

FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, DC 20426

OFFICE OF ENERGY MARKET REGULATION

In Reply Refer To:  
New York Independent  
System Operator, Inc.  
Docket Nos. ER10-119-000

Attention: Robert E. Fernandez  
10 Krey Boulevard  
Rensselaer, NY 12144

December 23, 2009

Reference: October 27, 2009 Filing

Dear Mr. Fernandez:

On October 27, 2009, New York Independent System Operator, Inc. (NYISO) submitted proposed revisions to its Market Administration and Control Area Services Tariff (Tariff) to, among other things, clarify that customers that violate the Federal Energy Regulatory Commission's (Commission) rules against electric energy market manipulation also violate NYISO's Tariff. Please be advised that the submittal is deficient and the additional information requested below is needed to assist the Commission in rendering a decision on the submittal.

- (1) Section 4.1.6a1 provides that if the Commission or a court of competent jurisdiction determines there has been a violation of the Commission's regulations related to electric energy market manipulation (18 C.F.R. Section 1c.2 or any successor provision thereto), such violation is also a violation of the Services Tariff if the violation affects or is related to the ISO Administered Markets. Please explain the purpose and necessity of this proposed provision. Include references to all tariff provisions, if any, which refer to "tariff violations" or equivalent language and actions or consequences that result there from. In addition, explain why the proposed provision singles out violations of the market manipulation regulation and does not include violations of all other Commission orders, rules, and regulations.

- (2) The first sentence of Section 4.1.6a2 states that if NYISO becomes aware that a Customer may be engaging in, or might have engaged in, electric energy market manipulation, it shall promptly inform its Market Monitoring Unit. Please explain the purpose and necessity of this proposed provision. In addition, explain why the proposed provision singles out violations of the market manipulation regulation and does not include violations of all other Commission orders, rules, and regulations.
- (3) The second sentence of Section 4.1.6a2 states that NYISO retains the discretion to inform the Commission of any potential electric energy market manipulation it identifies. Please explain the purpose and necessity of this provision given that any person or organization, including NYISO, can at any time bring to the Commission's attention potential market manipulation violations. In addition, explain how NYISO would exercise this discretion, including how NYISO would determine whether and when to inform the Commission of a potential violation. In light of the fact that NYISO has chosen an external rather than an internal or hybrid market monitoring structure, discuss if NYISO anticipates detecting potential violations in advance of the Market Monitoring Unit, and if so, how it will detect such violations. Also, please explain why the proposed provision singles out violations of the market manipulation regulation and does not include violations of all other Commission orders, rules, and regulations.
- (4) The third sentence of Section 4.1.6a2 provides that if the ISO informs FERC's Office of Enforcement, it shall request that FERC determine whether a violation has occurred and, if so, that FERC impose appropriate remedies. Please explain the purpose and necessity of requesting such a determination and imposition of remedies, rather than simply providing FERC with the information NYISO has acquired.
- (5) Proposed section 4.1.6a3 provides that section 4.1.6a does not independently empower NYISO or its Market Monitoring Unit to impose penalties for, or provide a remedy for, violations of the Commission's prohibition against electric energy market manipulation or for violations of NYISO's tariffs. Please explain the purpose and necessity of this proposed provision.

This letter is issued pursuant to 18 C.F.R. § 375.307(a)(1)(v) (2009) and is interlocutory. It is therefore not subject to rehearing pursuant to 18 C.F.R. § 385.713 (2009). You must submit a response to this letter within 60 days of the date of this letter. Submit six copies of your response to:

Federal Energy Regulatory Commission  
Office of the Secretary  
888 First Street, NE  
Washington, DC 20426

Also send an electronic version of your response to Mr. Jesse Hensley at [jesse.hensley@ferc.gov](mailto:jesse.hensley@ferc.gov).

The information requested in this letter will constitute an amendment to the filing. A notice of amendment to the filing will be issued upon receipt of your response. Failure to respond to this letter within the time period specified may result in an order rejecting the filing.

Sincerely,

Daniel Nowak, Acting Director  
Division of Electric Power Regulation –  
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