

UNITED STATES OF AMERICA 110 FERC ¶61,287
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeen G. Kelly.

New York Independent System Operator, Inc.

Docket Nos. ER03-836-004
ER03-836-006

ORDER CONDITIONALLY ACCEPTING COMPLIANCE FILING AND
GRANTING MOTION FOR DEFERRED IMPLEMENTATION OF A
SELF-SUPPLY OPTION FOR OPERATING RESERVES

(Issued March 15, 2005)

1. In this order, we conditionally accept a compliance filing from the New York Independent System Operator, Inc. (NYISO) dated July 6, 2004, and grant its motion to defer implementation of a self-supply option for operating reserves. Consistent with granting NYISO's motion, our acceptance of NYISO's compliance filing is conditioned on NYISO submitting, no later than September 30, 2005, an additional compliance filing containing either: (1) a revised schedule showing that work on the self-supply option has resumed and providing a new in-service date for reserve self-supply; or (2) its plan to implement a self-supply option in the New York market. This order benefits NYISO's customers because it allows NYISO to continue work on a self-supply option in conjunction with other important projects.

Background

2. In response to proposed tariff revisions by NYISO, the Commission issued an order conditionally accepting the tariff revisions and directing NYISO to submit a timetable for implementing a self-supply option for operating reserves, *New York Independent System Operator, Inc.*, 104 FERC ¶ 61,002 (2003) (July 2003 Order). NYISO submitted a request for rehearing asking the Commission to drop the self-supply requirement because its forthcoming real-time software (RTS) would accomplish the same goals as the self-supply option. The Commission denied rehearing, and found that, as the RTS would often, but not always, be the equivalent of the self-supply option, NYISO must proceed to implement the self-supply option. *New York Independent System Operator, Inc.*, 107 FERC ¶ 61,129 at P 9 (2004) (May 2004 Order).

3. In the May 2004 Order, the Commission directed NYISO to submit a timetable setting forth a schedule for full implementation of its option to allow customers to self supply their own operating reserves, rather than prescribing its own timetable, because implementation of the self-supply option dictated that NYISO would need to modify its software and because NYISO was in the process of completely revamping its RTS.¹ The Commission directed NYISO to submit, within 60 days of the date of the order, a timetable for full implementation of a method to allow customers the option to self supply their own operating reserves.²

4. On July 6, 2004, NYISO submitted a compliance filing (July 2004 Filing) that included a proposed schedule for NYISO's implementation of a self-supply option. Subsequently, NYISO filed a motion (January 2005 Motion), requesting that the Commission defer implementation of the self-supply option so that NYISO could coordinate implementation of this project with its implementation of its RTS.

Notice Of Filing And Pleadings

5. Notice of the filing in Docket No. ER03-836-004 (i.e., the July 2004 Filing) was published in the *Federal Register*, 69 Fed. Reg. 42,713 (2004), with comments, protests, and interventions due on or before July 27, 2004. A timely motion to intervene was submitted by the New York Transmission Owners. Timely motions to intervene and comments were submitted by AES Eastern Energy, L.P. (AES); jointly by Mirant Americas Energy Marketing, LP, Mirant New York, Inc., Mirant Bowline, LLC, Mirant Lovett, LLD, and Mirant NY-Gen (Mirant). A late motion to intervene and comments were filed by Long Island Lighting Company d/b/a LIPA (LIPA).

6. Notice of the filing in Docket No. ER03-836-006 (i.e., the January 2005 Motion) was published in the *Federal Register*, 70 Fed. Reg. 42,713 (2005), with comments, protest, and interventions due on or before January 27, 2005. A timely motion to intervene was submitted by LIPA.

7. AES, Mirant, and LIPA all filed comments generally supporting the timetable set forth by NYISO in the July 2004 Filing. In addition, LIPA states that it shares NYISO's concerns that other priority projects currently scheduled should not be delayed as a result of actions on self supply of operating reserves. However, while LIPA did not oppose NYISO's timetable, it expressed a concern that schedule delays should not result in the physical self-supply option not materializing. Along these

¹ May 2004 Order, 107 FERC ¶ 61,129 at P 9-10.

² *Id.* at Ordering Paragraph B.

lines, LIPA states that such discussion and formulation of the self-supply option should not be used to supplant the development of a mechanism to allowing physical self supply of operating reserves.

8. Moreover, LIPA states that a number of Market Participants have disagreements with respect to the financial option. LIPA cites to software limitations that cause NYISO to purchase reserves in the east even when there is transmission capability available for NYISO to meet a portion of its reserve requirements from less expensive resources in the west. LIPA asks that the Commission order NYISO to fully implement an effective method of self-supply of operating reserves that includes an improved optimization of transmission for energy and reserves prior to working, and expending any resources, on developing and implementing a process for the financial self-supply of operating reserves.

9. The January 2005 Motion withdrew the implementation schedule proposed in the July 2004 Filing and requested that the Commission defer implementation of the self-supply option and offered a new timetable for developing and implementing such an option. The new timetable would finalize the self-supply concept of operations with Market Participants and begin development of the functional requirements specifications (FRS) no earlier than October 1, 2005, and then defer the rest of the schedule.³ NYISO states that it requests the deferral for two reasons: (1) delayed implementation of RTS (currently scheduled for February 1, 2005) and additional post RTS-project deployments, as a result of an August 10, 2004 Order (rehearing pending), require a revision to the July schedule; and (2) Market Participants, by a unanimous vote of the Management Committee, requested that NYISO delay its reserves self-supply development and supply efforts until at least September 1, 2005, to give them an opportunity to evaluate reserves pricing and availability under RTS.

