

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

New York Independent System Operator, Inc.) Docket No. ER11-____-000

**NOTIFICATION OF INABILITY TO TIMELY COMPLETE PRICE CORRECTIONS,
REQUEST FOR LIMITED TARIFF WAIVER TO PERMIT ANCILLARY SERVICE
PRICES TO BE CORRECTED, AND REQUEST FOR SHORTENED NOTICE PERIOD
AND EXPEDITED COMMISSION ACTION
OF THE NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.**

The New York Independent System Operator, Inc. (“NYISO”) submits this Notification of Inability to Timely Complete Price Corrections, Request for Limited Tariff Waiver to Permit Ancillary Service Prices to be Corrected, and **Request for Shortened Notice Period and Expedited Commission Action** (“Waiver Request”) in order to: (i) formally notify the Federal Energy Regulatory Commission (“Commission”) of its inability to timely correct Ancillary Service¹ prices to reflect the appropriate application of the NYISO’s scarcity pricing mechanism² for Hour Beginning (“HB”) 13 – 17 on Friday, July 22, 2011; (ii) inform the Commission of the steps that the NYISO has taken to inform its stakeholders and resolve the concerns it identified; (iii) request Tariff waivers to permit the NYISO to correct Ancillary Service market clearing prices for HB 13 – 17 on July 22, 2011 outside the three-day price correction window specified in Section 20.3 of (Attachment E to) the NYISO’s Market Administration and Control Area Services Tariff (“Services Tariff”); (iv) inform the Commission of the NYISO’s intent to post corrected Ancillary Service prices by or on Monday August 1,

¹ Capitalized terms that are not defined herein have the meaning ascribed to them in the NYISO’s Market Administration and Control Area Services Tariff.

² The NYISO’s scarcity pricing rules are set forth in Section 15.3.5.2 (Rate Schedule 3), Section 15.4.6.2 (Rate Schedule 4), and Section 17.1.2 (Attachment B) of the NYISO’s Market Administration and Control Area Services Tariff.

2011, while retaining the ability to roll-back the corrections if the Commission rejects this Waiver Request; and (v) **request that the Commission shorten the notice and comment period and issue an expedited ruling on this Waiver Request** (*see* Section III.C., below).

I. Correspondence

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II. Background

A. System Conditions on Friday July 22, Activation of Demand-Side Resources, and Review and Correction of Energy and Ancillary Service Prices

On Friday, July 22nd the NYISO, along with much of the nation, was experiencing a second straight day of summer peak conditions. The NYISO's system peak on July 22nd was 33,865 MW. In order to preserve system reliability in a least-cost manner, the NYISO timely notified and activated Emergency Demand Response Program ("EDRP") and Special Case Resource ("SCR") demand-side resources for HB12 – 17 on that day. The NYISO estimates that if it had not called upon demand-side resources for those hours, it would have exceeded its all-time system peak of 33,939 MW (set on August 2, 2006) by more than 1000 MWs.

The NYISO's activation of EDRP and SCR resources for HB 13 – 17 on July 22nd required the NYISO to apply the special scarcity pricing rules set forth in Section 15.3.5.2 (Rate Schedule 3), Section 15.4.6.2 (Rate Schedule 4), and Section 17.1.2 (Attachment B) of the NYISO's Market Administration and Control Area Services Tariff ("Services Tariff") when determining real-time prices for the affected hours.³ Following EDRP and SCR activation, the NYISO routinely validates scarcity pricing outcomes that occurred during the activation period. The NYISO's price validation process identified a number of pricing intervals during which Energy and Ancillary Service prices were not consistent with the expected scarcity pricing results. Consistent with Section 20.3 of (Attachment E to) the Services Tariff, the NYISO timely reserved the affected intervals and corrected and validated all affected Energy pricing intervals within the required three day timeframe.

Following completion of the initial price validation screening process NYISO staff immediately identified and began to work through the manually intensive interval-by-interval analysis required to evaluate pricing outcomes during the intervals impacted by scarcity pricing on July 22, 2011. EDRP and SCR were activated from hour beginning 12⁴ through hour beginning 17 and a manual review of eighty three (83) distinct pricing intervals was required to determine if the scarcity pricing logic was correctly applied for energy as well as operating reserves and regulation at every location in the system. Unlike the routine daily validation processes, which are predominately automated, the manual nature of the current scarcity pricing validation process is time intensive.

