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UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

New York Independent System Operator, Inc.) Docket No. ER06-185-002

INITIAL INFORMATIONAL FILING AND
REQUEST FOR LIMITED TARIFF WAIVER
OF THE NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.

The New York Independent System Operator, Inc. ("NYISO") submits this its Initial Informational Filing and Request for Limited Tariff Wavier ("Informational Filing") in response to ordering paragraph (B) of the Federal Energy Regulatory Commission's ("Commission's") April 7, 2006 Order Granting Tariff Waiver ("Order") in the above-captioned docket.[1] In its Order the Commission instructed the NYISO to:

> correct errors it made in its computation of Guarantees, but not LBMPs, while implementing the mitigation measures in its Market Administration and Control Area Services Tariff, for the period from February 1, 2005 to the present, subject to the condition that NYISO provide the Commission with details of the settlement corrections, consistent with the Staff data request of January 6, 2006.

In this Informational Filing the NYISO (a) describes the method it will use to correct the errors it made in its computation of Bid Production Cost Guarantee ("BPCG")[2] payments from February 2005 to the date that it implements its going-forward Real-Time guarantee payment impact test ("RTGP Test"), (b) submits under separate cover, Privileged and Confidential Attachment B to this Informational Filing, a preliminary Generator-specific summary of the bill corrections that the NYISO may apply to each affected Generator to correct the February 2005

[1] *New York Independent System Operator, Inc.*, 115 FERC ¶ 61,026, *mimeo* at p. 18 (2006).

[2] Capitalized terms not expressly defined herein shall have the meaning ascribed to them in the NYISO's Market Administration and Control Area Services Tariff ("Services Tariff").

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settlements,[3] (c) requests a waiver of its tariff obligation to apply the RTGP Test to a very small number of Bids when necessary data is not available in the NYISO's Market Information System and would have to be reconstructed from original or potentially imperfect sources at significant burden and expense, and (d) briefly addresses its implementation of the RTGP Test on a going-forward basis.

I. Background

In its November 8, 2005 filing in the above-captioned docket, the NYISO explained that the implementation of its market mitigation measures did not fully conform to applicable tariff requirements as they have changed from time to time. This Informational Filing explains the process that the NYISO will use to correct the compensation to the affected Generators starting in February 2005 to bring the NYISO into compliance with its tariff prior to the final billing settlements with the affected units.

Under the NYISO's Market Administration and Control Area Services Tariff ("Services Tariff"), generators submit three-part Bids into the Real-Time Market, that is, Bids for Energy, Minimum Generation, and Start-up. The marginal Energy Bid is eligible to set the market-clearing price (LBMP) for Energy. All three Bids are used to commit units and determine whether they should receive a Bid Production Cost Guarantee payment ("BPCG") for a given operating day. A BPCG is paid if a unit's total as-bid costs are greater than its revenues for an

[3] In its response to the Commission's January 6, 2006 data request in Docket No. ER06-185-001 the NYISO was able to provide bill corrections for all impacted months up to February of 2005 as a single batch because the corrections were developed outside the NYISO's production environment for settlements. Unlike the settlement corrections that the NYISO provided to the Commission on February 6, 2006, the corrections that the NYISO is now proposing to make rely on the NYISO's "live" settlement systems and actual settlement data. The complexity of the RTGP Test does not permit the NYISO to perform the full-scale Test outside of the production Billing and Accounting System for the historical months. For this reason, the NYISO is processing the RTGP-related settlement corrections for the months in question in the production system on a schedule consistent with that of the normal settlement adjustment process. The NYISO intends to report the expected financial impacts as the months are processed to the Commission.

operating day. While LBMP prices are established by the market clearing price for a given geographic market area, BPCGs are necessarily determined on a unit-by-unit basis. The level of a unit's BPCG cannot be determined until the results of a full day's operations are available, since only then can the unit's revenues be determined. As a result, BPCGs are ultimately determined in the billing and settlement process for each unit, and only affect that unit. By contrast, Energy clearing prices, or LBMPs, are determined interval by interval through the market day, are paid to all units selected for Energy, and once determined cannot be changed without disrupting the settled expectations of all entities participating in the Energy market. The Commission has determined that, as specified in § 4.2.2(d) of the NYISO's Market Mitigation Measures ("MMM")[4]: "The ISO shall not use a default bid to determine revised market clearing prices for periods prior to the imposition of the default bid, except as may be specifically authorized by the Commission."

