

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

**Conference on RTO Interregional  
Coordination**

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**Docket No. PL01-5-000**

**POST-TECHNICAL CONFERENCE COMMENTS OF  
THE NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.**

Consistent with the Commission's June 14, 2001 *Notice Organizing Technical Conference* in the above-captioned proceeding, the New York Independent System Operator, Inc. ("NYISO") hereby submits its post-technical conference comments. The NYISO respectfully requests that the Commission: (i) support the existing seams resolution process in the Northeast; (ii) decline to revisit issues that were previously decided in Order No. 2000 (or Order No. 888); (iii) endorse the core market design principles that have been adopted by the Northeastern ISOs; (iv) recognize that creating an Energy Industry Standards Board will not be a short-term panacea and will bring limited benefits even in the long-term; (v) encourage NERC's Electronic Scheduling Collaborative to respect legitimate regional variations; and (vi) avoid imposing arbitrary deadlines for the resolution of seams issues.

**I. The Commission Should Support the Seams Resolution Process That Is Already Underway in the Northeast**

In its pre-technical conference comments in Docket No. RM99-2-000, the NYISO: (i) explained that there was "already an established and highly successful seams resolution process in the Northeast;" (ii) provided examples of initiatives, and achievements, in this area; and (iii) urged the Commission not to destroy what the Northeast has accomplished in

the name of creating brand new national standards.<sup>1</sup> The NYISO emphasized in particular that the Northeast was already successfully addressing the issues that the Electricity Consumers Resource Council and its co-movants had asked be reviewed at the technical conference.<sup>2</sup> Mr. William J. Museler, the NYISO's President and Chief Executive Officer, reiterated these points and provided an updated progress report on seams resolution efforts in Northeast in his technical conference presentation.<sup>3</sup>

At the technical conference, there was widespread agreement that the Northeast was well ahead of the rest of the country with respect to seams issues. Notably, all thirteen of the state public utility commissions in the Northeast, plus the District of Columbia's commission, clearly endorsed the continuation of the existing ISO Memorandum of Understanding ("MOU") process launched by the NYISO, PJM Interconnection, Inc. ("PJM"), ISO New England, Inc. ("ISO-NE") and the Ontario Independent Market Operator ("IMO"). They likewise support the various other efforts in the Northeast, including PJM and ISO-NE's development, in collaboration with the NYISO, of a "Standard Market

<sup>4</sup> Even conference participants from other parts of the country readily acknowledged that the Northeast is a special case, insofar as it already has operating wholesale electricity markets and had made more progress on seams issues than other regions

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<sup>1</sup> See *New York Independent System Operator, Inc.'s Initial Comments on Proposed Technical Conference ("Initial Comments")*, Docket No. RM99-2-000 (April 27, 2001).

<sup>2</sup> *Initial Comments* at 6-11.

<sup>3</sup> See *New York Independent System Operator, Inc.'s Submission of Technical Conference Presentation*, Docket No. PL01-5-000 (June 18, 2001).

<sup>4</sup> See *Comments of Hon. Nancy Brockway, Commissioner New Hampshire Public Utilities Commission on Behalf of the Northeast Regional ISO Coordination Conference ("NRICC")*, Docket No. PL01-5-000 (June 19, 2001).

where RTOs are still in the formative stages. A few participants even contrasted their own regions, where they believed aggressive Commission action was necessary, with the Northeast, where they thought the Commission could take a more deferential approach.

In addition, The NYISO, PJM and ISO-NE all affirmed that they, along with the IMO, were fully committed to the MOU's and SMD's goals. Mr. Museler stated that the NYISO would work closely with its neighbors to better coordinate uniform installed capacity market rules in the Northeast and to help PJM and ISO-NE develop bid-based reserves markets. Mr. Museler also noted that the Northeastern ISOs were attempting to develop a mechanism to reconcile the NYISO's practice of allowing financial reservations at external interfaces with ISO-NE's and PJM's physical reservation systems. Mr. Museler pledged that if it proved impossible to reconcile financial and physical systems that the three Northeastern ISOs would proceed to adopt uniform reservation practices, *i.e.*, they would all agree to use either a financial or a physical system.

