

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

New York Independent System Operator, Inc.) Docket No. ER07-521-003

**REQUEST FOR LEAVE TO ANSWER AND ANSWER OF
THE NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.**

Pursuant to Rule 213 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.212 (2008), the New York Independent System Operator, Inc. (“NYISO”) respectfully seeks leave to answer and answers the New York Transmission Owners’ (“NYTOs”) comments in the above-captioned proceeding. The NYTOs asked that the Commission revise the NYISO’s proposed tariff language stating that the NYISO will use a quarterly inflation index when calculating historic inflation adjustments for Fixed Price TCCs¹ so that the NYISO can instead use an inflation index that is published monthly. The NYISO has concluded that the NYTOs have raised a valid issue and supports their request.

I. Request for Leave to Answer

Because the NYTOs’ pleading is styled as a “comment” rather than a protest, the NYISO believes that it is authorized to respond. To the extent, however, that the Commission views the NYTOs’ pleading as tantamount to a protest, the NYISO respectfully requests that the Commission exercise its discretion and accept this answer. The Commission has previously allowed answers to protests when they help to clarify complex issues.² The NYISO’s answer

¹ As explained in the NYISO’s pending May 16, 2008 compliance filing in this proceeding (“Compliance Filing”), Fixed Price TCCs are a series of Transmission Congestion Contracts, each with a duration of one year, renewable annually for a period of at least five years at a fixed price that is obtained through the conversion of Existing Transmission Agreements.

² See, e.g., *New York Independent System Operator, Inc.*, 108 FERC ¶ 61,188 at P 7 (2004) (accepting NYISO answer to protests because it provided information that aided the Commission in better understanding the matters at issue in the proceeding); *Morgan Stanley Capital Group, Inc. v. New York Independent System Operator, Inc.*, 93 FERC ¶ 61,017 at 61,036 (2000) (accepting an answer that was “helpful in the development of the record”)

clarifies the inflation index issue raised by confirming that the NYISO agrees with the NYTOs' concern and their proposed solution. In addition, the NYISO respectfully requests that the Commission exercise its discretion to accept this answer out of time because this answer will reduce the number of issues before the Commission and will not prejudice any party to this proceeding.³

II. Limited Answer

The NYTOs' comments correctly observe that the NYISO tariff provisions governing the pricing of Fixed Price TCCs use the Gross Domestic Product ("GDP") Implicit Price Deflator as the metric for calculating historic inflation adjustments. The NYTOs state that the GDP Implicit Price Deflator is not appropriate because it is only published on a quarterly basis while the Fixed Price TCC pricing formula envisions monthly calculations. Therefore, the NYTOs state that the GDP Implicit Price Deflator is incompatible with the Fixed Price TCC pricing formula.

The NYISO has considered the NYTOs' comments and agrees that the tariff should not reference the GDP Implicit Price Deflator given the timing mismatch between its quarterly publication and the NYISO's proposed monthly calculations. The tariff should instead authorize the NYISO to use an index of comparable quality that is published monthly and is thus fully compatible with the Fixed Price TCC pricing formula. The NYISO believes that the monthly Personal Consumption Expenditures Implicit Price Deflator ("PCEID") would be an appropriate alternative index. Among other things, both the PCEID and the GDP Implicit Price Deflator are prepared and published by the Department of Commerce's Bureau of Economic Analysis.

³ The NYISO recognizes that some parties disagree that historic inflation adjustments should be accounted for in the Fixed Price TCC pricing formula. To the extent that the Commission agrees with that view, the issue that the NYISO is addressing here would be moot.

Consequently, in the event that the Commission accepts the NYTOs' comments on this issue, it should direct the NYISO to revise its tariff to expressly authorize the use of the PCEID instead of the GDP Implicit Price Deflator.

Respectfully submitted,

/s/ Ted J. Murphy
Ted J. Murphy

Counsel to the
New York Independent System Operator, Inc.

Date: July 9, 2008

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 (2008).

Dated at Washington, DC this 9th day of July, 2008.

By: /s/ Ted J. Murphy
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