On pages 11 and 12 of its November 8, 2005 Report of Tariff Implementation Errors and Request for Limited Tariff Waivers, the NYISO explained:

> On February 1, 2005, the RTS improvements to the Real-Time Market were put in place. In conjunction with the RTS implementation, the application of the ConEd SRE/OOM mitigation measures was discontinued as not compliant with the Services Tariff, but the software required to perform the Real-Time BPCG impact test had not been developed. Accordingly, the MMP undertook to monitor in-City SRE and OOM, as well as other units that might earn BPCG payments, on a manual "best efforts" basis, in accordance with § 3.2.2(b) of the MMM, with the expectation that BPCG impact test software will be developed in the near future and that BPCG payments can be computed and corrected in the billing and settlement process on a unit-by-unit basis. The NYISO expects that software development requirements for calculating Real-Time BPCG impacts, and a schedule for implementing the software, can be developed during the first quarter of 2006, with BPCG payments redetermined prior to the final billing and settlement process for period from February 2005 forward. At that time, barring

[4] The NYISO's Market Mitigation Measures are set forth in Attachment H to its Services Tariff.

> unexpected software or data problems, BPCG mitigation will be brought into compliance with the tariff.

On page three of its February 6, 2006 Response to Letter Data Request Dated January 6, 2006 the NYISO stated further that it expected the methodology and manual procedures for correcting its computation of BPCGs from February 2005 to the date that its going-forward software implementation takes effect "to be in place by the third quarter of [2006], in time for the final settlement for the period beginning with February, 2005. The appropriate settlement corrections will then be applied month-by-month as the final settlements for the months following February, 2005 become due." On page 12 of the Letter the NYISO explained in greater detail:

> Phase III of the SRE/OOM fixes will address the more difficult issue of automating the "impact test" for BPCG mitigation in the Real-Time market.... Because of resource constraints and the need to coordinate this project with other priority efforts, however, it is anticipated that the deployment of the automated Phase III capability will not take place until 2007. In the interim, as noted above, a manual procedure is scheduled to be implemented in the third quarter of 2006 that will allow corrections to the BPCG payments to be made prior to the final billing settlements for the period beginning February 2005. BPCG payments will continue to be corrected in the same fashion in the monthly billing and settlement close-out process until the implementation of the fully automated process described above.

In response to the NYISO's commitment to ensure tariff compliance by correcting settlement data, the Commission's Order authorized the NYISO to correct errors it made in its computation of BPCG payments while implementing the mitigation measures in its Services Tariff, for the period commencing February 1, 2005, subject to the condition that NYISO provide the Commission with details of the settlement corrections. This filing is the first of a series of filings that fulfill the NYISO's commitment to correct settlement data for past periods

on a month-by-month basis as the final settlements for the months following February, 2005 become due.[5]

On June 29 the NYISO presented its RTGP Test to its Market Participants at the Market Structures Working Group. A copy of the NYISO's presentation is included as Attachment C to this Informational Filing. Although some Market Participants questioned certain aspects of the NYISO's proposed going-forward application of the RTGP Test, it is the NYISO's understanding that all concerns raised regarding the framework the NYISO is using to correct historical settlement data for in-City Generators were addressed to the satisfaction of the Market Participants at that meeting. The Market Participants agreed with the NYISO that concerns regarding the application of the NYISO's framework to a particular set of facts/circumstances is appropriately addressed by initiating consultation with the NYISO's Market Monitoring, Analysis and Performance Department ("MMP") pursuant to Section 3.3 of the MMM.

