the title to add clarity. The NYISO also proposes to add a reference to a new Table 3, created by the NYISO for this set of tariff amendments, listing Original Residual TCCs allocated to individual TOs. Further, the NYISO proposes to insert a revised portion of the text previously located in Section 1, related to TO sales of Original Residual TCCs in a Centralized Auction. Finally a

³ See: 126 FERC ¶ 61,029, *Order on Compliance Filing Implementing Long-Term Firm Transmission Rights*.

new sentence is added to this Section requiring Primary Holders to inform the NYISO of Direct Sales of TCCs.

Section 5: The NYISO proposes renumbering this Section as Section 4.0 and proposes minor language clarifications to the title and text to be more descriptive and clear.

Section 6: The NYISO proposes renumbering this Section as Section 5.0, and proposes only very minor clarifications to the title and text to eliminate redundant language and include accurate cross references to the tables listed at the end of this Attachment.

Section 7: The NYISO proposes numbering this Section as Section 6.0, retaining as subsection 6.1, the portion currently numbered 7.1, "Direct Sale of TCCs directly over the OASIS and Secondary Market Sales," and relocating and updating the portion describing the rights and obligations of Primary Holders to the next Section, Section 7, entitled "Primary Holders" where the NYISO also proposes minor updates. In addition, the NYISO proposes to add a sentence clarifying that Primary Holder provisions will be applicable to TCCs acquired through Direct Sale. The NYISO proposes changes to the end of subsection 6.1 describing a TO's opportunity to retain, sell directly, or sell through an auction, their Grandfathered TCCs. This language was previously located in Section 1. Finally, a new subsection 6.2 is proposed consolidating portions related to Secondary Markets for TCCs. This new subsection consists of language from the existing Section 10 and a new sentence added to affirmatively require Buyers and Sellers of TCCs in the Secondary Market to report those transactions to the NYISO, at which time the NYISO will post them on the OASIS.

Section 7: As mentioned above, the NYISO proposes the addition of a new Section 7 to describe the various rights and obligations of Primary Holders of TCCs. While some of this language is new, most provisions are relocated and consolidated from various places in Attachment M. The NYISO proposes this as the most user-friendly way to organize the Attachment because all provision related to Primary Holders will now be contained in one Section. Section 7 lays out who is a Primary Holder, the eligibility criteria to become a Primary Holder, including compliance with the credit requirements of Attachment K of the Services Tariff, and the consequences if a buyer fails to meet the Primary Holder eligibility criteria. No new obligations are created by this revision.

Section 8: The NYISO proposes to re-title subsection 8.1 "Overview," in order to provide an outline and introduction of the Auction process. The NYISO proposes to relocate existing language from subsection 8.1, describing the transmission capacity available for sale in an auction, to the new subsection 8.3 titled "Transmission Capacity Sold in Centralized Auctions for TCCs." As discussed above, the NYISO is proposing to relocate language from existing Section 3 into a new subsection 8.2 titled "Description of the Reduction process for Reducible ETCNL/GFTCCs." In establishing the power flow to be used in its Centralized TCC Auction, the NYISO must ensure that unexpired TCCs, Grandfathered Rights, Original Residual TCCs, ETCNL and Grandfathered TCCs are feasible. If the power flow that models these TCCs

and Rights is not feasible, ETCNL and certain Grandfathered TCCs may be reduced in order to return the power flow to feasibility. The material relocated into this new subsection 8.2 describes this reduction process.

In addition to minor insertions and deletions to clarify language being relocated to subsection 8.2 from the existing Section 3.0, the NYISO proposes to clean up the formula that currently describes the objective function of the reduction process. The existing formula, previously inserted into Attachment M without the use of appropriate mathematical symbols, was cryptic and inexact. The new formula matches more appropriately the Attachment M mathematical representation with how this objective function is implemented. As well, to further clarify how the reduction process works, the NYISO proposes to add a narrative description of the existing methodology.

As mentioned, the NYISO proposes to open the new subsection 8.3 with relocated language from existing subsection 8.1, and to expand the description of the Transmission Capacity available for sale in the Centralized TCC Auctions, for completeness and clarity. For instance, no transmission capacity can be sold in an auction if it is already supporting existing TCCs and the descriptions of available capacity have been so clarified. Throughout this subsection, the NYISO also proposes to eliminate the term “phases” as it is a term no longer in use.

The NYISO proposes to amend the existing subsection 8.4 title to, “Centralized TCC Auctions,” drop the designations of Phase 1 and Phase 2, and make a series of conforming changes to the language in the subdivision currently labeled Phase 1. The NYISO proposes to delete the last paragraph in current subsection 8.4 Phase 1 as redundant of language appearing in new subsection 8.3 describing the requirement to sell all transmission capacity not associated with ETAs or outstanding TCCs or not reserved through conversion of ETCNL to ETCNL TCCs or RCRRs to RCRR TCCs in the Centralized TCC Auction.

