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UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

New York Independent System Operator,)
Inc.) Docket No. ER02-638-000

**NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.’S
REQUEST FOR LEAVE TO SUBMIT CLARIFICATION OUT-OF-TIME,
REQUEST FOR EXPEDITED CONSIDERATION AND CLARIFICATION**

Pursuant to Rule 213 of the Commission’s Rules of Practice and Procedure the New York Independent System Operator, Inc. (“NYISO”) hereby respectfully requests leave to answer and answers: (i) the *Motion to Intervene, Request for Clarification and Comments, and in the Alternative, Protest of Member Systems* (“Member Systems’ Motion”); and (ii) the *Motion to Intervene* of PJM Interconnection, L.L.C. (“PJM Intervention”) in the above-captioned proceeding. The NYISO has met with both the Member Systems and PJM regarding the concerns expressed in their respective pleadings. The NYISO is submitting this filing to: (i) clarify its December 18, 2001 submission in this proceeding (“NYISO Filing”)¹ in response to the issues raised by the Member Systems’ Motion;² (ii) inform the Commission that PJM’s comments regarding the NYISO Filing’s failure to address Installed Capacity (“ICAP”) deliverability issues are not relevant to this proceeding because ICAP deliverability is to be the subject of a separate filing; (iii) inform the Commission that PJM has indicated it will make a filing to withdraw its comments regarding ICAP deliverability; (iv) provide an additional

¹ *New York Independent System Operator, Inc.’s Filing of Tariff Revisions to Implement the Pre-Scheduling of External Transactions and Wheels Through*, Docket No. ER02-638-000 (December 28, 2001).

² Capitalized terms not otherwise defined herein shall have the meaning set forth in Article II of the NYISO’s Market Administration and Control Area Services Tariff (“Services Tariff”).

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clarification; and (v) ensure that the Commission's decision in this proceeding is based on a complete and accurate record.

I. REQUEST FOR LEAVE TO SUBMIT CLARIFICATION OUT OF TIME

The NYISO respectfully requests a waiver of Rule 213(d)'s requirement that a response to a motion be filed within fifteen days after the date that the motion was filed and asks that the Commission accept this clarification filing. The NYISO has used the time since the Member System and PJM motions were filed to discuss the relevant issues with them. These discussions were helpful but could not be completed before the fifteen day answer period expired. Moreover, a waiver is appropriate in this case because the NYISO's clarification will correct inaccuracies, and possible ambiguities, in the record and help the Commission make an informed decision in this case.

II. REQUEST FOR EXPEDITED CONSIDERATION

Because the Commission has placed this proceeding on the agenda for its February 13th open meeting, the NYISO respectfully requests that the Commission expeditiously consider its clarification. Because the clarification resolves a number of concerns and corrects certain key misunderstandings, it is important that the Commission review it before issuing an order that might be based on faulty premises. At the same time, because the "Pre-Scheduled Transactions" proposal set forth in the NYISO Filing will help to substantially reduce inter-ISO seams and facilitate trade in the Northeast, it is equally important that the Commission's review of this filing not delay the issuance of an order in this proceeding.

III. CLARIFICATION IN RESPONSE TO THE MEMBER SYSTEMS' MOTION

The Member Systems' Motion sought clarification of various aspects of the NYISO Filing. In the time since the Member Systems' Motion was filed, the NYISO's technical staff

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and counsel have had a number of meetings with their Member System counterparts. These meetings have led the NYISO to make the clarifying statements set forth below.

A. Conversion of Day-Ahead Market Transactions to Pre-Scheduled Transactions

The NYISO Filing envisioned that the NYISO would initially confer “pre-scheduled” status on a transaction only when a Pre-Scheduled Transaction Request³ was submitted, and accepted, before the close of the Day-Ahead Market. However, the NYISO also proposed that “at such time as the technical capability exists” it would allow Customers to convert External Energy Transactions and Wheels Through that were not initially pre-scheduled, but were instead scheduled Day-Ahead through the Security Constrained Unit Commitment process into Pre-Scheduled Transactions, provided that sufficient Ramp Capacity and Transfer Capability were available.⁴ The Member Systems’ Motion sought clarification as to whether the NYISO will make additional filings to clarify, revise or supplement the tariff prior to implementing the enhancement⁵

The NYISO clarifies that it will make a filing to describe the manner in which Day-Ahead Transactions may be converted into Pre-Scheduled Transactions and await Commission approval before proceeding to implement the planned conversion capability. Currently, under proposed Article 4.5a of the Services Tariff, conversion requests would be evaluated in the order in which they were submitted. The NYISO’s Market Structure Working Group (“MSWG”) is now considering whether “conversion requests” should be ranked and evaluated on a “first come,

³ The NYISO Filing proposed to add a new Article 2.146a to the Services Tariff to define “Pre-Scheduled Transaction Request.”