On August 8, 2006 the NYISO (1) distributed Generator-specific preliminary information to each of the Generators that may be subject to settlement corrections for the month of February 2005 based on the RTGP Test, (2) distributed a non-confidential set of instructions for interpreting the Privileged and Confidential preliminary RTGP mitigation results, and (3) invited the Generators to consult with MMP regarding the reference levels used to perform the RTGP Test, or to explain why the Bids at issue were otherwise consistent with competitive conduct on a case-by-case basis, if necessary. On August 11, 2006 the NYISO sent e-mails to potentially impacted Generators informing them that the proposed Generator-specific settlement corrections

[5] Subsequent informational filings will not include the detailed description of the methodology that the NYISO applied that is included in this initial Informational Filing. Subsequent informational filings will provide monthly Privileged and Confidential Market Participant specific settlement data in a format similar to the data that is presented in Attachment B, until such time as the NYISO implements its going-forward RTGP Test and is able to obviate the need for monthly settlement corrections.

set forth in Privileged and Confidential Attachment B were available in the NYISO's Decision Support System ("DSS") data warehouse.

Privileged and Confidential Attachment B sets forth the preliminary results produced by the NYISO's RTGP Test, which is designed to screen for Bids that could potentially represent the exercise of market power by a Market Participant. Attachment A to this Informational Filing contains a set of non-confidential instructions for interpreting Attachment B. Once Bids that might potentially be subject to mitigation have been identified, the NYISO contacts the appropriate Market Participant, makes available information regarding the potential mitigation, and invites the Market Participant to consult with MMP regarding the Bids that its RTGP Test has identified.

In the consultations MMP has conducted with potentially impacted Generators to date, MMP (with the concurrence of the Independent Market Advisor) has agreed that certain reference level(s) it used to perform the RTGP Test for February 2005 and produce the results set forth in Privileged and Confidential Attachment B warrant modification. Before final Bills are issued for the affected Generator(s), the NYISO will re-run the RTGP conduct + impact tests using the revised reference level(s). Use of the revised reference level(s) will either reduce or eliminate the particular mitigation that was the subject of the consultation.

This Informational Filing does not request any changes to the NYISO's tariffs, and does not propose any retroactive changes to market clearing prices. To the contrary, it implements the corrections to BPCG payments that are authorized in ordering paragraph B of the Order and provides the information requested by the Commission therein.

II. Explanation of How the RTGP Test Is Being Performed for the Historical Period

Consistent with the NYISO's February 6, 2006 response to question number 3 of the Commission's Data Request dated January 6, 2006, the NYISO provides the following outline of how it performed the RTGP Test and identified Bids that are candidates for BPCG mitigation.

For Real-Time Bids or Bid components[6] submitted by New York City[7] Generators, a downward adjustment of the initial Real-Time BPCG determination is proposed where:

- A Bid fails the conduct test;
- The conduct failing Bid is determined to have a guarantee payment impact; and
- No previous manual process (such as a Billing Issues Group correction) has caused the Generator's Bid to be mitigated.

Bids or Bid components that were already mitigated by the NYISO's Real-Time Automated Mitigation Procedures ("AMP") are not subject to additional mitigation based on a determination of BPCG impact. The effect AMP mitigation has on a Generator's BPCG is considered by the NYISO when determining if a Generator's Bid(s) had a RTGP impact. How AMP mitigation and RTGP mitigation interact is explained in the NYISO's description of its *Impact Test Methodology*, below.

