

April 17, 2014

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.'s Proposed Tariff
Amendments to Permit Improved Fuel Indexing of Day-Ahead Generator
Reference Levels; Docket No. ER14-____-____**

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 Market Administration and Control Area Services Tariff ("Services Tariff") and to the Market Power Mitigation Measures ("MMM") that are set forth in Section 23 of (Attachment H to) the Services Tariff. The proposed amendments will permit the NYISO to implement reference level software ("RLS") functionality that will enable Market Parties² to submit fuel price and fuel type information with the Day-Ahead Market Bids they submit for their Generators. The NYISO will use the Market Party-submitted fuel type or fuel price information to more timely and accurately fuel index Generator reference levels in the Day-Ahead Market evaluation. The Tariff revisions proposed in this filing:

- (a) move the Bid submission deadline for Generators that are submitting revised fuel type or fuel price information with Day-Ahead Market Bids to 4:45 a.m.;
- (b) define "timely" notice or submission of revised fuel type or fuel price information to the Day-Ahead Market as at least 15 minutes prior to the close of the Day-Ahead Market (*i.e.*, by 4:45 a.m.);
- (c) clarify that the mitigation measures described in MMM Section 23.5.2.1 also apply to In-City Generators committed in the Day-Ahead Market for local reliability; and
- (d) clarify that In-City Day-Ahead reliability commitments are subject to both conduct and impact mitigation thresholds of zero.

¹ 16 U.S.C. §824d (2012).

² Capitalized terms that are not otherwise defined herein shall have the meaning specified in the Services Tariff or in the Market Power Mitigation Measures that are set forth in Attachment H to the Services Tariff.

I. Documents Submitted

1. This filing letter;
2. A clean version of the proposed revisions to the NYISO's Services Tariff, including the MMM, ("Attachment I"); and
3. A blacklined version of the proposed revisions to the NYISO's Services Tariff, including the MMM, ("Attachment II").

II. Background

Section 23.3.1.4 of the NYISO's MMM addresses the development of reference levels. Dollar-denominated reference levels, such as start-up, minimum generation and incremental energy reference levels, are generally intended to reflect a Generator's marginal cost of providing a service.³ Several of the rules addressing the development of reference levels expressly require the NYISO to adjust reference levels to reflect changes in the price of the fuel that a Generator must consume.⁴ Even where the NYISO is not expressly required by the Tariff to fuel index a particular type of reference level, it incorporates fuel costs where appropriate to more accurately reflect Generators' marginal costs.

In 2010, the Federal Energy Regulatory Commission (the "Commission" or "FERC") accepted the NYISO's proposed Tariff revisions to permit implementation of new reference level software functionality enabling Market Parties to submit updated fuel type information for their Generators ("2010 Tariff Amendments").⁵ The 2010 Tariff Amendments permit the NYISO to use up-to-date fuel type information submitted by Market Parties to improve the method that the NYISO uses to calculate reference levels for Generators that are committed in the Day-Ahead Market.

The NYISO's 2010 Tariff Amendments were designed to permit Market Parties to submit information identifying the type of fuel that their Generator would burn if committed in the Day-Ahead Market. This information is relevant to fuel-indexing the reference levels of Generators that are capable of burning more than one fuel type, that can burn different fuel blends, or that can draw from multiple fuel sources (pipelines) that have distinct prices.⁶ The 2010 Tariff Amendments permitted the NYISO to utilize a fuel type screening process prior to a Generator's fuel type change.

³ See, e.g., MMM Sections 23.3.1.4.1.1(iii), 23.3.1.4.1.2(iv), 23.3.1.4.1.3, 23.4.2.1.

⁴ See, e.g., MMM Sections 23.3.1.4.1.1, 23.3.1.4.1.2, 23.3.1.4.4.1.

⁵ *New York System Operator, Inc.*, 132 FERC ¶ 61,270 (2010); *New York Independent System Operator, Inc.*, Letter Order, Docket No. ER10-2062-001 (Dec. 21, 2010).

⁶ See *New York System Operator, Inc.*, 132 FERC ¶ 61,270 at fn 4 (2010) ("For example, if a Generator has indicated that it usually buys gas at either the 'Transco Zone Six New York' spot price or at the 'Algonquin City Gates' spot price, and both fuels are included by the NYISO on the Generator's pre-approved list of available fuels, a change by the Generator from one pipeline to the other would constitute a change in fuel 'type.'").