Since the technical conference, the Northeast ISOs have continued to make progress towards their shared market integration objectives. Most recently, the NYISO, ISO-NE, PJM, the IMO, TransEnergie, the New York State Electric & Gas Corporation ("NYSEG"), Energetix, Inc., New Brunswick Power, Ontario Power Generation, Hydro Quebec, the Northeast Power Coordinating Council and Detroit Edison, working through the "Transaction Scheduling Task Force" that was created pursuant to the MOU process have agreed to implement an "Open Scheduling System" ("OSS").<sup>5</sup> The OSS will provide a "one-

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<sup>5</sup> Until recently, the NYISO referred to the OSS proposal as a "Collaborative Scheduling System" or "CSS." The name change is intended to avoid confusion between the NYISO's OSS proposal and PJM's CSS pilot program (*See below.*)

stop shopping” scheduling system for energy, ancillary services, transactions and other related services in various Northeastern and Canadian control areas. This will make it easier to arrange for inter-regional transactions and, by simplifying the reservation process, will reduce the number of “checkout process” errors and thus the number of curtailments.

open” system that is not specifically tailored to any one proprietary marketplace system, such as the NYISO’s Market Information System or PJM’s “Enhanced Energy Scheduler” (“EES”) system, and will thus permit users to enter data and receive information through a single web portal regardless of which ISO or control area system they need to access. The OSS is therefore sufficiently flexible to allow other control areas, ISOs and RTOs to adopt it in the future. The OSS is being developed with an eye towards the work that is being done by NERC’s Electronic Scheduling Collaborative in order to ensure that its implementation does not inadvertently create new seams.

In addition to the broader OSS initiative, PJM is currently implementing a pilot “Collaborative Scheduling System,” which is integrated into its own proprietary marketplace software. The NYISO believes that this pilot will provide a thorough test of the “one-stop scheduling” concept. Because the CSS is closely integrated with PJM’s EES it can be implemented earlier but will not be scalable to other ISOs and RTOs that do not adopt the PJM software.

The implementation of the OSS, together with the other ongoing MOU and market integration efforts in the Northeast, lends further support to Mr. Museler’s thesis that the Northeast’s seams resolution efforts are accelerating. The Commission should continue to support these efforts and should not do anything that would frustrate, or worse, undermine them. Furthermore, because so much progress has been made in the Northeast, the

Commission should carefully scrutinize claims that the Northeastern seams resolution process has been a failure, or that it will inevitably fail in the future. These arguments generally rely on speculation or on anecdotal references to old market design flaws that have since been addressed, by the NYISO or through one of the inter-ISO coordination processes. For example, Dynegy offers an analysis of a price spike in the NYISO-administered markets that occurred a little more than a year ago, before a number of market design flaws affecting imports were corrected, as evidence that seams problems are an insuperable problem today.<sup>6</sup> Other participants rely on the Commission Staff's November, 2000 *Northeast Report*<sup>7</sup> which, as the NYISO has previously noted, contains a number of errors and is increasingly out-of-date.<sup>8</sup>

The NYISO agrees with those participants that hope that the MOU process, and related Northeastern seams initiatives, will move even more quickly in coming months. The NYISO, along with the other Northeastern ISOs, has generally supported many aspects of a proposal, first put forth by NYSEG, to make a number of structural enhancements to the MOU process and believes that the Commission should as well. However, the NYISO does not believe that creating new bureaucracies such as a "Regional Markets Board" (or an

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<sup>6</sup> See *Dynegy* at 8-9. The NYISO described the transaction scheduling improvements that it has made in order to permit import transactions to flow more easily in its February 9, 2001 Post-Technical Conference Comments in Docket No. ER00-3591-000, *et al.*

<sup>7</sup> *Staff Report to the Federal Energy Regulatory Commission on the Bulk Power Markets in the United States, Part II of Staff Report on U.S. Bulk Power Markets, Northeast Region* ("November, 2000")

<sup>8</sup> In particular the *Northeast Report's* conclusion, at I-4 and I-94, that "[t]hus far, the ISOs have made little significant progress on inter-ISO issues" is out of date and its assessment that "there is really no motivation for the ISOs to do so" should be re-examined in light of recent developments.

“Independent Market Monitoring Unit”),<sup>9</sup> or more hands-on Commission intervention is necessary to ensure further progress. The Commission can best help by supporting the existing seams initiatives in the Northeast and by persuading market participants to cooperate more fully. The Commission should not blame the Northeastern ISOs for occasional deadlocks among, or recalcitrance by, their stakeholders. Similarly, although the NYISO fully supports ISO-NE and PJM’s plans to develop a SMD it is important that the SMD be developed through a collaborative process that results in a market design which reflects the best features of the PJM, ISO-NE and NYISO markets. As the NYISO has explained in other proceedings, attempting to simply impose one ISO’s market design on another is overly simplistic, extremely inefficient, and could potentially threaten the reliability of the system.