Conduct Test Methodology:

- There are two types of thresholds that may apply to the conduct evaluation:
  1. Conduct thresholds that apply to Generators located in the Constrained Area during periods that there are no active line constraints per MMM § 3.1.2(a)
     a. Energy and Minimum Generation – Lesser of $100 or 300% increase over reference
     b. Start up – 200% increase over reference
  2. Conduct thresholds that apply to Generators located in the Constrained Area during periods when there are active line constraints. per MMM § 3.1.2(b)
     a. Energy and Minimum Generation – exceeds Load Pocket Thresholds ("LPT") + reference
     b. Start up – 50% increase over reference

[6] "Bid components" generally refer to the (up to) 11 steps of the incremental Energy Bid and the (up to) six points of the Start-up Bid curve.

[7] New York City is a "Constrained Area" in accordance with Section 2.1 of the MMM. Generators located outside the Constrained Area have been manually monitored for BPCG impact and mitigated where appropriate. Generators located outside New York City are not included in the set of generators evaluated using the RTGP Test for the period February 2005 to the date that the going-forward RTGP Test is implemented.

- All Bids (incremental Energy, Minimum Generation and Start-up) are individually screened on an hourly basis to identify conduct failure(s). Generators located in the Constrained Area can be included in multiple load pockets. The most limiting load pocket for which there is an active constraint determines the selection of the conduct failing Bids for Generators located in multiple load pockets.
    1. For Energy and Minimum Generation Bids, conduct will be determined based on the Dunwoodie LPT for Constrained Area Generators that are committed via a Supplemental Resource Evaluation ("SRE"), committed or set Out of Merit ("OOM"), or are operating during a Thunderstorm Alert ("TSA"), unless a more limiting constraint-based LPT has been identified for the Generator.
    2. For Start-up Bids, conduct will be tested at a 200% threshold for Constrained Area Generators that are committed via a SRE or committed or set OOM unless a more limiting constraint-based LPT has been identified for the Generator. Constrained Area Generators that are operating during a Thunderstorm Alert ("TSA") are subject to a 50% Start-up threshold. Per MMM §§ 3.1.2(a)(3), (b)(2) and (b)(4).
- Constraints seen in the NYISO's Real-Time Commitment ("RTC") program that runs every 15 minutes will be used to determine the appropriate conduct test to apply to all Generators. The NYISO will also apply constraints identified in its Real-Time Dispatch ("RTD") program that runs every five minutes to generators that are capable of being started by RTD (10 minute Quick Start Generators).

Impact Test Methodology:

- Need to compare "as-Bid" to "as-mitigated" BPCG payments over a 24 hour period.
    1. Calculate the "as-Bid" BPCG. Calculate the Real-Time BPCG for the 24 hour period by summing the "as-Bid" hourly Bids used in the Energy and Ancillary Services settlements and then subtracting the actual LBMP + Ancillary Services revenues over the 24 hours from the sum of the Bids. Result is the "as-Bid" BPCG.
        a. "As-Bid" Bids consist of the "original" Bids submitted by the Market Participant, as modified by in-day AMP mitigation (if any).
        b. As explained above, Bid components that have already been AMP mitigated will not be subject to additional RTGP-based mitigation.
        c. "As-Bid" BPCG cannot be less than zero.
    2. Calculate the "as-mitigated" BPCG. Calculate the Real-Time BPCG for the 24 hour period by substituting, on an hour-by-hour basis, reference Bids for any Bids or Bid components that fail the applicable conduct test in the particular hour, summing the resulting hourly "as-

mitigated" Bids and then subtracting the actual LBMP + Ancillary Services revenues over the 24 hours from the sum of the "as-mitigated" Bids. Result is the "as-mitigated" BPCG.

a. Bids or Bid components that did not fail conduct, or that have already been AMP mitigated are included in the "as-mitigated" set without modification.
b. "As-mitigated" BPCG cannot be less than zero.

- Impact test – impact is determined by comparing the "as-Bid" BPCG to the "as-mitigated" BPCG.
  1. For Generators located in the Constrained Area, if the "as-Bid" BPCG exceeds the "as-mitigated" BPCG by 50% or more, then the NYISO makes a preliminary determination of BPCG impact. *See* MMM § 3.2.1(2).
- Units identified as having impact will have their Real-Time BPCG payment reduced to the "as-mitigated" level, subject to consultation with the affected Generator.
- Since these calculations are being performed in the NYISO's Billing and Accounting System ("BAS") all payments made by Generators for any RTGP mitigation will automatically be returned to the appropriate loads in the settlement process.