10. NYISO notes that, in *New York Independent System Operator, Inc.*, 108 FERC ¶ 61,188 (2004), *reh'g pending*, the Commission ordered NYISO to pursue, within 150 days of RTS implementation, a second post-RTS enhancement that requires NYISO to modify its software to allow greater bidding and scheduling flexibility for combined-cycle generation units which complicates NYISO's ability to implement reserves self-supply even on a three-month extended schedule. In its (pending) request for rehearing of that order, NYISO states that it has requested permission to initiate 15-minute scheduling 150 days after RTS implementation and to delay implementation of the combined-cycle modeling enhancement for at least 150 days following implementation of the 15-minute scheduling option. NYISO states that, regardless of the outcome of the rehearing, the need to involve development and design personnel on the project to pursue combined-cycle modeling in mid-2005 would require the NYISO to delay completion of the reserves self-supply FRS to no

³ NYISO states that it has completed the first two items listed.

earlier than October 1, 2005. In addition, NYISO states that Market Participants have requested that NYISO further delay development work on the reserves self-supply option until at least the third quarter of 2005 to give them an opportunity to evaluate reserves pricing and availability under RTS.

11. Further, NYISO states that, in August 2004, it and Market Participants discussed transmission optimization to facilitate greater use of Western New York reserves supply and reserves cost redistribution, a major driver of earlier Market Participant interest in the reserves self-supply option. NYISO states that by October 2004, it had become clear that even the simplest of non-bid based self-supply solutions would not be trivial, noting that both design development and software coding costs could be significant and require a delay in other market improvements. NYISO also stated that the discussions revealed a general perception that the risk of a reserve market failure was remote and that it and Market Participants were in general agreement that the risk of expensive locational operating reserve prices had become insignificant.

12. In addition, NYISO notes that while several Market Participants had actively sought a self-supply option to avoid potential exposure to expensive locational operating reserve costs, research by NYISO and Market Participants revealed that the difference in costs between Western, Eastern, NYC, and Long Island reserves has been insignificant. NYISO also stated that it examined the historical shadow prices associated with reserve constraints to determine the likely effect of RTS reserve pricing logic on East/West reserve price differentials and observed no increase in reserve price differentials. As a result, NYISO concluded that the threat of an exposure to expensive locational operating reserve costs appears to be nearly non-existent.

13. NYISO states that following general concurrence with these sentiments, the Management Committee voted (unanimously with abstentions) to request that the Commission accept a revised schedule which would defer all remaining preliminary work on the reserves self-supply option until after RTS had been in place for the summer months of 2005. At that time, NYISO states that Market Participants should be able to analyze whether the insignificant price differentials among locational reserves they had observed pre-RTS implementation had held in RTS and that NYISO could evaluate how robust the operating reserve market was in terms of locational diversity and price. NYISO also states that it was requested by the Management Committee to inform the Commission that NYISO may make a filing in the third quarter of 2005 to address the implementation of physical self-supply or an alternative market mechanism for New York's markets. NYISO states that by the end of the

third quarter 2005, NYISO will file either a revised rate schedule showing that work has resumed and providing a new in-service date for reserve self-supply or a filing further addressing the implementation of a self-supply option in the New York market.

Discussion

14. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2004), the notices of intervention and the timely, unopposed motions to intervene serve to make the entities that filed them parties to the proceedings in which they were filed. In addition, we will grant LIPA's late-filed motion to intervene in Docket No. ER03-836-004, given its interest in the proceeding, the early stage of the proceeding, and the absence of any undue prejudice or delay.

15. While NYISO's July 2004 Filing generally complied with the timetables required in the Commission's July 2003 Order, as modified by the May 2004 Order, the timetable laid out in the July 2004 Filing is moot to the extent that we grant NYISO's January 2005 Motion. Thus, if we grant NYISO's January 2005 Motion, we would make our acceptance of the July 2004 Filing conditional on NYISO submitting an additional compliance filing addressing its self-supply option implementation.

16. Based on the timetables submitted by NYISO, it appears that NYISO and the Market Participants are working toward a resolution of the issues that will control NYISO's progress towards implementing customers' self-supply of operating reserves. Given that no party objects to the timetables proposed by NYISO and the representations made by NYISO regarding its efforts to: (1) implement RTS; (2) accommodate demand side resources without violating the fundamental design of RTS; and (3) implement a self-supply option, we will grant its January 2005 Motion to defer the implementation schedule for instituting a self-supply option.

17. This still leaves the concerns raised by LIPA, however, that when NYISO implements its self-supply option, it needs to incorporate an effective method of self supply of operating reserves that includes an improved optimization of transmission for energy and reserves prior to working, and expending any resources, on developing and implementing a process for the financial self supply of operating reserves. We believe that the proper forum to resolve these issues is in the ongoing discussions that NYISO plans to hold with its market participants to develop a plan to implement a self-supply option. When NYISO files its compliance filing in response to this order, its filing should address this issue.

18. Accordingly, we will grant NYISO's January 2005 Motion and will accept its July 2004 Filing on the condition that NYISO submit an additional compliance filing, no later than September 30, 2005, that would include either: (1) a revised schedule showing that work on the self-supply option has resumed and providing a new in-service date for reserve self-supply; or (2) its plan to implement a self-supply option in the New York market, including an updated timetable for full implementation of a self-supply option for operating reserves, in compliance with the May 2003 and July 2004 Orders.

The Commission orders:

(A) NYISO's motion to defer implementation is hereby granted, as discussed in the body of this order.

(B) NYISO is directed to file, no later than September 30, 2005, a revised compliance filing, as discussed in the body of this order.

By the Commission.

(S E A L)

Linda Mitry,
Deputy Secretary.