

August 22, 2000

BYHAND

The Honorable David P. Boergers
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E., Room 1A
Washington, D.C. 20426

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FILE NO: 55430.000005

New York Independent System Operator, Inc.
Request to Implement a Targeted Installed Capacity Rebate for
New York City Load Serving Entities

Dear Mr. Boergers,

Pursuant to Section 205 of the Federal Power Act and Section 35.13 of the Commission's regulations,¹ the New York Independent System Operator, Inc. ("NYISO"), by counsel, hereby requests that the Commission authorize it to implement a targeted Installed Capacity ("ICAP") rebate for Load Serving Entities ("LSEs") serving customers in the New York City Locality ("In-City"). The NYISO also respectfully submits proposed revisions to the NYISO's Market Administration and Control Area Services Tariff ("ISO Services Tariff") that would implement its proposed targeted rebate. The NYISO respectfully requests that the Commission issue an order making these revisions effective 60 days after the date of this filing (October 23, 2000).

I. Documents Submitted

The NYISO submits the following documents:

1. this filing letter;

¹ 18 C.F.R. § 35.13 (2000).

2. a revised Article 5 of the ISO Services Tariff, implementing the targeted rebate (Attachment I);
3. a redlined revised Article 5 of the ISO Services Tariff, implementing the targeted rebate, showing changes against the current Article 5 (Attachment II); and
4. a draft *Federal Register* Notice (Attachment III).

II. Copies of Correspondence

Copies of correspondence concerning this filing should be served on:

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III. Brief Presentation of the Tariff Revisions and Statement of the Reasons for such Revisions

The NYISO seeks to make certain changes, discussed below, to the ISO Services Tariff to allow for a targeted rebate of monies paid in excess of \$8.75/kW by In-City Load Serving Entities to procure ICAP during any month in which there is an insufficient supply of ICAP in the New York City Locality to meet local requirements during the 2000 Summer Capability

² The NYISO respectfully requests waiver of 18 C.F.R. § 385.203(b)(3) to permit service on counsel for the NYISO in both New York and Washington, D.C.

Period. The 2000 Summer Capability Period began on May 1, 2000 and will end on October 31, 2000 (Section 2.17, ISO Services Tariff).

1. **Background**

Load Serving Entities Obligations

The ISO Services Tariff requires LSEs to procure ICAP in amounts equal to their ICAP requirements through either bilateral transactions or NYISO-administered ICAP auctions (Section 5.11.2, par. 1). ICAP requirements are established by the NYISO at the beginning of each Capability Year³ taking into account the ICAP requirements applicable to the New York Control Area, the peak load of each LSE's customers, and some adjustments for regional load growth (Section 5.11.1, par. 3). ICAP requirements may be modified by the NYISO to account for load-shifting resulting, for example, from a customer switching LSEs (Section 5.11.3, par. 1). Prior to the beginning of each month and of each Obligation Procurement Period,⁴ each LSE must demonstrate that it has secured a sufficient amount of ICAP by submitting ICAP certification forms to the NYISO (Section 5.11.2, par. 1). When load-shifting occurs, the ISO Services Tariff provides for the compensation by the load-gaining LSE to the load-losing LSE for a pro-rated portion of the market-clearing price of ICAP (Section 5.11.3, par. 1).

Pursuant to the ISO Services Tariff, different requirements apply to LBMP zones within which a minimum level of ICAP must be maintained in order to ensure the availability of sufficient energy and capacity (Sections 2.95 and 2.98). This is the case in New York City where the NYISO adopted locational ICAP requirements. Pursuant to these requirements, In-City LSEs must procure sufficient ICAP electrically located within the New York City Locality (Section 5.11.4, par. 3 and Section 2.98). In addition, NYISO has adopted market mitigation measures applicable to generating assets formerly owned by Consolidated Edison. These measures provide a cap of \$52.50/kW per Obligation Procurement Period (\$8.75 per month) on payments to certain In-City generators. In its September 22, 1998 order, the Commission approved the use of ICAP bid caps as a market power mitigation measure in New York City.⁵

Deficiency Procurement Auctions

When an LSE fails to procure sufficient ICAP to meet its ICAP or locational ICAP requirement during an Obligation Procurement Period, or during any month of the Obligation

³ Section 2.17a of the ISO Services Tariff defines a "Capability Year" as "[a] Summer Capability Period, followed by a Winter Capability Period (*i.e.*, May 1 - April 30)."

⁴ Section 2.122a of the ISO Services Tariff defines an "Obligation Procurement Period" as "[t]he period of time during which LSEs shall be required to satisfy their Installed Capacity requirements. Obligation Procurement Periods shall begin and end on the same dates as [Capability Periods.]"

⁵ *Consolidated Edison Co. of New York, Inc.*, 84 FERC ¶ 61,287 (1998).

Procurement Period when there is load-shifting, the ISO Services Tariff requires the NYISO to procure such ICAP on behalf of the deficient LSE (Section 5.14.1, par. 1). In order to procure this ICAP, the NYISO conducts Deficiency Procurement Auctions where it submits deficiency bids on behalf of the deficient LSEs at a specific price as provided in the ISO Services Tariff (Section 5.14.1, Table Deficiency Bids and Changes). Each Deficiency Procurement Auction consists of two phases: In the first phase, the NYISO submits bids for In-City LSEs; in the second phase, the NYISO submits bids for all the remaining deficient LSEs (Section 5.14.1, par. 3 and 4). Any LSEs that are still deficient after the completion of a Deficiency Procurement Auction must pay a deficiency charge as determined in the ISO Services Tariff (Section 5.14.1, par. 5 and Table Deficiency Bids and Changes).