Consultation Methodology:

Section 3.3.2 of the NYISO's MMM requires the NYISO to consult with potentially impacted entities prior to imposing conduct + impact mitigation other than AMP mitigation. The RTGP mitigation is not AMP mitigation. Instead, the NYISO is contacting potentially impacted Generators prior to imposing mitigation and providing an opportunity for the Generators to consult with MMP regarding the reference levels used to perform the RTGP Test, or to explain why the Bids at issue were otherwise consistent with competitive conduct, if the Generator believes this is the case. The NYISO is implementing the following measures to facilitate the consultation process:

- Up to one month prior to the issuance of final invoices for their 30-day review, the NYISO is re-spinning historical bills to reflect the potential impact of RTGP mitigation. It takes two to three days after the invoice is re-spun for the revised data to be posted to the NYISO's DSS data warehouse.
- RTGP Test data that is presently being posted in DSS for review by potentially impacted Generators includes, on a generator-specific basis:
  1. A daily delta between the "as-Bid" and "as-mitigated" BPCG revenues;
  2. Specific conduct-failing Bids and Bid components on an hourly basis; and
  3. Original bids, as mitigated by AMP if appropriate,[8] are also available.
- On the morning that the information is posted to the DSS (or on the next business day if the data was posted to DSS on Saturday, Sunday or an official NYISO

[8] A message appears in MIS to let Generators know when a Bid has been AMP mitigated.

holiday), the NYISO will send e-mails to potentially impacted Generators, asking them to review their DSS data and inviting them to call to schedule a consultation with MMP.

- The February 2005 final invoices are scheduled to be posted for 30-day final review on or about September 8, 2006. The NYISO e-mailed csv files identifying potential mitigation that are almost identical to (within a few pennies of) the data provided to the Commission in Privileged and Confidential Attachment B to potentially impacted Market Participants on August 8, 2006 in advance of the August 11 posting of the DSS data for the February 2005 invoices.

Calculations and Supporting Data:

Attachment B hereto (filed under separate cover) is a series of Privileged and Confidential worksheets detailing the proposed adjustments to the initial BPCG determinations as calculated for each of the Generators potentially subject to RTGP mitigation for the settlement month of February 2005. Attachment A hereto is a public memorandum explaining how to interpret the information provided in the Privileged and Confidential worksheets.

III. Discussion of the Going-Forward RTGP Test

Although the NYISO is still working with its Market Participants regarding certain details of implementing its going-forward RTGP Test,[9] the NYISO expects to implement at least the first phase of its going-forward RTGP Test in 2007, consistent with its response to the Commission's February 6, 2006 data request (at 12). The NYISO will file a more definite implementation schedule with the Commission in approximately one month. The going-forward test will operate in a manner almost identical to the test that is being applied to the historical period. The two main differences will be (1) when data is provided to the going-forward RTGP Test for processing, and (2) the going-forward test will be applied to all generators in New York State, not just in-City units.

Hour-by-hour data for the entire market day will be provided to the RTGP Test for processing at the close of each market day. The test will process the data at the same time the

[9] The NYISO proposed solutions to concerns raised at the June 29 Market Structures Working Group meeting and engaged its Market Participants in a more general follow-up discussion about its implementation of the going-forward RTGP Test at a July 31, 2006 Scheduling and Pricing Working Group meeting.

NYISO is processing the advisory DSS settlement data for the day in question. The advisory DSS settlement data that is published at approximately 8:00 a.m. two days after the operating day will reflect the preliminary results of the RTGP Test. As with the historical test, the NYISO will then provide potentially impacted Generators with the opportunity to consult with MMP regarding the reference levels used to perform the RTGP Test and/or to explain why the Bids were submitted in a manner that is consistent with competitive behavior.