⁴ This enhancement is included in the NYISO Filing as a proposed addition to Article 4.9 of the Services Tariff.

⁵ See Member Systems’ Motion at 4.

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first served" basis or whether some alternative methodology would be preferable. In the event that the relevant NYISO stakeholder committees ultimately determine that an alternative methodology would best serve Market Participants' needs, the NYISO staff has agreed to recommend that the NYISO's Board of Directors support a tariff filing to implement that methodology.

B. Rules Applicable to Withdrawals of Pre-Scheduled Transaction Requests

The NYISO Filing stated that "[o]nce Pre-Scheduled Transaction Requests are accepted for scheduling they may only be withdrawn with the NYISO's approval."⁶ It also noted that existing NYISO tariff provisions penalize Customers that purposefully fail to properly schedule External Transactions with External Control Areas, and therefore prevent Market Participants from executing *de facto* withdrawals by deliberately mis-scheduling Pre-Scheduled Transactions. In general, the NYISO believed that it was implicit in the NYISO Filing that requests for withdrawals would not be granted if they would cause an interface constraint to be violated since such violations can result in the Curtailment of counterflow transactions and undermine the transactional certainty that the NYISO's pre-scheduling initiative is intended to provide.

The Member Systems' Motion sought clarification regarding the criteria that the NYISO would use to evaluate requests for withdrawal, whether withdrawals that had the effect of preventing other transactions from flowing would be allowed, and what the financial impacts would be if an unauthorized withdrawal were to occur.⁷

The NYISO clarifies that it will issue technical bulletins and revised operating manuals ("ISO Procedures") specifying the criteria that it will apply when reviewing requests to withdraw

⁶ See NYISO Filing at 7.

⁷ See Member Systems' Motion at 4-6.

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Pre-Scheduled Transactions. The NYISO envisions that these criteria will ensure that such requests will only be granted in instances where a withdrawal would not have an adverse economic impact on any other Market Participant that has arranged for a Pre-Scheduled Transaction. Thus, for example, the NYISO would not authorize a withdrawal that would violate Ramp Capacity or Transfer Capability limits previously established in connection with a pre-scheduled counterflow, or counterramp, transaction that is dependent on the Pre-Scheduled Transaction that is the subject of the withdrawal request.

The NYISO believes that unauthorized withdrawals will be very rare because existing Services Tariff provisions already impose significant costs on Market Participants that schedule Transactions and then wrongly cause them to fail. For example, under Services Tariff Articles 4.18(C) and (D), Market Participants that schedule Day-Ahead Transactions, which then fail to flow in Real-Time for reasons within their control, must settle the Transaction at a price equal to the applicable Balancing Market Evaluation ("BME") or Security Constrained Dispatch ("SCD") price, which ever is less advantageous to the Market Participant. This charge, which is widely recognized as creating a substantial disincentive to game the scheduling process, would apply to Market Participants that withdraw a Pre-Scheduled Transaction without the NYISO's approval.

Moreover, in the event that an unauthorized withdrawal were to occur, any Market Participant with a scheduled counterflow transaction at the affected interface that was curtailed because of the unauthorized withdrawal would be on the opposite side of the settlement and receive a payment that would, at a minimum, offset the costs incurred due to the curtailment. Consequently, contrary to the Member Systems' Motion, unauthorized withdrawals would not cause cost-shifts to other customers. There is thus no need either to develop new cost

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responsibility rules applicable to Pre-Scheduled Transactions, or to impose new cost-tracking obligations on the NYISO.

C. Scope of the Scheduling Priority Applicable to Pre-Scheduled Transactions

The Member Systems' Motion requests clarification that "the higher priority accorded pre-scheduled transactions applies with respect to external transactions only."⁸ In particular, the Member Systems believe that the NYISO's filing letter language is overly broad when it states that Pre-Scheduled Transactions are "assured of the highest economic priority available . . .," which could be read as applying to Internal Transactions as well

The NYISO clarifies that the enhanced priority enjoyed by Pre-Scheduled Transactions applies only to External Transactions and not to Internal Transactions and that the language of the filing letter should be interpreted in this way. The proposed tariff language that was included in the NYISO Filing is clear on this point. For example, proposed Services Tariff Article 2.161a specifies that the "Scheduling Differential" only applies at the Proxy Generator Buses (which are, by definition, External).⁹ Similarly, one of the proposed additions to Services Tariff Article 4.6 specifies that only Decremental Bids and Sink Price Cap Bids that are submitted at Proxy Generator Buses shall receive the pre-scheduling priority.