The NYISO also proposes to relocate from Section 2 to subsection 8.4, the requirement that Transmission Owners unanimously consent to a set of fewer than four auction rounds and, from Section 9, the description of the “scaling factor” used in allocating available transmission capacity by round. The NYISO is proposing to relocate language now found in the second half of subsection 8.4, currently designated “Phase II, End-State Auctions for TCCs,” to the end of Attachment M as its own new Section 10. This language describes a future auction design and has no relevance to the current process of holding or acquiring TCCs through auctions or otherwise.

In addition to minor conforming changes to subsection 8.5, “Reconfiguration Auctions,” the NYISO proposes two amendments. The first ensures that the opportunity to offer TCCs in monthly Reconfiguration Auctions is constrained by other Attachment M provisions that may limit such sales and to state that the Long Island Power Authority may release its available

transmission capacity into the monthly Reconfiguration Auction rather than into the Centralized TCC Auction, in order to manage its tax exempt bond obligations.

Section 9: The NYISO proposes to clarify the description of the Auction structure and the identification of eligible participants that is currently found in this Section. The NYISO proposes additional language in two places to ensure that the opportunity to offer TCCs in Stage 1 and Stage 2 rounds of Centralized TCC Auctions is constrained by other Attachment M provisions that may limit such sales. The NYISO also proposes to relocate here, from previous Section 8, a paragraph describing the process of purchasing TCCs in a subauction and reselling them in a subsequent subauction.

In the unnumbered subpart designated “Bidding Requirements,” the NYISO proposes to indicate bid submission and credit obligations are also determined in ISO Procedures. In the subpart designated “Bidding Rounds,” the NYISO proposes to add language clarifying the manner in which market clearing prices are determined for Primary Holders selling their TCCs across all rounds in a subsequent Centralized TCC Auction. The NYISO proposes deleting the description of the percentage of transmission capacity available in any round and the scaling factor as redundant of language now appearing in subsection 8.4. The discussion regarding Primary Holders is also redundant of language now appearing in Section 7 and is proposed for deletion. Minor clarifying changes are proposed for the subdivision labeled “Reconfiguration Auctions.”

The NYISO proposes minor clarifications to subsection 9.2, “Responsibilities of the ISO,” and also proposes to add a reference to the NYISO’s practice of listing on its OASIS certain POIs and POWs, between which TCCs cannot be sold. These POIs and POWs represent nodes for which the NYISO’s Day-Ahead price is the same but which, if they defined a TCC, could be bid in a TCC Auction in a manner that could generate a negative price. Since no Congestion Rents are payable on a TCC with identical prices at its POI and POW, there should be no auction price either and this prohibition avoids the inappropriate opportunity to create a negative auction price when no Day-Ahead Congestion Rents would be payable.

The NYISO also proposes to update the credit requirement references in subsection 9.2 to refer, instead, to the NYISO’s credit requirements for TCC Auction participants and TCC Holders which are now found in Attachment K of the Services Tariff.

In addition to minor clarifications proposed for subsection 9.3, “Additional Responsibilities of the ISO,” the NYISO proposes to add a description of the unbundling process. Unbundling, at the request of a Transmission Customer, involves replacing the awarded TCC with an equivalent set of TCCs. This description mirrors current practice by the NYISO and is added for clarity.

The NYISO proposes to add an opening paragraph to subsection 9.4, “Responsibilities of Each Bidder,” describing the general obligations of TCC auction participants to become

Transmission Customers or Customers under the NYISO Tariffs and to meet the credit obligations as set forth in Attachment K of the Services Tariff. The NYISO also proposes relocating the requirement that each bidder pay the market clearing price for awarded TCCs to subsection 9.6. As mentioned, the NYISO also proposes to move existing subpart 9.4a to the new subpart 2.1.4 where all information related to Fixed Price TCCs is located. Minor updating and clarification changes are proposed for subsection 9.5.

The NYISO proposes to update subsection 9.6 to clarify the process for settling TCC auctions by referencing the practice of delivering award notices. As well, the NYISO proposes to codify, in this subsection, its practice of establishing a dispute period, following the conclusion of each Centralized TCC Auction, during which Auction participants can challenge their awards or market clearing prices can be corrected. The NYISO's proposal includes the provision that, following the dispute period, auction awards shall be final. This proposal codifies in the Tariff the current practice, agreed to by TCC auction participants in the TCC Contracts they currently sign, to a dispute period and award finality.⁴

Finally, the NYISO seeks to delete that portion of the simultaneous feasibility process described in subsection 9.7 that deals with the End State Auction as redundant of language now found in the new Section 10. Minor clarification changes are proposed for subsection 9.8. The NYISO also proposes to delete the entire subsection 9.9 auction example as unnecessary given the number of years these auctions have been conducted.