The second major change is that the going-forward RTGP Test will apply to generators located both within and outside the New York City Constrained Area. The only differences between in-City and "rest-of-state" RTGP Testing will be the conduct and impact thresholds that the NYISO applies, as specified in the Tariff. *See* MMM §§ 3.1.2 and 3.2.1. The NYISO will be contacting all potentially impacted generators, wherever located, via e-mail shortly after their mitigation details become available in DSS and providing the affected Market Participants with an opportunity to consult with MMP before it imposes RTGP mitigation. The going-forward procedure thus parallels the historic corrections, in that it does not involve any retroactive recalculation of market clearing prices and the Market Participants are notified of the potential for RTGP mitigation and provided an opportunity for consultation prior to the final billing determinations.[10]

The NYISO plans to implement its going-forward RTGP Test in two phases. The first phase will implement a RTGP Test that is expected to mitigate appropriately so long as conduct test results are available in the NYISO's Market Information System ("MIS") for use by the RTGP Test (over 99.8% of the time). The second phase is designed to address the rare instances in which conduct test results are not accessible for use by the RTGP Test due to planned

[10] *See* Order at PP 45 and 58.

maintenance or an unplanned outage of the MIS affecting the relevant operating hour. In the limited instances where the MIS conduct test results are not available from MIS, the results will need to be regenerated to make the data available for use by the RTGP Test. The reason a phased approach is necessary is explained in greater detail in the NYISO's Request for Limited Tariff Waiver, below.

IV. Request for Limited Tariff Waiver

A. Reason for Requesting a Tariff Waiver

As the NYISO explained in its November 8, 2005 filing and the Commission authorized in ordering paragraph B of its April 7, 2006 Order, the NYISO is applying the BPCG Test from February 2005, forward to correct BPCG payments to Generators and bring the NYISO back into compliance with the requirements of its MMM. However, in its quality assurance testing process the NYISO identified a very small number of Bids that were not conduct tested by the RTGP Test because the NYISO's MIS was not available due to planned maintenance or an unplanned outage, so that the conduct test results needed by the RTGP Test were not available for a particular unit, in a particular hour. The NYISO seeks a tariff waiver from the Commission to avoid the disproportionate burden and expense of correcting the settlement data in order to apply the RTGP Test to these Bids.

The critical missing information identified in the NYISO's quality assurance testing is the results of the conduct tests (that are performed in MIS[11]) for the hour. Additionally, in order to accurately apply the RTGP Test, it would also be necessary to re-determine the relevant

[11] MIS tests conduct on an hourly basis at all possible thresholds that may apply to a given Generator. The RTGP Test then goes in and retrieves the appropriate conduct test to use based on the constraints it identifies (from RTC or RTD, as appropriate) for the hour. If the conduct tests are not available in MIS, the RTGP Test simply accepts the "as-Bid" Bid for that hour (the Bid is treated as if it passed the conduct test).

constraints for some of the hours (the constraints are used to determine which conduct test results to apply). The NYISO can determine the reference levels that were in place for the relevant hours by going back to source data, gathering this data and causing the MIS to perform the necessary conduct tests (or by force-inserting the necessary conduct test results directly into the MIS) so that the results of the MIS conduct tests are available for use by the RTGP Test. It is, likewise, possible under most circumstances for the NYISO to obtain constraint information directly from RTC or RTD. However, performing all of the tasks necessary to mitigate Bids that lack MIS conduct test results would require a significant software effort that the NYISO does not believe to be justified for the reasons set forth below. On a going-forward basis, the NYISO is committed to developing a software solution to address this concern as part of its two-phase implementation of the going-forward RTGP Test.