The NYISO delayed implementing the automated RLS functionality that would permit Generators to submit fuel type information with their Day-Ahead Market Bids due to a gap in the NYISO's mitigation measures that presents a risk that Bid Production Cost Guarantee ("BPCG") payments to Generators committed for reliability in New York City could be inflated without financial sanctions being tested for or applied at appropriate thresholds.⁷ Generators that are needed to address a local reliability concern possess market power for the duration of the reliability need. They are guaranteed to be committed, even if their offers are not competitive with other supply options that are available to the NYISO. For this reason, Bids submitted on behalf of New York City Generators that are committed out of economic merit order to address a local reliability need in the Day-Ahead Market ("NYC Reliability Units")⁸ are subject to mitigation whenever the Bid exceeds the Generator's reference level.⁹

The 2010 Tariff Amendments did not propose to add a similarly tight threshold to the rules in Section 23.4.3.3.3 of the MMM that determine when the NYISO assesses a financial sanction for the submittal of inaccurate fuel type or fuel price information that results in inappropriate compensation to a Generator. Due to this omission, an owner of a NYC Reliability Unit could supply inaccurate fuel type or fuel price information along with its Minimum Generation Bid and successfully accrued unwarranted revenues during its reliability commitment. The owner would not be subject to a financial sanction for submitting inaccurate fuel type or fuel price information unless the change in fuel price exceeded the more lenient conduct and impact thresholds that apply to Day-Ahead Generators that are not reliability-committed.

In this filing, the NYISO proposes to clarify the mitigation measures that will apply to NYC Reliability Units that submit modified fuel price or fuel type information, with their Day-Ahead Market Bids. The NYISO uses the Market Party-submitted fuel price or fuel type information to calculate revised reference levels for New York Control Area Generators. The proposed clarifications to the MMM are designed to ensure that NYC Reliability Units will be subject to sanctions for submitting inaccurate fuel type or fuel price information that inappropriately inflates the compensation paid to the Generator. The NYISO proposes to require strict adherence to each NYC Reliability Unit's reference levels when performing the conduct and impact tests that determine when a Market Party will be subject to a financial sanction for submitting inaccurate fuel type or fuel price information that increases the compensation the Market Party receives. The NYISO's proposal to employ conduct and impact thresholds that require strict adherence to a NYC Reliability Unit's reference level is consistent with the LBMP and BPCG mitigation rules that apply to the Bids that are submitted for these Generators.

⁷ The NYISO has consistently allowed Generators to update the fuel type and fuel price information used to index Day-Ahead reference levels via a timely RLS submittal to the NYISO's Market Mitigation and Analysis Department ("MMA").

⁸ NYC Reliability Units may be committed in the NYISO's Security Constrained Unit Commitment program to ensure compliance with a Local Reliability Rule ("LRR"), or their commitment as a Day-Ahead Reliability Unit ("DARU") may be requested by a Transmission Owner to address a local reliability need. DARU and LRR mitigation are only applied if a Generator is *not* committed based on the economics of its offer.

⁹ See Section 23.5.2 of the MMM.

The NYISO also proposes in this filing to require any Market Party that wants to submit revised fuel type or revised fuel price information with its Day-Ahead Bid, to submit Bids that include fuel information changes by 4:45 a.m. on the day prior to the Dispatch Day (15 minutes before the standard Day-Ahead Market closing time). RLS requires this additional 15 minute period to recalculate Generator reference levels using the newly submitted fuel type or fuel price data prior to sending the modified reference levels to the Day-Ahead Security Constrained Unit Commitment (“SCUC”) software for market evaluation. Only Generators that are submitting updated fuel type or fuel price information with their Day-Ahead Bids must submit their Bids by 4:45 a.m.

III. Description and Justification of Proposed Revisions to the Services Tariff

A. Services Tariff Section 4.2.1.1

The NYISO proposes to modify the Bid submission deadline for Generators that are submitting revised fuel type or fuel price information along with their Day-Ahead Bids. The proposed change requires Market Participants to submit offers that include changes to fuel type or fuel price information by 4:45 a.m. on the day prior to the Dispatch Day. The generally applicable Day-Ahead Market Bid submission deadline (5:00 a.m. on the day prior to the Dispatch Day), remains in place for all New York Control Area Generators that are *not* submitting fuel type or fuel price modifications with their Day-Ahead Bids.

B. Services Tariff Section 23.3.1.2.4

The NYISO proposes to add a new Section 23.3.1.2.4 explaining that the mitigation measures described in Services Tariff Section 23.5.2.1 apply to In-City Generators committed in the Day-Ahead Market for local reliability.

