



INDEPENDENT POWER PRODUCERS OF NEW YORK, INC

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To: NYISO Board of Directors
From: Chris LaRoe
Date: September 7, 2012
Re: IPPNY Comments – NYISO Order 1000 Compliance

Independent Power Producers of New York, Inc. (IPPNY) appreciates the opportunity to submit the following comments relating to the New York System Operator's (NYISO) compliance filing for Federal Energy Regulatory Commission (FERC) Order 1000.

Straw Proposal Vote

At the outset, IPPNY notes that while it is important for the NYISO Board of Directors to get a sense of the opinions of market participants through these written comments, not all parties have sufficient resources to dedicate to such an effort. In the past, the NYISO has utilized straw votes to gain insight on market participants' viewpoints concerning significant market structure efforts and proposed market changes. IPPNY, as well as some of its member companies, believe that a straw vote of the NYISO's Management Committee would be a more effective mechanism to demonstrate to the NYISO Board whether support exists for the NYISO proposal amongst market participants and urge the NYISO Board to request that such a vote be held at the September Management Committee Meeting.

Public Policy Requirements Definition

Because tariff changes are being proposed to address a required compliance filing, IPPNY supports applying a definition for the term Public Policy Requirements (PPR) that directly aligns with the parameters of the definition contained in FERC Order 1000. Order No. 1000 explained that “state or federal laws and regulations” means “enacted statutes (i.e., passed by the legislature and signed by the executive) and regulations promulgated by a relevant jurisdiction, whether within a state or at the federal level.”¹ Thus, the definition should be limited to federal and State laws and regulations that drive transmission needs

IPPNY appreciates that the NYISO has eliminated other provisions that were set forth in earlier draft definitions of PPR, which included governor’s executive orders and less specificity concerning which type of NYPSC orders would meet the requirement. IPPNY supports the NYISO’s decision to reject the proposal to include executive orders in the above definition within the tariff as it goes beyond what was required within Order 1000. To the extent that some parties wish to further expand this definition beyond federal and State laws and regulations, parties can bring their proposals forward to FERC.

Lastly, throughout the stakeholder process, Multiple Intervenors has raised valid concerns with respect to the potential for projects to “forum shop” between the three NYISO planning processes. Tariff language should be added that specifies that this third, new process should only be triggered when projects are not needed for reliability and do not fall within the CARIS parameters.

¹ Order No. 1000 at P 2.

Cost-Benefit Analysis

IPPNY also supports the NYISO conducting a cost/benefit analysis of proposed PPR projects, which includes the impacts on the state's competitive marketplace. Because these projects, by definition, are not needed, not economic and non-competitive, it is important for stakeholders to understand the effect of introducing such projects into the marketplace. However, it is unclear why DPS Staff would be given a heightened role in determining the methodology to be used. As is the case for the economic planning process, DPS Staff's input should be taken into consideration together with the input of all other stakeholders. Therefore, it is essential that the NYISO retain the following section within 31.4.4 of Attachment Y as modified:

The ISO's evaluation will identify the costs and benefits of the proposed transmission solutions, and impacts of the proposed transmission solutions on ISO-Administered markets. Such costs, benefits, and market impacts shall include those identified in accordance with the methodology, if any, specified by the Public Policy Requirement, in addition to the following type of metrics that are determined by the ISO, in consultation with stakeholders, to be applicable to the Public Policy Requirement: change in production costs; LBMP; losses; emissions; ICAP; TCC; congestion; impact on transfer limits; and deliverability.

Moreover, IPPNY believes that the NYISO analysis should go beyond what is stated in the section above. While it is important to know the potential market impacts of a transmission project being developed pursuant to a PPR, it is equally important to know if that PPR need can potentially be achieved through alternative solutions that may be less costly and/or have less material impact on the competitive wholesale markets. Proposed market-based projects and alternative regulated projects submitted in connection with the NYISO's reliability process and CARIS II projects submitted in connection with the NYISO's economic process should be considered as part of this

additional analysis. Such information could be vital when parties are weighing whether or not a transmission project is in the overall best interest of the State, and whether such policies in fact drive the need for transmission.

NYISO Board Review

As drafted presently, the NYISO performs only an advisory role for the NYPSC, analyzing proposed projects and then providing a report containing information as described above. Regardless of how much harm could be brought upon the competitive markets, the NYISO defers all going forward decision making to the NYPSC. As the entity charged with maintaining the functionality of the competitive wholesale marketplace, the NYISO must have the ability to prevent projects with deleterious impacts on the marketplace from recovering costs through the NYISO tariff as part of its FERC jurisdictional wholesale rate. The NYPSC has separate cost recovery mechanisms at its disposal should it want to advance transmission projects as part of its retail jurisdiction. The NYISO's role should not be that of a passive participant in a process that has potentially huge impacts on the market it administers. The FERC jurisdictional rate-making process is where these cost recovery mechanisms need to be decided.

Cost Allocation

In FERC Order 1000, the FERC mandated that cost allocation must be conducted in a manner where costs are assessed "roughly commensurate" with benefits. The NYISO's proposed cost allocation provisions ignore that core principle and are materially flawed in a number of respects. First, the NYISO has not provided any justification for a default cost allocation method based on load ratio share applied across the entire State. This stands in direct contradiction to the "beneficiaries" pay principle that underlies the

NYISO's planning processes approved by FERC. While admittedly this would be the "last resort" option, there is no basis for any option contained in the NYISO's tariff to be ill-structured.

Second, there is no basis for delegating authority to either the NYPSC or a project developer to specify a particular cost allocation that must be used and administered in the NYISO tariff. Rates, terms and conditions of transmission service lie squarely and exclusively within FERC's province. The NYISO should not seek to move away from that fundamental tenet.

Third, the NYISO has not provided any reason for abandoning the cost allocation methodology that was developed for projects advanced through the CARIS process. IPPNY believes that having the load ratio cost allocation methodology as the default or allowing decisions to be made by others that may not properly assign costs to beneficiaries opens up the door for instances of non-beneficiaries being saddled with the cost of a project that does not serve their interest. The methodology for CARIS was designed and approved by FERC after months of extensive stakeholder review to ensure that such improper allocations do not occur. Such protections are essential and applicable to PPR projects.

FERC Review

IPPNY believes language must be added to the Attachment Y clarifying that any decisions made pursuant to the public policy planning component, whether by the ISO or the NYPSC, are subject to review by FERC. The determination of what constitutes a public policy that drives the need for transmission projects initially resides with the NYISO but ultimately resides with FERC.