

DRAFT
FOR DISCUSSION PURPOSES

~~February 22~~ Revised June 1, 2006

“HALTING” A REGULATED SOLUTION

Tariff section 9.0(c) provides

The NYISO, in conjunction with ESPWG, will develop the criteria for halting a regulated solution that is already underway because of the entry of a viable market-based solution that the NYISO has determined will meet the same Reliability Need. Such criteria shall also establish a cut-off point following which a regulated solution may not be cancelled regardless of the appearance of a market-based solution.

1. The NYISO shall review proposals for market-based solutions, pursuant to Section 7.2 of Attachment Y. If, based on the availability of market-based solution(s) to meet the identified Reliability Need, the NYISO determines that the regulated backstop solution is no longer needed and should be halted, it will immediately notify the Responsible TO(s) and will so state in the CRP. If a regulated backstop solution is halted by the NYISO, all of the costs incurred and commitments made by the Responsible TO(s) up to that point, including reasonable and necessary expenses incurred to implement an orderly termination of the project, will be recoverable by the Responsible TO(s) under the cost recovery mechanism in the NYISO tariff.

2. ~~Pursuant to Section 8.4(a),~~ Once the Responsible TO(s) submits an its application for state regulatory approval of the regulated backstop solution, pursuant to Section 8.4(a) of Attachment Y, or, if state regulatory approval is not required, once the Responsible TO(s) submits its application for any necessary regulatory approval, the entry of a market-based solution will not result in the halting by the NYISO of the regulated backstop solution ~~by the NYISO~~. The NYISO, however, will continue to evaluate proposed market-based solutions to determine their ability to meet the identified Reliability Need in a timely manner, and will provide the results of its review to the Responsible TO(s), market participants and the appropriate state regulatory agency(ies).
3. If a material modification to the regulated backstop solution is proposed ~~in the state regulatory approval process by any federal, state or local agency,~~ the Responsible TO(s) will request the NYISO to conduct a supplemental reliability review. If the NYISO identifies any reliability deficiency in the modified solution, the NYISO will so advise the Responsible TO(s) and the appropriate federal, state-state or local regulatory agency(ies).
4. If the appropriate federal, state or local regulatory agency(ies) does not approve the regulated backstop solution ~~or an alternative regulated solution,~~ all of the necessary and reasonable costs incurred and commitments made up to the final ~~state~~ federal, state or local regulatory

decision will be recoverable by the Responsible TO(s) under the NYISO cost recovery mechanism.

~~5. If the appropriate state regulatory agency(ies) does approve the regulated backstop solution or an alternative regulated solution all the necessary and reasonable costs related to the planning and implementation of the regulated solution will be recoverable by the Responsible TO(s) under the NYISO cost recovery mechanism.~~

5. The NYISO is not required to review market-based solutions to determine whether they will meet the identified Reliability Need in a timely manner after the regulated backstop solution has received federal and state regulatory approval, unless a federal or state regulatory agency requests the NYISO to conduct such a review. The NYISO will report the results of its review to the federal or state regulatory agency, with copies to the Responsible TO(s).

6. If a necessary federal, state or local authorization for a regulated solution is withdrawn, all expenditures and commitments made up to that point including reasonable and necessary expenses incurred to implement an orderly termination of the project, will be recoverable under the NYISO cost recovery mechanism by the Responsible TO(s). When an Alternative Regulated Solution proposed by a TO or Other Developer has been determined by the PSC to be the preferred solution to a reliability need and the TO or Other Developers makes all best efforts to

obtain a necessary federal, state or local authorization, but these authorizations are is not granted or is are withdrawn, then all reasonably incurred expenditures and commitments made up to that point including reasonable and necessary expenses incurred to implement an orderly termination of the project, will be recoverable under the NYISO cost recovery mechanism by the TO or Other Developer, provided that such expenditures and commitments were before the PSC when it made its determination that the alternative regulated solution is the preferred solution, under the NYISO cost recovery mechanism.