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## NYISO Business Issues Committee Meeting Minutes

September 17, 2008

10:00 a.m. – 3:00 p.m.

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

Mr. Glen McCartney (Constellation), Chair of the Business Issues Committee (BIC) called the meeting to order at 10:05 am and welcomed the members of the BIC. Meeting participants introduced themselves.

### 2. Approval of the July 16, 2008 Meeting Minutes

Motion #1: To approve the July 16, 2008 Minutes

*Motion passed unanimously*

### 3. CFO Update: NYISO Address of Financial Markets

Ms. Mary McGarvey (NYISO) provided a review of the current situation in financial markets and impact, if any, to the NYISO market place. Specifically, Ms. McGarvey addressed the Lehman Brothers bankruptcy filing and the Merrill Lynch acquisition.

Ms. McGarvey noted the confidential nature of much of the information regarding this issue inhibiting the ability to provide transparency at this time. She also advised that both Lehman and Merrill were in good standing and remained compliant with the NYISO tariff and its collateral rules.

### 4. Market Operations Report

Mr. Rana Mukerji presented the Market Operations Report. Highlights included: Significantly lower fuel prices drove the decrease in LBMPs in August. Total uplift (Schedule 1 components including NYISO Cost of Operations) decreased from \$77.1 million in July 2008 to \$32.2 million in August 2008. \$11.5 million of the total is from TSA allocations. This was charged to loads within the New York City service area.

There was a question regarding events on Sunday night with regard to price spikes in RT market - hour 20. Mr. Alan Hargrave stated that this was due to the loss of the Chateaugay connection. The hour was been reserved and corrected; a correction report would be issued later today to Market Participants.

### 5. Seams Report

Mr. Mukerji provided an update on the Seams Report. The presentation was included as part of the meeting material and posted on the NYISO website. Market Participants requested information regarding the Ramp and Dennison communication be sent to the BIC list server in addition to the TIE List. In regards to Cross-Border Cost Allocation Issues w/ PJM, a request was made for more transparency in terms of Stakeholder process. Mr. Mukerji stated that this request was consistent with the NYISO's intent. There have been discussions at IPSAC but no specific proposals exist at this time for

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PJM (and/or NYISO) on this matter, but the NYISO is committed to working with the stakeholders on this. Any proposals that put out would be brought back to the stakeholders.

**Agenda Item #5: Scheduling of Circuitous Transactions around Lake Erie**

Mr. Alex Schnell (NYISO) reported that this presentation is the second the NYISO is seeking stakeholder ratification of the tariff revisions submitted to FERC on the exigent circumstance filing on July 21. He noted that ratifying the tariff revisions would not preclude the implementation of other measures. The NYISO is working on remedial measures in response to stakeholder request and will be brought to the November MIWG for discussion. He invited stakeholders to come forward with any proposals they had pertaining to this item and requested that stakeholder comments/proposals be put into writing and added to the agenda or provided to the NYISO for consideration in advance of the November 3 MIWG meeting.

The Tariff revisions prohibit the scheduling of External Transactions via eight scheduling paths identified in Attachment B of the Market Services Tariff and Attachment J of the OATT. In addition to identifying the eight paths, there were changes to section 15.1 of the OATT to make clear that the NYISO may refuse to provide transmission service to a Market Participant in accordance with its Tariffs. Some Market Participants felt that the changes to Section 15.1 of the OATT were too broad. To address Market Participant concerns, Mr. Schnell proposed that, rather than ratify the changes to 15.1, the NYISO would allow the changes to expire on November 18, 2008, the date that all the temporary revisions would expire. He described the tariff revisions.

Market Participants discussed various additions and wording modifications to the proposed motion, including a tentative proposal by Mr. Howard Fromer (PSEG) to “sunset” the proposed changes to Attachments B and J. Following discussion, the motion set forth below was proposed by Mr. Fromer and seconded by Mr. Younger.

A request was made for a financial figure as to the overall dollar impact of the scheduling of External Transactions via circuitous Scheduling Paths around Lake Erie. Mr. Schnell deferred to FERC and its enforcement staff as to the issue of determining financial harm. He noted that the August 2008 FERC Order specifically addressed the topic of financial analysis of the market impacts of these transactions. He committed to raising the issue to FERC staff and bringing that reply back to the stakeholder process.