³ In general, scarcity pricing applies whenever NYISO would be short reserves absent the relief provided by EDRP and SCR.

⁴ EDRP and SCR resources were also called for HB 12 on July 22nd in Zone J. After careful review, the NYISO has determined that scarcity pricing was, appropriately, not triggered for HB 12.

The NYISO's review found that a software issue associated with a data compilation used in the scarcity pricing procedure incorrectly applied the amount of EDRP/SCR relief provided across the impacted intervals. In addition, the review identified mathematical calculation errors that resulted in scarcity prices for operating reserves and regulation service that were not consistent with the requirements of Services Tariff Rate Schedules 3 and 4. The combined software deficiencies were difficult to identify and sort-out due to their interdependency, and due to the complex ex-post calculation used to apply scarcity pricing to the Real-Time Market outcomes.

B. The NYISO's Price Correction Rules

Section 20.3 of the NYISO's Procedures for Reserving and Correcting Erroneous Energy and Ancillary Services Prices (Attachment E to the NYISO's Services Tariff) provides, in pertinent part:

The ISO shall correct a price it has timely reserved and determines to be erroneous and shall provide notice of the correction as soon as possible, but not later than three days after the price reservation deadline. Whenever possible, the ISO will make price corrections prior to the reservation deadline and will provide notice of those corrections along with the reservation notices.

Erroneous prices not reserved and corrected within these timeframes shall not be corrected by the ISO except as directed by the Commission or a court of competent jurisdiction. Nothing herein shall be construed to restrict any stakeholder's right to seek redress from the Commission in accordance with the Federal Power Act. [Highlighting added.]

The Commission considered and ruled on the NYISO's currently effective rules for price corrections, including the deadline for completing price corrections in Orders issued on July 14, 2006 and March 12, 2007 in Docket No. ER06-1014.⁵ Paragraph 36 of the Commission's July

⁵ *New York Independent System Operator, Inc.*, 116 FERC ¶ 61,037 (2006); Letter Order on NYISO Compliance Filing issued March 12, 2007.

14, 2006 Order instructed the NYISO to limit the time available for making price corrections to three calendar days after the date by which prices must be reserved.

In the more than four and a half years between November 13, 2006 (the effective date of the price correction rules specified in the cited Commission Orders) and July 26, 2011 (the date by which the NYISO needed to complete its price corrections for the July 22, 2011 real-time market in order to meet the Tariff-specified deadline), the NYISO has complied, in every instance, with the three day price correction deadline. In this case, the NYISO was able to timely correct all affected Energy prices, and was able to correct some of the issues that impacted Ancillary Service prices. The NYISO hereby requests a tariff waiver to permit it to complete the Ancillary Service price corrections for the July 22, 2011 Real-Time Market, HB 13 – 17.

C. Comments from Stakeholders Regarding Waiver Request

As soon as the NYISO determined that it would not be able to complete all price corrections within the permitted correction window, the NYISO informed its stakeholders and Commission Staff in an expeditious manner. At the Management Committee meeting held on July 28, 2011, and in an e-mail to its Market Participants, the NYISO sought stakeholder input on its proposal to seek a Tariff waiver to permit it to complete the Ancillary Service price corrections.

At the Management Committee meeting, representatives of both supply- and load-side interests commented that obtaining a waiver in this instance to permit the NYISO to complete price corrections for a pricing error that was timely identified and reserved, but not completed within the permitted three-day correction period, would set a precedent that the NYISO should follow in the future when it faces similar circumstances. In response, the NYISO explained that this was the first time it failed to complete an identified and reserved price corrections within the

three-day deadline specified in Section 20.3 of the Services Tariff. The NYISO agreed with stakeholder suggestions that the decision to seek a waiver to permit the NYISO to complete price corrections should be made on a non-discriminatory basis; without regard to whether the resulting price correction would tend to benefit supply- or load-side interests.

