

December 22, 2009

VIA U.S. FIRST CLASS AND ELECTRONIC MAIL

Scott Griffin  
New York State Department of Environmental Conservation  
Division of Air Resources  
625 Broadway, 2<sup>nd</sup> Floor  
Albany, New York 12223-3251

Subject: Comments of the New York Independent System Operator on Proposed Part 249

Dear Mr. Griffin:

Attached please find the Comments of the New York Independent System Operator on New York State Department of Environmental Conservation Proposed Part 249 Best Available Retrofit Technology (BART) and Part 200, General Provisions. Please contact me at (518) 356-6220 or at [cpatka@nyiso.com](mailto:cpatka@nyiso.com) if you have any questions or concerns.

Very truly yours,

/s/ Carl F. Patka

Carl F. Patka  
Senior Attorney

**Comments of the  
New York Independent System Operator  
on  
New York State Department of Environmental Conservation  
Proposed Part 249 Best Available Retrofit Technology (BART)  
and Part 200, General Provisions**

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December 22, 2009

Comments of the  
New York Independent System Operator  
on  
New York State Department of Environmental Conservation  
Proposed Part 249, Best Available Retrofit Technology (BART) and  
Part 200, General Provisions

**I. Introduction**

The New York Independent System Operator, Inc. (“NYISO”) is the not-for-profit corporation responsible for operating New York’s bulk electricity grid, providing non-discriminatory access to transmission service and administering wholesale markets for electricity and transmission products in New York. The NYISO also conducts short-term and long-term planning for the reliability of the New York State bulk power system under its tariff and orders of the Federal Energy Regulatory Commission (“FERC”). The NYISO is pleased to comment to the New York State Department of Environmental Conservation (“DEC”) on its proposed rule, 6 NYCRR Part 249, Best Available Retrofit Technology (“BART”) and Part 200, General Provisions.

**III. Comments**

**A. The Proposed Regulation**

The DEC has proposed regulations to implement requirements of the federal Clean Air Act to limit the emission of pollutants that contribute to regional haze. Proposed Part 249 of the DEC regulations would apply to fossil-fuel generating plants in New York that were not in operation before August 7, 1962 and were in existence on August 7, 1977, or that underwent reconstruction between those dates, and that have the potential to emit 250 tons per year (“TPY”) or more of any visibility impairing pollutant. The rules define visibility impairing pollutants as sulfur dioxide (“SO<sub>2</sub>”), nitrogen oxides

(“NO<sub>x</sub>”) and particulate matter less than or equal to 10 microns in diameter (“PM<sub>10</sub>”). The owners of these generating plants would be required to conduct an analysis of available technologies that could be retrofitted to their units to reduce the emission of these pollutants. The proposed rule requires generator owners to submit this analysis to the DEC by October 1, 2010. The rules further require that generators install BART on affected plants by July 1, 2013 or shut down.

If approved, the BART rules may affect the availability of a substantial amount of electric generation in New York, as set forth in the table in Attachment I.

### **B. The NYISO’s Comprehensive Reliability Planning Process**

Pursuant to FERC Order 890, FERC regulations and the provisions in its Open Access Transmission Tariff, the NYISO conducts a Comprehensive Reliability Planning Process (“CRPP”) for the New York bulk power system. The CRPP is a long-range assessment of resource adequacy and transmission system reliability over a ten-year planning horizon. Through a joint stakeholder process conducted at the Electric System Planning Working Group, the NYISO develops a Reliability Needs Assessment (“RNA”), an evaluation of proposed solutions, and a Comprehensive Reliability Plan (“CRP”) to address the identified needs. The principal objective of the CRPP is to maintain bulk power system reliability by providing an opportunity for developers to invest in new, market-based projects, or, if the market does not provide, triggering regulated backstop solutions for construction to meet expected power system requirements. To date, the NYISO has completed four annual cycles of the CRPP. Most recently, the NYISO staff, in collaboration with its stakeholders, developed the 2009 CRP, which was approved by the NYISO Board in May, 2009. The Plan identified no Reliability Needs through 2018 — provided system conditions do not change — and

evaluated the risks that could give rise to Reliability Needs before that time. The 2009 CRP evaluated scenarios that may give rise to reliability needs due to the implementation of environmental regulations. These included the impacts of the Regional Greenhouse Gas Initiative (“RGGI”) and implementation of new rules requiring generators to implement Reasonably Available Control Technology (“RACT”) to control emissions of NO<sub>x</sub>. Because the rules had not been proposed, the NYISO did not evaluate in the 2009 CRP the potential impact of the DEC’s proposed BART rules on generator availability to meet bulk power system needs. The NYISO will begin the next Reliability Needs Assessment in March 2010, and expect to complete the 2010 RNA evaluating reliability impacts for the years 2011-2020 in the 3<sup>rd</sup> quarter of 2010.

**C. Potential Impacts of the Proposed BART Rules on Bulk Power System Reliability**

As indicated above, the NYISO’s 2009 CRP did not model the potential effects of the BART rules that could result in reduced availability, reduced capability, or the potential retirement of units that, that in turn, could cause reliability needs of the New York bulk power system. Fourteen of the 19 generators potentially affected by the BART rules are located within Southeastern New York (“SENY”), which comprises New York City and Long Island. Reliable electric service to SENY depends upon the importation of generation from outside the area to maintain bulk power system reliability and to reduce overall emissions and power costs in SENY.