As mentioned, the NYISO proposes to relocate language from existing Section 10 to a new subsection 6.2 dealing with sales in the Secondary Market. The NYISO also proposes to delete existing Section 11, "Emergency TCC Auction Remedial Authority for the 2004 Summer Capability Period," and existing Section 12, "Historic Period Refunds and Payments for Current Shortfalls Under the July 13, 2004 TCC Settlement Agreement." These Sections are outdated and no longer apply to any TCC settlements. As such these Sections should be deleted from Attachment M.

Finally, the NYISO proposes to add Table 3 to Attachment M, which contains a list of Original Residual TCCs, including Primary Holder, POI, POW and Number of TCCs. This table is referenced in various locations throughout Attachment M.

C. OATT Attachment N Revisions

The NYISO proposes three changes to this Attachment. The NYISO seeks to add a paragraph in subsection 1.1 clarifying that Attachment N is inapplicable to any obligation to pay an outage charge related to a temporary or final award of Incremental TCCs. Outage charges, to

⁴ The proposed dispute period description, which mirrors current practice, is outlined in the TCC Purchase and Sale contracts, currently executed by all TCC Market Participants.

be charged holders of Incremental TCCs when the transmission facilities that give rise to their Incremental TCCs are out of service, are properly determined pursuant to subpart 2.2.9 of Attachment M. For all other TCCs, Attachment N describes a series of complicated outage charge calculations that apply to Transmission Owners when existing transmission facilities are out of service. In order to avoid confusion, the NYISO proposes new language in Attachment N that would preclude the application of its outage charge provisions to outages on transmission facilities supporting Incremental TCCs. Finally, NYISO proposes clarifications to Formula N-28 to make it more universally clear and unambiguous.

D. Services Tariff

The NYISO proposes changes to the body of the Services Tariff to more accurately reflect TCC related billing and payment rules. Changes in subsections 7.2 (A), (B), and (C) reflect that any Auction revenues, payments from customers or payments from the NYISO shall be made in accordance with the timeline set forth in ISO Procedures. The changes proposed specify that Customers and the NYISO shall pay net monies owed directly into the ISO Clearing Account (described in subsection 7.1) according to the timelines established in ISO Procedures. The proposed change to subsection 7.2 (E) again differentiates that bills and payments for TSCs shall be issued in accordance with the ISO OATT, as opposed to the procedures set forth in Section 7 of the Services Tariff. Finally, a similar change is proposed to subsection 7.4 of the Services Tariff to clarify that challenges related to charges and payments for TCCs shall be resolved pursuant to Section 9 of Attachment M as opposed to subsection 7.4 of the Services Tariff.

III. Effective Date

The NYISO requests an effective date 60 days from the date of this filing, May 31, 2010.

IV. Requisite Stakeholder Approval

The NYISO's Management Committee approved this proposal on December 16, 2009. The NYISO Board of Directors approved this filing on February 9, 2010.

V. Communications and Correspondence

All communications and service in this proceeding should be directed to:

Robert E. Fernandez, General Counsel
Elaine Robinson, Director, Regulatory Affairs
*Mollie Lampi, Assistant General Counsel
Kristin Bluvas, Attorney
New York Independent System Operator, Inc.
10 Krey Boulevard
Rensselaer, NY 12144
Tel: (518) 356-8875
Fax: (518) 356-7678
rfernandez@nyiso.com
erobinson@nyiso.com
mlampi@nyiso.com
kbluvas@nyiso.com

* Designated to receive service.

VI. Service

The NYISO will send an electronic link to this filing to the official representative of each of its customers, to each participant on its stakeholder committees, to the New York Public Service Commission, and to the electric utility regulatory agency of New Jersey. In addition, the complete filing will be posted on the NYISO's website at www.nyiso.com.

VII. Conclusion

Wherefore, for the foregoing reasons, the New York Independent System Operator, Inc. respectfully requests that the Commission accept this filing to be effective May 31, 2010.

Respectfully submitted,

/s/ Mollie Lampi
Mollie Lampi
Assistant General Counsel
New York Independent System Operator, Inc.
10 Krey Blvd.
Rensselaer, New York 12144
(518) 356 7530
mlampi@nyiso.com

Honorable Kimberly D. Bose
March 31, 2010
Page 11

cc: Michael McLaughlin
Anna Cochrane
Connie Caldwell
Michael Bardee
Kathleen Nieman
Lance Hinrichs
Rachel Spiker
Gregory Berson
Jeffrey Honeycutt