B. Number of Bids Impacted, February 2005 – July 2006

From February 1, 2005 to July 31, 2006 there have been over 809,000 accepted Real-Time Market Bids in New York City. For approximately one fifth of one percent (0.21%) of the 809,000+ accepted Bids, the necessary historical conduct test information is not available in MIS. Of those Bids, 103 hourly Bids (0.013% of accepted in-City Bids over the relevant period) included hourly as-Bid costs that exceeded the Generator's hourly LBMP revenues during an hour when conduct test results were not available in MIS. If the Commission grants the NYISO's requested waiver, it is possible that the NYISO could undermitigate or fail to mitigate a very small quantity of Bids that would have been mitigated if the results of the MIS conduct tests were available for use by the RTGP Test.

C. Actions Necessary to Reconstruct the Data and Feed Into the RTGP Test

In order to apply the RTGP Test to hourly Bids for which there are no conduct test results available in MIS it would be necessary for the NYISO to develop new code to perform the following tasks in order to apply the RTGP Test to each Bid:

1. Capture the most recent raw reference data loaded into MIS prior to the market close time for the Bids that are missing conduct test results. The raw data resides in database log tables from which it takes significant time to retrieve the data;
2. Translate the raw reference data into Energy and Start-Up reference curves. This can be complex because it is necessary to maintain linearly increasing curves;
3. Get historical LPT values and generate target curves for each in-City load pocket from the above reference curve. Perform the conduct test for each load pocket;
4. Ideally, load the reconstructed records into the mitigation details table so that the BAS settlement will have the missing data;
5. If item 4 cannot be done, then the conduct tests and the reference curve values in item 3 would have to be read directly into the RTGP Test audit module to permit the RTGP Test to calculate an appropriate mitigated BPCG in order to perform the impact test;
6. Also if item 4 cannot be done, the NYISO would have to build a procedure to override the settlement RTGP mitigation adjustment value on invoices and final bills to prevent BAS from automatically re-correcting the data if these invoices are re-spun; and
7. All of the above processes would need to be carefully audited in order to maintain compliance with our process controls.

Finally, in order to avoid delaying the close-out of final bills, the above tasks would have to be completed immediately. However, the NYISO estimates that performing these tasks would require months of full time effort from a team of MMP and Information Technology employees.

In short, the cost of applying the RTGP Test to the remaining historical Bids, in terms of time, effort and dedication of necessary resources, vastly outweighs any potential benefits to the markets that the NYISO is responsible for administering. This is true both because the resulting BPCG mitigation is not expected to be financially significant to the marketplace (due to the extremely small number of potentially impacted Bids and the fact that market clearing prices are not affected by RTGP mitigation) and because a large number of NYISO employees and contractors would have to be directed from their regular duties to performing the tasks described

above on an extremely expedited basis. In addition, should the Commission determine that the NYISO needs to ensure that all hourly Bids, commencing February 1, 2005, are considered in the RTGP Test, the NYISO will need to suspend the schedule for its final bill close-outs for the impacted months.

D. Development of Going-Forward Software Solution

The NYISO is developing software that is designed to ensure that MIS conduct test results will be available for use by the RTGP Test in hours when MIS is not available due to planned maintenance, or unplanned outages. However it will take time for the NYISO to develop software that addresses the concerns described in Section IV.C of this Informational Filing. Further complicating the NYISO's software development, testing and deployment effort is the scheduled migration of the NYISO's data center to its new building in February of 2007. This large-scale hardware migration will require over a month to complete and will limit the resources available to develop and test new software. Despite the foregoing obstacles, the NYISO is committed to implementing a software solution addressing the RTGP Test's inability to retrieve conduct test results during periods when the MIS is not available in the second phase of its going-forward RTGP Test implementation.