The ISO Services Tariff states that the NYISO shall use the deficiency charges to attempt to procure ICAP from generators that are capable of selling ICAP but failed to qualify to sell it prior to the Deficiency Procurement Auction (Section 5.14.1, par. 6). The current ISO Services Tariff provides that any funds remaining from the deficiency charges collected and not used to procure ICAP from previously unqualified ICAP suppliers are to be applied to reduce the ISO Services Tariff Schedule 1 charge. The purpose of this filing is to change this tariff provision to allow the NYISO to use a portion of these remaining funds to issue a rebate of monies paid in excess of \$8.75kW by In-City LSEs.

2. Issue

NYISO makes this filing because there is currently insufficient ICAP associated with qualified ICAP suppliers located within the New York City Locality to meet the In-City ICAP requirement during the 2000 Summer Capability Period. As a consequence, during the ICAP Deficiency Procurement Auctions administered by the NYISO, various In-City LSEs paid up to the tariff-mandated deficiency charge of \$12.50 per kW/month to fulfill In-City and statewide ICAP requirements. This charge, however, is \$3.75 per kW/month above the de-facto price cap on In-City capacity (\$8.75kW as was explained above).

3. Implementation of a Targeted Installed Capacity Rebate

Under the proposed change, the NYISO would rebate up to \$3.75kW to those LSEs that have paid greater than \$8.75kW, either in a regular Obligation Procurement Period Auction or through a deficiency charge (Section 5.14.3(b)). As stated above, these rebates would be made from the difference between the amount collected by the NYISO in deficiency charges and the amount paid by the NYISO to procure previously unqualified ICAP (Section 5.14.3(b)). By the end of the 2000 Summer Capability Period, the NYISO proposes to settle the accounts of the In-City LSEs by issuing the targeted rebate for all transactions undertaken during any month since May 1, 2000 in which an ICAP deficiency existed in the New York City Locality. The implementation of the targeted ICAP rebate does not result in a charge to Rate Schedule 1 of the ISO Services Tariff, *i.e.*, it does not impose a new cost on the system; rather, it merely lessens the amount that will be applied to reduce Schedule 1 rates.

The NYISO respectfully submits that it is fair and reasonable to implement this targeted ICAP rebate. Deficiency charges were included in the ISO Services Tariff to provide a price signal that would encourage the development of new capacity, and as an incentive for LSEs to procure ICAP in amounts sufficient to meet their requirements. In practice, however, the amount of qualified ICAP available in the New York City Locality has been insufficient in the 2000 Summer Capability Period to meet the locational ICAP requirement. As a result, the deficiency charges have become purely punitive for those LSEs that were unable to procure sufficient ICAP on account of the ICAP shortage. Several LSEs have indicated that these penalties, if ultimately imposed by the NYISO as prescribed by the current ISO Services Tariff, will create a severe financial hardship and may drive them out of the New York market.

In addition to being fair and reasonable, the NYISO respectfully submits that the implementation of the targeted rebate is consistent with New York State and FERC policies. The NYPSC has already expressed concern that a mechanical application of the deficiency charges will unnecessarily impair the development of retail electric competition in New York State because it may force LSEs out of the market. During a true shortage of ICAP, the NYISO also submits that the application of these deficiency charges as they are presently prescribed by the ISO Services Tariff is inconsistent with the Commission's goal of promoting robust wholesale electric competition.

Granting the NYISO's request for the implementation of a targeted rebate for the 2000 Summer Capability Period will not upset interested parties' expectations or undermine their business plans. The implementation of the targeted ICAP rebate for In-City LSEs has been approved in accordance with the NYISO's governance process. It was discussed at length with NYISO market participants, and it was approved by a 70% vote of the NYISO Management Committee and by the ISO Board. This approval was predicated on the assumption that the targeted ICAP rebate would apply to the 2000 Summer Capability Period in its entirety.

IV. Effective Date

Pursuant to Section 205 of the Federal Power Act and the Commission's regulations and practices, the NYISO proposes to make this filing effective 60 days after the date of this filing (October 23, 2000).

V. Names and Addresses of Persons to Whom a Copy of this Filing Has Been Mailed

A copy of this filing is being mailed to all signatories of the ISO Services Tariff.

VI. No Costs Relating to Discriminatory Employment Practices

The NYISO has no knowledge of any relevant expenses or costs of service that have been alleged or judged in any administrative or judicial proceeding to be illegal, duplicative or

unnecessary costs that are demonstrably the product of discriminatory employment practices.

VII. Effect of Rate Schedule Change

It is not expected that the proposed modification to the ISO Services Tariff will impact rates other than the deficiency charges in the New York City Locality.

VIII. Federal Register Notice

A form of *Federal Register* Notice is provided as Attachment III hereto. A diskette of the notice is also provided.

Respectfully submitted,

Kathy Robb
Counsel for
New York Independent System Operator, Inc.

Attachments

cc: Signatories to the ISO Services Tariff

ATTACHMENT I

ATTACHMENT II

ATTACHMENT III

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

New York Independent System Operator, Inc.) Docket No. _____

NOTICE OF FILING

Take notice that the New York Independent System Operator, Inc. (“NYISO”) on August 22, 2000, tendered for filing proposed revisions to Section 5.14 of its Market Administration and Control Area Services Tariff. The NYISO requests an effective date of 60 days after this filing (October 23, 2000).

Copies of this filing were served upon all persons who have signed the NYISO Market Administration and Control Area Services Tariff.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission’s Rules of Practice and Procedure (18 C.F.R. §§ 385.211 and 385.214). All such motions or protests must be filed in accordance with § 35.8 of the Commission’s regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may also be viewed on the Internet at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

David P. Boergers
Secretary