**II. There is No Need for the Commission to Revisit Fundamental Policy Decisions That Were Made In Order No. 2000, Order No. 888 or Previous RTO Orders At This Time**

A number of participants have urged the Commission to use this proceeding to reverse Order No. 2000’s decisions to allow RTOs to form voluntarily, to refrain from prescribing RTO boundaries and to permit RTOs to develop differing market rules and transmission practices that reflected legitimate regional differences and individual needs. Some others have asked the Commission to reconsider certain aspects of Order No. 888.

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<sup>9</sup> See, e.g., *Supplemental Statement of Commissioner Nancy Brockway, New Hampshire Public Utilities Commission*, Docket No. PL01-5-000 (June 26, 2001) (supporting the creation of a Regional Markets Board and a kind of Independent Market Monitoring Unit for New England and the rest of the Northeast.)

The NYISO has previously opposed such requests<sup>10</sup> and reiterates its opposition here. There is simply no evidence that Order No. 2000's voluntary approach to RTO formation, or its flexible approach to the delineation of RTO boundaries, will fail. Indeed, the Commission has already conditionally approved several voluntarily developed RTOs. Similarly, there is no basis for certain participants' speculative claims that seams resolution efforts are inherently flawed, and will never bring the same market benefits that could be achieved by an all-out effort to form the largest RTOs as quickly as possible. As the NYISO explained in its Order No. 2000 compliance filings, and related pleadings, in Docket No. RT01-95-000, focusing on effective seams arrangements and closer market integration can bring greater benefits than developing a single RTO, because it allows stakeholders to concentrate on creating a large, seamless trading area while deferring controversial structural, governance and cost allocation issues for later consideration. Deferring structural issues also postpones the need to address challenging operational and reliability issues that might delay progress on market integration. All of the Northeastern ISOs, and all of the Northeastern state regulators share this vision. The NYISO therefore respectfully requests that the Commission adopt it as well. As Commissioner Nancy Brockway stated on behalf of all of the Northeastern state regulators:

We believe that dealing with the seams issues while maintaining the separate [ISOs] is the most expeditious route at this time. While a merger of two or more of the ISOs will continue to be a consideration if the benefits warrant that move, that avenue would by necessity consume significant resources for negotiating and establishing new governance processes and market operations. The same resources are now focused on improving the business, operating and

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<sup>10</sup> See *New York Independent System Operator, Inc.'s Reply Comments* ("Reply", Docket No. RM99-2-000, at 7 (May 14, 2001).

planning practices across the ISOs and we believe will produce more streamlined and efficient practices earlier than a merger could produce.<sup>11</sup>

Similarly, Chairman Thomas L. Welch of the Maine Public Utilities Commission urged the Commission not to “move precipitously in completely erasing existing geographic RTO boundaries” because he believed that there was still value in allowing the Northeastern ISOs: to improve their own markets while simultaneously bringing them closer together. He further asserted that:

There are two possible approaches to reaching the broad geographic markets that we all seek; one involves a rapid imposition of a particular structure, and a particular set of rules, on all the participants; the other, which I urge, allows each area to move in an evolutionary manner -- nonetheless subject to timetables and governed by principles established by the Commission -- to the point where the current geographic differences are of little importance and easily eliminated. The former course, which would impose on all an immature and likely bug-ridden structure, is sure to cause very substantial disruption in at least two of the regions, and would be an enormous and perhaps fatal distraction to all of us as we seek to explore workable solutions to pressing market problems. Moreover, by stopping the current healthy market experimentation, imposing a single model now would risk missing valuable solutions that the current more federalist approach may achieve..<sup>12</sup>

Finally, even if the assorted requests to revisit issues previously decided by Order No. 2000 or Order No. 888 had merit, this proceeding is not the appropriate procedural vehicle for considering them. Participants that want to revive these issues should instead be required to petition the Commission to initiate a new rulemaking proceeding, which would allow for a thorough review by the Commission and permit interested stakeholders, such as the NYISO, that oppose re-opening these issues to be heard.

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<sup>11</sup> *NRICC* at 4.