C. Services Tariff Section 23.3.1.4.7.7

The NYISO proposes to modify Section 23.3.1.4.7.7 to define “timely” notice or submission to the Day-Ahead Market as at least 15 minutes prior to the close of the Day-Ahead Market (*i.e.*, by 4:45 a.m.). Timely notice or submission of revised fuel information by Market Participants is required to ensure that revised fuel type or fuel price information will be considered by the NYISO when evaluating Bids.

D. Services Tariff Section 23.4.3.3.1.3

The NYISO proposes to add a new Section 23.4.3.3.1.3 specifying that, when determining whether sanctions should be applied for submitting inaccurate fuel price or fuel type information, the conduct and impact thresholds for In-City Generators committed in the Day-Ahead Market for local reliability shall each be zero.

IV. Requested Effective Date

The NYISO requests a flexible effective date for the Tariff revisions proposed in this filing that will be no earlier than June 18, 2014. The earliest possible effective date is more than

sixty days after the date of this filing. However, the NYISO is not prepared to specify a precise effective date at this time because implementation is dependent upon completion of necessary improvements to the NYISO's market software.¹⁰ The NYISO will not be able to propose a precise effective date until the software changes needed to implement the proposed Tariff revisions are ready for deployment and testing is complete.

The NYISO proposes to submit a compliance filing at least two weeks in advance of its intended effective date specifying the date on which the revisions will take effect. Consistent with recent Commission precedent,¹¹ the NYISO's 2014 Compliance Filing will provide adequate notice to the Commission and to Market Participants of the NYISO's implementation date.

VI. NYISO Stakeholder Review and Board of Directors Approval

The NYISO's Management Committee approved, by a show of hands with abstentions, the proposed revisions to Services Tariff Sections 23.3.1.2.4 and 23.4.3.3.1.3 on December 18, 2013. The NYISO Board of Directors approved these proposed Tariff revisions on January 13, 2014.

The NYISO's Management Committee approved, unanimously by a show of hands, the proposed revisions to Services Tariff Sections 4.2.1.1 and 23.3.1.4.7.7 on March 26, 2014. The NYISO Board of Directors approved these proposed Tariff revisions on April 14, 2014.

On April 7, 2014, the NYISO identified a necessary clarification to the proposed Services Tariff Section 23.4.3.3.1.3 language that was approved at the December 18, 2013 Management Committee meeting. On April 9, 2014, the NYISO informed all Management Committee members of the need for a clarifying change to the proposed Tariff language that the Management Committee had previously approved. The NYISO proposed to submit the corrected language to the Commission in this Federal Power Act Section 205 filing. The NYISO solicited Market Participant comments on the proposed clarifying change and answered questions about the proposed change at a special Management Committee meeting on April 11, 2014.¹² After providing numerous opportunities for comment, the NYISO is not aware of any Management Committee members that consider the clarification to be inconsistent with the language that the Management Committee approved in December 2013, or that are opposed to the proposed clarification.

¹⁰ *New York System Operator, Inc.*, 146 FERC ¶ 61,097 at P 34 (2014) (“[W]e accept the proposed tariff revisions to be effective the later of November 2014 or the date that CTS becomes operational, subject to NYISO making a compliance filing with revised tariff records no later than 14 days prior to the date on which CTS will become operational reflecting the effective date of the tariff provisions.”); *New York Independent System Operator, Inc.*, Letter Order, Docket No. ER11-2544-000 (Feb. 10, 2011).

¹¹ *Id.*

¹² The April 11, 2014 special Management Committee meeting was scheduled to address a different topic, but provided an opportunity for the Management Committee members to ask the NYISO questions about the reasons and need for the language change.

VII. Communications and Correspondence

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

Robert E. Fernandez, General Counsel
Raymond Stalter, Director, Regulatory Affairs
*Alex M. Schnell, Registered Corporate Counsel
*James H. Sweeney, Attorney
New York Independent System Operator, Inc.
10 Krey Boulevard
Rensselaer, NY 12144
Tel: (518) 356-6000
Fax: (518) 356-8825
aschnell@nyiso.com
jsweeney@nyiso.com

* Designated to receive service.

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

IX. Conclusion

Wherefore, for the foregoing reasons, the NYISO respectfully requests that the Commission accept its proposed Tariff revisions for filing, subject to NYISO's submission of a compliance filing that will specify an effective date for the proposed Tariff revisions.

Respectfully submitted,

/s/ Alex M. Schnell

Alex M. Schnell, Registered Corporate Counsel
James H. Sweeney, Attorney
New York Independent System Operator, Inc.

cc: Michael Bardee
Gregory Berson
Anna Cochrane
Jignasa Gadani
Morris Margolis
Michael McLaughlin
David Morenoff
Daniel Nowak