D. The Proposed Definition of "Pre-Scheduled Transaction Request"

The Member Systems' Motion expresses concern that because the NYISO Filing's proposed definition of "Pre-Scheduled Transaction Request" includes a reference to the Transmission Usage Charge ("TUC") it implies that no other transmission-related or ancillary services charges will apply to Pre-Scheduled Transactions. The NYISO clarifies that the

⁸ Member Systems' Motion at 6.

⁹ Proposed Section 1.39d.1 of the Open Access Transmission Tariff contains identical language.

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definition's reference to the TUC was meant to specify that this charge would be paid for transmission use, not that other transmission-related or ancillary services charges are inapplicable. Thus, Pre-Scheduled Transactions, like all other External Transactions, shall be subject to all of the NYISO's applicable charges, including the Transmission Service Charge and NYPA Transmission Adjustment Charge.

IV. CLARIFICATION IN RESPONSE TO THE PJM INTERVENTION

Although the PJM Intervention states that the improvements proposed in the December 28th filing "will resolve many energy scheduling issues that have arisen in the past and go a long way towards resolving NYISO-PJM seams issues," it also expresses concern that the filing does not address capacity transactions. In particular, PJM notes that the filing does not address certain ICAP deliverability problems which the NYISO has recently pledged to fix.¹⁰

At the time that the PJM Intervention was filed, PJM did not understand that the December 18 filing's purpose was to resolve energy-related, but not capacity-related, seams. Since then the NYISO staff and counsel have met with their PJM counterparts to explain that the December 18 filing was never intended to address ICAP deliverability matters, which are to be the subject of a separate, soon to be submitted tariff filing. The NYISO understands that PJM will therefore make a filing to clarify its position and withdraw the capacity related portions of its comments. Because those comments are not relevant to the December 18 filing, and because PJM's underlying concerns will be addressed by the NYISO's ICAP deliverability filing, the Commission should disregard them in this proceeding.

¹⁰ See *Supplemental Answer of New York Independent System Operator, Inc.*, Docket No. EL02-8-000 (December 17, 2001).

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V. ADDITIONAL CLARIFICATION

The NYISO has recently determined that certain stakeholder- and NYISO Board-approved tariff language which more clearly specifies the relative priorities to be assigned to certain Pre-Scheduled Transactions, as described in the December 28th filing letter, was inadvertently omitted from the NYISO Filing. This language, which should have been included as the final paragraph of proposed Services Tariff Article 4.5a, was to have stated:

Pre-Scheduled Transactions that are submitted for scheduling in the Day-Ahead Market shall be assigned a Decremental Bid or Sink Price Cap Bid, as appropriate, to provide the highest scheduling priority available. Pre-Scheduled Transactions that are submitted for scheduling in the Real-Time Market shall be assigned, for BME evaluation purposes, a Decremental Bid or Sink Price Cap Bid, as appropriate, that provides the highest scheduling priority available for sales to the LBMP Market reduced by the product of: (i) the Scheduling Differential; and (ii) two.

Because the NYISO does not want to delay Commission action on the NYISO Filing by submitting supplemental tariff sheets at this time, it proposes to submit the missing language as part of a compliance filing in the event that the Commission issues an order accepting the NYISO Filing after the February 13 meeting.

Respectfully submitted,

Ted J. Murphy
Counsel for
New York Independent System Operator, Inc.

Arnold H. Quint
Ted J. Murphy
Hunton & Williams
1900 K Street, N.W., Suite 1200
Washington, DC 20006

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cc: Daniel L. Larcamp, Director Office of Markets, Tariffs and Rates, Room 8A-01,
Tel. (202) 208-2088
Alice M. Fernandez, Director Office of Markets, Tariffs and Rates -- East Division,
Room 71-31, Tel. (202) 208-0089
Andrea C. Wolfman, Lead Counsel for Market Oversight and Enforcement,
Room 9E-01, Tel. (202) 208-2097
Michael A. Bardee, Lead Counsel for Markets, Tariffs and Rates, Room 101-09,
Tel. (202) 208-2068
Stanley P. Wolf, Office of the General Counsel, Room 101-03,
Tel. (202) 208-0891

February 8, 2002

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each party designated on the official service list compiled by the Secretary in Docket No. ER02-638-000, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.2010 (2001).

Dated at Washington, DC this 8th day of February, 2002.

Ted J. Murphy
Hunton & Williams
1900 K Street, N.W.
Washington, DC 20006-1109
(202) 955-1500

