

**Special NYISO Business Issues Committee Meeting Minutes**  
**June 1, 2012**

**10:00 a.m – 11:00 a.m.**

**DRAFT**

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**1. Introductions, Meeting Objectives, and Chairman's Report**

The chair of the Business Issues Committee (BIC), Mr. Alan Ackerman (Customized Energy Solutions), called the meeting to order at 10:05 a.m. by welcoming the members of the BIC. The members of the BIC identified themselves and attendance was recorded. A quorum was determined.

**2. Market Operations/Seams Report**

Mr. Chris Russell (NYISO) reviewed the presentation included with the meeting material. The NYISO received a partial month invoice for April, 2012 of \$255,000 from the Midwest Independent System Operator (MISO) for the cost allocation of International Transmission Company's (ITC) Michigan Phase Angle Regulators (PARs). The NYISO used its Working Capital Fund to pay the invoice because there are no tariff provisions in place to permit the NYISO to recover these charges from its customers. The NYISO is litigating the allocation through FERC proceedings and will litigate the issue to the D.C. Circuit Court of Appeals, if necessary. The NYISO proposed tariff revisions that permits it to pass charges it receives from MISO for the ITC PARs to its customers.

In response to a question on why the tariff revisions are needed, Mr. Russell said the NYISO has to recover the cost, and once FERC or DC Circuit reach a decision, then the NYISO needs to have a mechanism in place to allow it to refund the money without being required to re-open closed billing months.

Mr. Howard Fromer (PSEG) asked for other examples of non-ISO's facilities subject to OATT Rate Schedule 1 Section 6.1.6. Mr. Russell said there are two: Ramapo PARs and Station 80 and they are both identified in this tariff section. Mr. Schnell explained that, unlike the Ramapo PARs and Station 80, the ITC PARs are not "needed for the economic and reliable operation of the NYS Transmission System."

Mr. David Clarke (LIPA) said that LIPA has noted its disagreement with MISO and ITC in previous meetings. It's clear that the DFAX method that the ITC and MISO is using does not make sense for a lot of reasons. LIPA has enumerated those reasons in its testimony submitted in the case and LIPA thinks that its case is strong and New York will receive a refund. The issue is if New York loses, and MISO and ITC prevail in that legal proceeding, then stakeholders should work to identify which entities in NY are causing the power flows that MISO and ITC are complaining about. LIPA is not pre-judging the outcome. Ultimately, a stakeholder discussion should be held if NY does not prevail in its case. LIPA envisions that the stakeholder discussion should look at both how cost allocation is addressed going forward and reconsider how funds are collected including the period when FERC was deciding the case.

Mr. Russell said the NYISO is open to having stakeholder discussions down the road. The NYISO's main concern is getting a mechanism in place to pay these charges. He added that the discussions should be to address PAR cost allocation on a going forward basis.

Mr. Fromer asked if LIPA's concern is that the current load/ratio mechanism is not the best way of spreading the cost, that there might be a better mechanism. Mr. Clarke said it's not exclusively a load issue. One issue of cost causation is extent to which transactions from one ISO to another impacts flows on the PARs. LIPA envisions an open discussion on the nature of the PAR costs.

Mr. Fromer expressed a concern that entities could be allocated these costs for NY transactions retroactively. Mr. Fromer said transactions that were scheduled based on the costs that an MP knew about at the time it scheduled the transaction could become uneconomic if additional charges are imposed after-the-fact, and noted entities will discover that they have long settled transactions with a new cost associated with them. Mr. Rich Bolbrock (NYMPA) agreed with Mr. Fromer, but said it's not clear to him if it is a load issue and whether loads should bear these costs alone. Mr. Bolbrock said his interim preference is to use the Rate Schedule 1 (RS1) 72/28 allocation to pay for these costs. Mr. Rich Miller (Con Ed) supported Mr. Bolbrock. He noted that the Michigan PARs are providing no benefits to NY customers because they have to work in conjunction with the Canadian PARs and Con Ed thinks this should be treated as an administrative expense under RS1, as opposed to put it in a category with other facilities that actually do provide benefits for the operation of the NYISO. NYSEG/RGE supported Con Ed.

Ms. Doreen Saia (GenOn) asked on what basis the Transmission Owners (TOs) can reasonably suggest that a transmission structure should be charged to suppliers. Mr. Fromer noted this is a cost for the users of the transmission system and to extend a classic load cost to suppliers is an unacceptable change in direction that he cannot support. TC Ravenswood, Edison Mission and Entergy agreed with Mr. Fromer.

Mr. Paul Gioia (representing TOs) said no one is suggesting a different cost allocation mechanism now, but noting that if and when FERC decides, there would be stakeholder discussion to decide on the allocation. Mr. Miller noted that Con Ed may propose to make an amendment at the Management Committee.