Recent NYISO studies have shown that the loss of service from one of the Roseton or Bowline units would result in a 300 MW reduction in the transfer capability of the bulk power system from upstate New York to SENY. This reduction in transfer capability would likely result in higher levels of generation from power plants located in New York City and Long Island. The generators called upon to produce would likely be

older, less efficient and higher emitting generators located within SENY, particularly during peak electric load periods. Thus SENY would experience not only the loss of generating capability within the area; it would also experience a significant decrease in transfer limits on the transmission system that would further limit the ability to import into the area.

Moreover, pursuant to the requirements of the Northeast Power Coordination Council and the New York State Reliability Council, the NYISO is required to operate its system at all times to avoid the probability of an unplanned outage of electric load in New York that is greater than one occurrence in ten years. Preliminarily, it also appears that the unplanned retirement or unavailability of as few as two of the 14 units in SENY that are affected by BART would lead to the violation of this resource adequacy requirement.

#### **D. Recommendations**

The NYISO does not oppose the BART regulations, which are federally-required and further the laudable goal of improving air quality. Nevertheless, at this time, and without the benefit of the studies proposed for 2010 RNA, it is unclear to what extent the BART rules will lead to the retirement or reduced availability of generators New York relies upon to maintain reliable electric service. It appears that the cost and effort of retrofitting generators to further reduced SO<sub>2</sub>, NO<sub>x</sub> and particulate emissions will be substantial, potentially including burner changes, further stack emission controls and monitoring. Given the July 1, 2013 date for installation of BART equipment or retirement, and the length of time it takes to site, permit and construct generation in New York State, it does not appear likely that BART-affected generators needed for electric system reliability could be replaced by that date.

The NYISO will study the reliability impact of the BART regulations on bulk power system reliability in the 2010 RNA. The NYISO will conduct this analysis in conjunction with the stakeholders at the Electric System Planning Working Group and other stakeholders. It will provide its preliminary results to the DEC for the agency's review, and reflect the DEC's comments and concerns in the final RNA. At this time, until the results of the 2010 RNA analyzing the impact of the BART rules become available, the NYISO respectfully requests that the DEC not adopt the proposed BART regulations as a final rule.

Moreover, as has occurred in the past with respect to proposed regulations affecting both the environment and reliable electric service, the NYISO suggests that the affected state agencies, including the DEC, the New York State Department of Public Service ("DPS"), and the New York State Energy Research and Development Authority ("NYSERDA") confer with one another on the potential impacts of the proposed regulations on the bulk power system.

Finally, when adopted, the BART regulations should provide for compliance schedules that give due consideration to maintaining electric system reliability during implementation. The NYISO's preliminary analysis of unit availability on bulk power system transfer limits indicates that the coordination of extended outages for all of the units that will need to install BART equipment will be a challenge that may not be feasible before July 1, 2013. Accordingly, the rule should provide sufficient time to allow generator outages for retrofits to be scheduled during periods when the affected units are not likely to be needed to meet system load conditions.

#### **IV. Conclusion**

For all the reasons provided herein, the NYISO requests that the DEC withhold final issuance of the BART regulations pending the NYISO's analysis of the reliability impacts of the proposed rules in its 2010 RNA.

Respectfully submitted,

/s/ Carl F. Patka

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**ATTACHMENT I**

**GENERATION POTENTIALLY AFFECTED BY BART REQUIREMENTS**

Station	Unit	Zone	In-Service	2009 Capability		Type	Type	Type	2008 Net Energy
				Summer	Winter				
				(kilowatt)					
						1	2	3	MWh
Barrett ST 02		K	1963-10-01	192,000	192,500	NG	FO6		553,529
Northport 1		K	1967-07-01	391,200	382,500	NG	FO6		1,064,485
Northport 2		K	1968-06-01	394,000	373,700	NG	FO6		1,156,010
Northport 3		K	1972-07-01	397,200	384,200	NG	FO6		1,015,222
Northport 4		K	1977-12-01	397,000	381,700	NG	FO6		1,257,833
Arthur Kill ST 3		J	1969-06-01	507,900	501,000	NG			469,004
Ravenswood ST 01		J	1963-02-01	355,500	357,700	FO6	NG		624,355
Ravenswood ST 02		J	1963-05-01	355,000	354,000	FO6	NG		573,661
Ravenswood ST 03		J	1965-06-01	955,200	955,200	FO6	NG		826,594
Bowline 1		G	1972-09-01	537,500	540,400	NG	FO6		165,203
Bowline 2		G	1974-05-01	555,400	528,600	NG	FO6		42,944
Danskammer 4		G	1967-09-01	235,200	236,500	BIT	NG	FO2	1,664,222
Roseton 1		G	1974-12-01	614,500	618,500	FO6	NG	FO2	145,620
Roseton 2		G	1974-09-01	605,700	610,500	FO6	NG	FO2	300,963
Oswego 5		C	1976-02-01	837,700	851,700	FO6			42,957
Oswego 6		C	1980-07-01	833,200	843,500	FO6			48,941
Syracuse Energy ST		C	1991-08-01	11,000	11,000	BIT	FO2		250,753
Syracuse Energy ST		C	1991-08-01	58,900	58,500	BIT	FO2		
Jamestown 5		A	1951-08-01	22,820	23,300	BIT			121,659
<b>Total</b>				<b>8,256,920</b>	<b>8,205,000</b>				<b>10,202,296</b>