**MOTION #2**

The Business Issues Committee (BIC) hereby recommends that the Management Committee approve revisions to Attachment J (Section 5) of the OATT, and Attachment B (Section 3.6) of the Services Tariff as presented to the BIC provided that the BIC requests that the NYISO shall return to the next BIC meeting with a defined schedule including milestones to develop long term market solutions and, once developed, to implement them as expeditiously as possible. In addition, (1) the NYISO will actively work with Market Participants through the Market Issues Working Group to determine whether there is a need to develop additional tariff provisions to discourage future market manipulation in its market and

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protect Market Participants from bearing the consequences of any future market manipulation, and (2) the NYISO, subject to consultation with FERC staff, will report to the Management Committee at its meeting on September 25, 2008 on when it will be able to present to the Market Issues Working Group its analysis of the financial impact on its markets of the scheduling practices that are the subject of this motion.

*Motion passed unanimously with abstentions*

#### **Agenda Item #6: Shortening of True-Up Settlements Cycle**

Mr. Timothy Duffy (NYISO) presented for BIC approval a proposal to shorten the settlement cycle by two months with the elimination of the six month settlement adjustment. His presentation to the BIC included the proposal's benefits, a summary of the proposed changes and the implementation schedule. It was noted that the proposal had been developed by the Billing and Price Corrections Task Force over the past several months, and that the proposal was widely supported by the members of the BPCTF.

Kevin Jones (Hunton & Williams) addressed the topic of dispute resolutions which had been the subject of much discussion at the BPCTF and BAWG. He noted that the distinction between settlement corrections and dispute resolutions had become confused in these prior discussions. There are important differences between the two with respect to how and when the charges are recovered from customers and from whom they are recovered. Bill corrections are applied when a customer brings a valid bill challenge, agreed to by the NYISO and requiring a correction to an invoice. Valid challenges must be rooted in the underlying tariff provisions that apply to the settlement in question, and must be brought within the timeframe established in the NYISO Tariffs. The resolution of claims brought by a party (in the form of threatened litigation) follows a different process, timeframe, and cost recovery mechanism than that associated with bill corrections. The claim itself is not itself limited to billing matters. In response to Mr. Jones' comments, there was concern articulated that the dispute resolution process could create an end run mechanism for revising bills after a close out settlement since the NYISO's authority to settle these claims and the process itself is not bound by any particular timeframe such as that restricting bill corrections.

The NYISO does not believe that it has applied its dispute resolution process in a manner that is inconsistent with its tariffs and would not do so in the future.

Mr. Duffy provided additional details on the distinction between a bill correction and a dispute resolution with respect to the tariff. If the tariff is straightforward in a remedy, this falls into the billing correction bucket and is always resolved within the timeframe dictated in the tariffs. The dispute resolutions arise when the tariffs are inconsistent and do not provide a remedy for a claim. Mr. Duffy provided the example of generating units that are committed through a Supplemental Resource Evaluation and bid fixed. The ISO Tariffs are inconsistent in that units committed for reliability are entitled to recoup their costs while units bidding fixed are ineligible for bid-production cost guarantees.

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Mr. Kevin Jones (LIPA) expressed additional concerns regarding NYISO's Dispute Resolution process, particularly the level of transparency into some of the costs covered by the process. Mr. Gioia (representing the Transmission Owners) noted that the Discretionary Acts Committee (DAC) is non-transparent and socializes charges that ultimately appear on bills and, as such, should be taken under the umbrella of the Billing and Settlement provisions of the ISO tariffs. Market Participants asked for additional information on the types of issues being resolved through DAC. The NYISO emphasized that they will not alter any invoice for a closed month without a FERC or Court order.

Ms. McGarvey stated that the reason this proposal was brought to BIC was to protect the interests of Market Participants and reduce their exposure to bad debt losses.

**Motion #3:**

The Business Issues Committee hereby recommends that the Management Committee approve revisions to the NYISO's tariffs to shorten the NYISO settlement cycle through the elimination of the six-month settlement adjustment, as is more fully described in the presentation made to the BIC meeting on September 17, 2008.

*Motion passed by majority show of hands with abstentions*

**Motion #3a**

Motion to amend Motion #3 as follows:

The Business Issues Committee hereby recommends that the Management Committee approve revisions to the NYISO's tariffs to shorten the NYISO settlement cycle through the elimination of the six-month settlement adjustment, as is more fully described in the presentation made to the BIC meeting on September 17, 2008. Provided, however, that the (1) NYISO agrees that the Discretionary Action Committee or Dispute and claims committee ("DAC") will not be used to address billing issues within the scope of the NYISO tariff's billing and settlement procedures and not be used to settle market participant claims for months for which the bill settlement close-out has been completed, and (2) the NYISO will make a presentation at the next Billing and Accounting Working group to explain the roles and responsibility of the DAC and to consider how to make its activities more transparent to market participants.