At the Management Committee meeting stakeholders also stated that they would like to be able to see the impact of the Ancillary Service price corrections to inform their decision on whether to submit comments in response to this Waiver Request. The NYISO's proposal to post corrected prices by the end of the day on Monday August 1, 2011 (described in Section III.B. of this Waiver Request) would permit Market Participants to see the corrected Ancillary Service prices before they provide comments to the Commission.

Along similar lines, the NYISO received a question via e-mail asking how much additional time the NYISO would require to correct the Ancillary Service prices. Consistent with the proposal set forth in Section III.B. of this Waiver Request, the NYISO intends to post corrected prices by the end of the day on Monday, August 1, 2011, while retaining the ability to roll the prices back to the prices that were posted on Tuesday, July 26, 2011, should the Commission instruct it to do so.

D. Corrective Actions and Market Impacts

The NYISO has already corrected the software issues that affected the scarcity prices calculated for Energy, and is prepared to correct the software issues that affected the scarcity prices for Ancillary Services as soon as it is permitted to do so. Even if this Waiver Request is not granted, the NYISO has identified and will correct all of the underlying software issues on a going-forward basis.

If the Commission grants this Waiver Request, the remaining scarcity pricing errors that the NYISO identified will not impact the markets that it administers, because they will be corrected. The NYISO cannot, with any reasonable degree of accuracy, estimate the market impact that will result if it is not permitted to correct Ancillary Service prices for HB 13 – 17 on July 22, 2011. The NYISO must first make the corrections in order to identify the Ancillary Service price impacts.

III. Discussion

A. Request for Waiver to Permit Price Corrections Outside the Three-Day Price Correction Window

The NYISO respectfully requests that the Commission waive the three day price correction deadline that is set forth in Section 20.3 of Attachment E to its Services Tariff in order to permit the NYISO to complete the Ancillary Services price correction process for HB 13 – 17, for the July 22, 2011 Real-Time Market.

The Commission has previously evaluated a number of issues in determining whether to authorize a tariff waiver to alleviate the effects of an error. These include whether: (1) the underlying error was made in good faith; (2) the waiver is of limited scope; (3) a concrete problem needs to be remedied; and (4) the waiver will not have undesirable consequences, such as harming third parties.⁶

⁶ See, e.g., *California Independent System Operator Corp.*, 116 FERC ¶ 61,226 at P 8 (2006) (granting limited waiver of tariff provisions governing sanctions for failing to timely submit generator outage and other information in order to allow California ISO to ensure that market participants were not inappropriately penalized); *New York Independent System Operator, Inc.*, 112 FERC ¶ 61,347 at P 7 (2005) (granting the NYISO a discrete tariff waiver in order to recalculate certain charges); *Great Lakes Gas Transmission Limited Partnership*, 102 FERC ¶ 61,331 at P. 16 (2003) (“Great Lakes has shown good cause for its Emergency Waiver request and has shown that the impact on non-exempt customers whose supply may be curtailed will be *de minimus*.”); *TransColorado Gas Transmission Co.*, 102 FERC ¶ 61,330 at P 5 (2003) (“The Commission finds that in this instance, good cause has been shown to waive TransColorado's Fuel Gas Reimbursement provision in Section 12.9 of its FERC Gas Tariff, First Revised Volume I, as requested.”); *Northern Border Pipeline Co.*, 76 FERC ¶ 61,141 at 61,780 (1996) (granting one-time waiver request). See also *Wisvest-Connecticut LLC v. ISO-New England, Inc.*, 101 FERC ¶ 61,372 at P 24 (2002)

(continued...)

The underlying error was made in good faith. Because the relevant scarcity pricing rule triggers very infrequently, and the rules operated correctly the last time scarcity pricing was triggered in August of 2006, the NYISO was not aware of the errors that caused Energy and Ancillary Service scarcity prices to be calculated incorrectly until it began its price validation process. Once the NYISO discovered the errors, it moved to remedy the problems in an expeditious manner, including promptly notifying Market Participants and Commission staff.

The scope of the requested waiver is limited. It will permit the NYISO to complete efforts to correct erroneous real-time regulation and operating reserve prices that affect a five-hour period of a single market-day.