Ms. Saia said that she assumed that the NYSIO needed to pay this bill, and would replenish the working capital fund once the Loads paid. Mr. Russell stated this was correct.

Mr. Tom Rudebusch (NYAPP) asked why the NYISO didn't use Attachment Z. He expressed a concern that by using Section 6.1.6, the NYISO is suggesting that the PARs are useful. He said that this is a litigation expense. Mr. Schnell noted that NYISO made clear in the tariff language that the PARs are of no use to NY. Mr. Miller agreed with Mr. Rudebusch and said this is what differentiates it from what suppliers have said that this is facility that provides benefits that loads would normally pay for. Ms. Saia said if Con Ed is right, then FERC will refund the money. She noted that this is a charge that is being assessed to loads for use of the transmission system. She hopes the loads are successful at FERC because it is not fair to assign cost of facilities to loads that did not have a say in designing, administering, or developing the facilities.

Mr. Clarke offered an amendment to the original motion. Mr. Clarke's amended motion wholly replaced the original motion and is the motion that was ultimately voted on and approved by the BIC. The text of Mr. Clarke's amended motion is set forth as Motion #1, below.

Mr. Schnell noted that NYISO was concerned with item 3 of the amendment, that proposes to impose costs retroactively. Mr. Fromer noted he had a fundamental problem that costs would need to be

determined that extends beyond loads. He added that he would have no problem if the Transmission Owners want to come up with an alternative that would allocate the cost better among loads. Ms. Saia appreciated that TOs used language to further their position in the case, but it doesn't change the fact that this is a load cost. She expressed a concern that the motion could lead to retroactive ratemaking.

Mr. Schnell noted that the NYISO would refund the money to those who paid it to the best of its ability. Mr. Clarke said LIPA would strongly support allocating any refunds to the entities that paid the charges.

Mr. Fromer asked if a final decision is made in the NYISO's favor, then there would no longer be a need for this tariff revision. Mr. Schnell said the NYISO would file to withdraw it after it is deemed to be no longer necessary, which would take place after a refund is issued.

Mr. Schnell asked if the TOs would be amenable to putting in place the NYISO's proposal for six months and then coming up with a better mechanism. National Grid, Central Hudson, NYPA, LIPA, and NYSEG/RGE said they would support it. Mr. Schnell said the NYISO would work with stakeholders on the mechanism, but does have a concern on whether it would be retroactive. Mr. Schnell said the NYISO would work with stakeholders and determine what needs to be done by studying different proposals to address cost allocation mechanism concerns. Mr. Jeffrey Levine (GDF Suez) asked if NYISO would start the stakeholder process before FERC's decision. Mr. Schnell said that, if necessary to reach agreement, the NYISO would do so without prejudging the outcome.

Mr. Paul Gioia (representing TOs) suggested that the BIC should move forward with its own motion and then seek to improve the proposal prior to the Management Committee (MC) vote. Mr. Clarke agreed with Mr. Gioia. Mr. Fromer asked for clarification in the minutes that item 2 of the amended motion was the subject of the proposal from the June 1 BIC meeting and parties are seeking to improve the language prior to the MC.

#### **Motion #1:**

The Business Issues Committee (BIC) hereby recommends that the Management Committee (MC) recommend to the NYISO's Board of Directors (Board) that: (1) the Board take official notice that both the BIC and MC strongly disagree with FERC's Order requiring NYISO, even on an interim basis subject to refund, to pay International Transmission Company (ITC) for charges or payments it receives from the Midwest Independent Transmission System Operator, Inc. related to ITC's Bunce Creek replacement phase angle regulators (Replacement PARs); (2) the submission of temporary revisions to Rate Schedule 1 to the NYISO's Open Access Transmission Tariff (Temporary Recovery Mechanism ) to permit the NYISO to recover and/or refund charges/payments on an interim basis until such time as the FERC issues a final order on the merits of the ITC proposal to allocate the cost of its Replacement PARs to the NYISO, at which time the NYISO will establish a stakeholder process to consider either a refund mechanism (including interest) or a more permanent recovery mechanism and, the appropriate form of any such mechanism; (3) to the extent a more permanent mechanism is needed or implemented, it shall adjust for the prior period the Temporary Recovery Mechanism was in place; and (4) the issuance of a statement by the Board that this interim tariff filing is being submitted under protest and shall not constitute any precedent with respect to the merits of the ITC claim for compensation or the appropriate recovery mechanism for such payments to ITC for its Replacement PARs should one be needed on a permanent basis.

**The motion passed with 70.63 affirmative votes**

#### **Motion #1a**

Motion to amend motion 1.

**The motion passed with 67.77 affirmative votes**

**3. New Business**

No new business. Meeting adjourned at 11:00 a.m.