<sup>12</sup> *Statement of Thomas L. Welch, Chairman, Maine Public Utilities Commission*, Docket No. PL01-5-000 at 3-4 (June 19, 2001).

### **III. The Commission Should Endorse the Core Market Design Principles Adopted by the Northeastern ISOs**

The NYISO strongly supports Dr. William W. Hogan's comments concerning the advantages of the market design framework that was first developed by the NYISO and PJM, and which will soon be adopted by ISO-NE.<sup>13</sup> This market design framework, which features a bid-based, coordinated spot market with security constrained economic dispatch and locational (nodal) pricing, as well as financial transmission rights and an effective locationally-based congestion management system, has worked well both in the U.S. and internationally. Given the demonstrated success of this model, the Commission should take a skeptical view of arguments that attack it, such as the Automated Power Exchange's claim that ISO and RTOs "utilizing SCUC are grappling with exponentially increasing complexity" that prevents practical resolutions to seams problems,<sup>14</sup> which ignores the OSS and the many other successful Northeastern seams initiatives. These arguments are often resurrected versions of arguments that were tried, and failed, several years ago when PJM and the NYISO were first forming. They have even less force today given the success of the underlying market design they challenge.

The NYISO does not believe that other regions should be forced to adopt the market design principles that have been implemented in the Northeast, or any other specific market design. Nevertheless, the NYISO agrees with Dr. Hogan that these principles can work in every region and that proposals to deviate from them should explain their reasons for doing

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<sup>13</sup> See *Comments of William W. Hogan ("Hogan")*, Docket No. PL01-5-000 (June 18, 2001).

<sup>14</sup> See *Summary of Comments of Dr. Edward G. Cazalet, Chairman, Automated Power Exchange*, Docket No. PL01-05-000 at 3 (June 18, 2001)..

so. In particular, the NYISO believes that proposals that would leave grid and market operation in different hands must be carefully considered because they can result in the loss of important market efficiencies and information transparency.

**IV. The Commission Must Recognize That Creating an “Energy Industry Standards Board” Modeled on the Gas Industry Standards Board Would Not Be a Near-Term Panacea**

Many participants in this proceeding apparently favor the creation of an “Energy Industry Standards Board,” (“EISB”) modeled on the existing Gas Industry Standards Board (“GISB”) The NYISO is concerned that many market participants, and perhaps the Commission itself, may have unrealistic expectations about the benefits that a new EISB could bring. First, an EISB is unlikely to have major near-term achievements. It took GISB took years from the time it was first organized to develop standard business practices that were implemented by the natural gas industry.<sup>15</sup> EISB would likely take at least as long as GISB since the electricity industry faces a much greater number of difficult issues than the natural gas industry did in the mid-1990’s. This is attributable to the greater complexity of electricity markets and the fact that basic market design issues were decided in Order No.

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<sup>15</sup> GISB was formed in 1994 for the purpose of standardizing natural gas pipelines’ electronic communications protocols. On October 25, 1995, the Commission issued an advanced Notice of Proposed Rulemaking asking the industry to propose business and electronic communications standards in ten high priority areas by March 15, 1996. On that date, GISB submitted 140 standards pertaining to five major business areas and electronic delivery procedures. The Commission generally accepted these standards in *Order No. 587*, issued on July 17, 1996 which required pipelines to make compliance tariff filings in late 1996 and to implement the standards along a staged schedule between April and June, 1997. *See Standards for Business Practices of Interstate Natural Gas Pipelines, Order No. 587*, FERC Stats. & Regs. Regulations Preambles [July 1996 - Dec. 2000] ¶ 31,039 (1996). GISB has continued to refine and update its standards over the past several years. The most recent version of them (v. 1.4) was accepted in *Standards for Business Practices of Interstate*

(continued...)

636 before GISB commenced operations, whereas the analogues to those market design issues are still unsettled in the electric utility industry. Moreover, before an EISB could even begin its work it would need to develop a fair governance structure that reflects the diversity of the electricity industry, protects minority interests, and allows for the recognition of legitimate regional variations.

Second, an EISB's role as a developer of commercial standards will be complicated by NERC's overlapping, and potentially conflicting, responsibilities as a developer of reliability standards. NERC and GISB expressed confidence in their ability to work together at the technical conference and the NYISO expects that they would generally do so relatively effectively. Nevertheless, it seems clear that the need for consultation and collaboration between the two organizations will further slow any EISB process.