A concrete problem needs to be remedied. Although it has corrected Energy prices the NYISO has posted Ancillary Service prices that (1) it knows to be inaccurate for some intervals, and (2) the NYISO knows how to correct, but was not able to timely correct.

Finally, the requested waiver will prevent harm to Market Participants by ensuring that market clearing prices for regulation and operating reserves are calculated consistent with the scarcity pricing rules that are set forth in the NYISO's Tariffs. No party can reasonably claim it will be "harmed" if prices are corrected to be consistent with the NYISO's Tariff rules.

(finding that ISO-NE rules requiring assessment of deficiency penalty should not be applied in this case because market participant's error giving rise to the penalty was "an inadvertent mishap.").

B. Proposed Method of Implementing Price Corrections and Practical Reasons Supporting the NYISO's Proposal to Achieve Price Corrections in this Manner

The NYISO proposes to correct the posted Ancillary Service prices for HB 13 – 17 for the July 22, 2011 Real-Time Market day by the end of the day on Monday, August 1, 2011.

Although the corrections will, necessarily, be posted on the NYISO's OASIS, the NYISO will retain the ability to roll the posted prices back to the real-time prices that were timely posted by the price correction deadline specified in Section 20.3 of Attachment E to the Services Tariff for July 22, 2011.

There are several practical reasons that the NYISO proposes to post corrected prices before the Commission completes its consideration of this Waiver Request. They are:

(1) The NYISO automatically archives market data ten days after the relevant market-day. Correcting prices in data that has already been archived is more complex, difficult, and prone to error than correcting the prices in the production systems before they are archived. August 1, 2011 is the last day that the NYISO can correct the July 22, 2011 prices before they are automatically removed from the production systems and archived;

(2) Posting the corrected ancillary service prices will permit affected Market Participants to determine if, and the extent to which, they are impacted by the proposed price correction. As described in Section II.C. of this Waiver Request, several Market Participants have informed the NYISO that they consider the market impacts important to inform their consideration of the NYISO's Waiver Request. The NYISO has no other means available to timely make the impacts of the proposed price corrections available to its Market Participants;

(3) Posting the corrected data reduces the urgency and need for expedited Commission action. If the Commission accepts the NYISO's Waiver Request, the NYISO will already have correct, "final" prices posted; and

(4) As explained above, if the Commission rejects the NYISO's waiver request, the NYISO will still be able to roll-back to and re-post the prices that were in-place at the end of the Tariff-authorized price correction period.

However, the NYISO recognizes that there is one potential drawback to posting corrected prices before the Commission acts on the NYISO's Waiver Request. If the Commission rejects this Waiver Request, the NYISO will have temporarily posted incorrect real-time Ancillary Service prices for a five-hour period on one market day. For this reason, the NYISO is letting the Commission know, in advance, exactly what it intends to do.

C. Request for Shortened Notice and Comment Period and Expedited Commission Action

The NYISO requests that the Commission shorten the comment period in order to permit it to act on the NYISO's filing expeditiously. Good cause exists for the Commission to act on an expedited basis because, until the Commission acts upon the NYISO's Waiver Request, the NYISO and its Market Participants will not know if the real-time Ancillary Service prices posted on the NYISO's OASIS for HB 13 – 17 of the July 22 market day are correct and final. Under the circumstances, it is appropriate for the Commission to expedite its review of this Waiver Request.

IV. Service

The NYISO will electronically send a 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 the New Jersey Board of Public Utilities. In addition, the complete filing will be posted on the NYISO's website at www.nyiso.com.

V. Conclusion

WHEREFORE, for the foregoing reasons, the New York Independent System Operator, Inc., respectfully requests that the Commission grant the Tariff waiver requested in Section III.A. of this filing on an expedited basis. The NYISO also requests that the Commission review the plan of action proposed in Section III.B. of this filing, and promptly notify the NYISO if its proposed plan of action is not acceptable to the Commission.

Respectfully submitted,

/s/ Alex M. Schnell
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New York Independent System Operator, Inc.

Dated: July 29, 2011