*(The motion failed by roll call vote 37.00% for)*

**Agenda Item #8: Limited Control Run of River Resources**

Mr. Dave Lawrence (NYISO) reported rule changes for calculating UCAP for Limited Run of River Resources. NY has a large number of these units from which availability of water is different from those conventional hydro or pumped storage resources. When the NYISO initially looked at 2006 summer period data, a high water period, there was under 70% of the energy equivalent of the installed capacity that was being provided and about 75% of what was being claimed as unforced capacity. Since the UCAP is intended to represent the average amount of capacity available when a unit is in demand, there was a significant discrepancy between the current methodology for calculating UCAP and the energy the

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resources were providing during periods when the unit's entire capacity was needed. Other options for calculating performance were also looked at. Mr. Lawrence provided summarized discussions that went through the ICAP Working Group meeting. (See presentation provided).

Mr. Frank Francis (Brookfield Power) thanked the NYISO for its effort in reaching a compromise; but stated the proposal did not take into consideration the timing of the rule change (the middle of the capability period) and the effect it would have on current positions that are based on current rules. For this reason, Brookfield stated they would abstain from this vote.

**Motion #4:**

The Business Issues Committee (BIC) hereby recommends that the Management Committee approve revisions to the NYISO's Tariff that deal with the manner in which UCAP is calculated for Limited Control Run of River Hydro facilities, pursuant to the presentation made to the BIC this date describing such tariff changes.

*Motion passed unanimously with abstentions*

**Agenda Item #9: Proposed Revisions to the ICAP Manual Section 5**

Mr. John Charlton walked through the proposed revisions to the ICAP manual section 5.

**Motion #5:**

The Business Issues Committee hereby approves the proposed revisions to the Installed Capacity Manual, Section 5 as presented and revised at the September 17, 2008 Business Issues Committee meeting.

*Motion passed unanimously with abstentions*

**Agenda Item #7: Strategic Tariff Review – Grandfathered Rights Provision**

Ms. Patricia Farrell (NYISO) presented changes to the grandfathered rights provisions in Attachment K of the OATT. These changes are part of the NYISO's comprehensive look at the tariff cleanup and clarification (see presentation). This will be brought to the October BIC and MC for a vote.

**Agenda Item #10: Working Group Updates**

**A. BAWG** – Ms. Kathy Logan (US Power Gen) reported that the NYISO has made much progress on eliminating manual processes from its processes, including its administration of Black Start and Min Oil Burn. NYISO has indicated that algorithms are not being included in the upcoming update to the Billing and Accounting Manual; Ms Logan recommended that the manual include relevant algorithms. [??]

**B. ESPWG** – Mr. Tariff Niazi reported that there were three items discussed at the last ESPWG meeting: SCR discussion, update on the 09 RNA, and update on economic planning. Participants questioned the

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assumptions in the upcoming RNA, with stakeholders taking differing positions on several issues. NYISO continues to request input for RNA input from stakeholders as modeling will begin soon. A conference call will be held on September 23 to discuss further. Under Economic planning, ESPWG members categorized all issues that needed to be discussed and prioritized issues.

**C. ICAPWG** - Mr. Glenn Haake (Dynergy) reported that FCM Design was provided by the NYISO in the form of a straw proposal. Q&A was done extensively on this issue over several meetings. Discussion regarding aligning Capacity Years of NYISO and ISO-NE and PJM was initiated and will continue.

**D. IITF** – There were no meetings since last instance.

**E. MIWG** - Mr. Norman Mah (Con Edison) reported that there were six topics discussed at the last MIWG, including a Q&A session on the annual State of the Market Report with Dr. David Patton (Potomac Economics). An analysis of External price convergence was provided and it was concluded that the prices were reasonably efficient. Also discussed was GT Dragging issues, Calpine’s proposed changes to expanding definition of PURPA units that gets exemption from dispatch penalties, National Grid and NYPS proposal to change northern sub zone region, and TCC Mark to Market Enhancement change from monthly to daily calculation.

**F. PRLWG** - There were no meetings since last instance.

#### **New Business**

A request was made for an update on Wind Study including an update on “water spill” due to wind generation. NYISO is set to provide such in October MIWG, SOAS and other meetings.