

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

OFFICE OF ENERGY MARKET REGULATION

In Reply Refer To:
New York Independent System Operator, Inc.
Docket No. ER09-1576-000

Issued: 9/23/09

New York Independent System Operator, Inc.
10 Krey Boulevard
Rensselaer, NY 12144

Attention: Mollie Lampi,
Assistant General Counsel

Reference: Report of Tariff Implementation Errors and Request for Waiver

Dear Ms. Lampi:

On August 12, 2009, New York Independent System Operator, Inc. (NYISO), filed to request waiver from the application of Attachment C of its Market Administration and Control Area Services Tariff to finalized customer invoices for the service months of February 2005 through August 2008, for which NYISO's settlement software calculated supplemental payments in a manner not strictly complying with the Services Tariff. NYISO's requested waiver is unnecessary, and therefore denied, as discussed below.

NYISO states that in June 2009 it discovered that its settlement system software code was reducing Day-Ahead Bid Production Cost Guarantee settlements in certain instances in a manner inconsistent with its Services Tariff. NYISO states that it self-reported this inconsistency by e-mail to the Acting Director of the Division of Investigations in the Office of Enforcement on July 23, 2009, corrected the settlement software, and has taken steps to ensure that this type of inconsistency does not recur.

Public notice of NYISO's filing was issued on August 14, 2009, with interventions and protests due on or before September 2, 2009. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2009), all timely filed motions to intervene and any motions to intervene out-of-time filed before the issuance date of this order are granted. Niagara Mohawk Power Corporation (Niagara Mohawk) filed comments questioning the necessity of the requested waiver.

The Commission's July 24, 2009 Order in Docket No. ER09-1204-000¹ found that once an invoice is finalized pursuant to NYISO's Tariffs, it is no longer subject to further correction unless ordered by the Commission or a court of competent jurisdiction. Therefore, there is no need for a waiver of any other tariff provision to permit NYISO not to correct finalized invoices.

This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. § 385.713.

Sincerely,

Daniel J. Nowak, Acting Director
Division of Tariffs and Market
Development - East

cc: Public File
All Parties

¹ New York Independent System Operator, Inc., 128 FERC ¶ 61086 (2009).