Third, as GISB readily admitted at the technical conference, GISB's approach does not work well for controversial issues with major economic consequences, such as congestion management or ancillary services standards. EISB will presumably likewise not be well-suited to developing solutions to fundamental market design issues.

Fourth, it should be recognized that GISB's standards are not truly uniform and make allowances for physical differences among the various interstate natural gas pipeline systems. Nine years after Order No. 636 was issued, pipelines continue to offer different services and products and use different tools for dealing with the problems created as a result of serving customers across an interconnected pipeline grid.

In short, although creating an EISB may eventually lead to the creation of standardized commercial practices and common terminology that will facilitate participation in wholesale electric markets it will not be a panacea that resolves all seams issues. Moreover, whatever benefits an EISB might bring will be some time in coming. The Commission should therefore support the ongoing seams resolution efforts in the Northeast rather than abandoning them in the hopes of clearing the way for an EISB to quickly create national seams standards. Moreover, the Commission should carefully weigh the costs and benefits of initiating an EISB-type process, which will be a major undertaking that will bring relatively small long-term benefits, at a time when major near-term issues require immediate attention.

**V. The Commission Should Encourage NERC's Electronic Scheduling Collaborative to Respect Legitimate Regional Variations**

The NYISO is in general agreement with the Electronic Scheduling Collaborative's ("ESC") position that seams issues can sometimes be caused by the existence of differing market designs, as well as different business practices, in adjacent regions. The NYISO likewise agrees that the Commission "needs to recognize the importance of balancing the need for regional diversity versus the need for standardized business practices."<sup>16</sup> It is critical that both the ESC and the Commission take the task of finding the proper balance seriously rather than viewing the ESC process, as some market participants seem to, as an opportunity to homogenize market designs that reflect important regional variations. Imposing one-size fits all scheduling rules without accounting for regional differences could

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<sup>16</sup> *Statement of Michael J. Kormos, Chairman, Electronic Scheduling Collaborative, Docket No. PL01-5-000 at 3 (June 18, 2001).*

needlessly undermine legitimate market design alternatives, such as the NYISO's Locational-Based Marginal Pricing system (which employs a financial reservation mechanism).<sup>17</sup> By contrast, it should be possible, by taking a more balanced approach, to achieve a very high degree of standardization without requiring major revisions to working market designs.

**VI. The Commission Should Avoid Imposing Arbitrary, Unrealistically Aggressive Seams Resolution Deadlines**

Finally, the Commission should reject requests that it adopt arbitrary deadlines for the elimination of seams problems. Seams issues are complex, technical and, as the GISB experience demonstrates, take time to resolve. Although it is entirely appropriate for the Commission to expect the Northeast ISOs, and their stakeholders, to work diligently to address these issues the Commission cannot mandate rapid solutions by regulatory fiat. Attempting to do so may result in rushed, incomplete and ill-advised "solutions" that create new problems and exacerbate existing ones. California's recent experience should provide ample warning of the dangerous unintended consequences that can result from ill-advised electricity market design decisions made by regulators. It would also be unwise to insist on unreasonably aggressive timetables given the number and complexity of fundamental market design issues that need to be decided, and the fact that seams problems have not yet even been identified in some regions. The Commission should refrain from imposing specific national deadlines for dealing with seams problems until it has a better understanding of what they are and what is needed to solve them.

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<sup>17</sup> It should be noted that the Ontario IMO may employ a financial reservation system. Scheduling rules which are hostile to financial reservations could impede Ontario's integration into the super-regional Northeastern market.

Moreover, the Commission should take a realistic view of the relative importance of seams issues and avoid giving them a priority that will divert resources and attention from even more important market design matters. As Dr. Hogan stated, “[g]ood coordination cannot overcome bad market design. Markets in power, more than most markets, are made; they don’t just happen.”<sup>18</sup> The Commission must allow sufficient time for markets, and seams solutions, to successfully evolve. There is no point in rushing headlong to implement well-coordinated, but badly designed, regional markets.

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July 2, 2001

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<sup>18</sup> *Hogan* at 1.

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document upon each party that has executed a Service Agreement under the New York Independent System Operator, Inc.'s Open-Access Transmission Tariff and Market Administration and Control Area Services Tariff, as well as the New York State Public Service Commission and the electric utility regulatory agencies in New Jersey and Pennsylvania.

Dated at Washington, DC this 2<sup>nd</sup> day of July, 2001.

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