E. A Limited Tariff Waiver Is Appropriate Under the Circumstances Presented

The Commission's evaluation of whether it should permit tariff waivers in order to help alleviate the effects on an error has focused on several key points, including whether: (1) the underlying error was made in good faith; (2) the waiver is of a limited scope; (3) a concrete

problem needs to be remedied; and (4) the waiver will not have undesirable consequences, such as harming third parties.[12]

All of these factors dictate in favor of granting the NYISO's requested limited waiver. As explained above, the underlying errors are related to an implementation flaw in complex software that produces accurate results the vast majority (over 99.8%) of the time, and brought no pecuniary or other benefit to the NYISO. The waiver requested herein is of a limited scope. In this filing the NYISO is seeking a limited waiver of the tariff provisions described above, to permit it to complete the settlement corrections from February 2005 to the date the NYISO implements the second phase of its going-forward RTGP Test, and is not seeking a continuing waiver. Third, as discussed above, a concrete problem exists that needs to be remedied. Finally, the mitigation that the NYISO could theoretically fail to apply if it does not include a very small subset of Bids that are affected by data input errors in its RTGP Test is expected to be *de minimis* when considered in light of the overall volume of transactions that clear in the markets administered by the NYISO.

For all of the above reasons, the NYISO respectfully requests that the Commission grant a limited waiver of its tariff obligation to apply the RTGP Test during hours when necessary data is not readily available in the NYISO's Market Information System and would have to be reconstructed from original or potentially imperfect sources at significant cost and expense. The requested waiver applies to the period February 1, 2005 to the date the NYISO implements the second phase of its going-forward RTGP Test.

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[12] *See, e.g., Wisvest-Connecticut*, 101 FERC at 62,551 (observing that error was "an inadvertent mishap"); *Great Lakes Gas Transmission Limited Partnership*, 102 FERC ¶ 61,331 (2003); *TransColorado Gas Transmission Co.*, 102 FERC ¶ 61,330 (2003); *Northern Border Pipeline Co.*, 76 FERC ¶ 61,141 (1996).

V. Copies of Correspondence

Communications regarding this proceeding should be addressed to:

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VI. Service

The NYISO is electronically serving a copy of this filing on the parties included on the Secretary's official service list in the above-captioned docket, on each participant in its stakeholder committees, on the New York State Public Service Commission, and on the electric utility regulatory agencies of New Jersey and Pennsylvania. In addition, the complete filing has been posted on the NYISO's website at www.nyiso.com. The NYISO will also make a paper copy available to any interested party that requests one.

VII. Conclusion

WHEREFORE, for the foregoing reasons, the New York Independent System Operator, Inc., respectfully requests that the Commission grant the limited tariff waiver requested above.

Respectfully submitted,

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Attachment A

Non-confidential Key/Legend Explaining Attachment B

Attachment B

PRIVILEGED AND CONFIDENTIAL

February 2005 Results of RTGP Test

Attachment B to this Informational Filing has been submitted to the Commission under separate cover pursuant to a claim of privilege/exemption from disclosure.
See 18 CFR § 388.112 (2006).

Attachment C

Copy of NYISO's June 29 Slide Presentation to the Market Structures Working Group

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Rensselaer, New York this 5th day of September, 2006.

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Attachment A

Non-confidential Key/Legend Explaining Attachment B

Attachment A

This Attachment A explains how to read and interpret the data provided in the New York Independent System Operator, Inc.'s ("NYISO's") Privileged and Confidential Attachment B to the NYISO's September 5, 2006 Initial Informational Filing and Request for Limited Tariff Waiver ("Informational Filing"). Attachment B addresses the Bid Production Cost Guarantee ("BPCG") payments identified for potential mitigation by the NYISO's Real-Time guarantee payment impact test ("RTGP Test") for February 2005.

Attachment B contains five worksheets pertaining to the adjusted BPCG settlement:

A daily summary by Generator and monthly totals by Organization	(Daily BPCG Output)
An hourly summary by Generator	(Hourly BPCG Outputs)
Details on start up bids affected by mitigation	(Startup Inputs)
Details on minimum generation bids affected by mitigation	(MinGen Inputs)
Details on incremental energy bids affected by mitigation	(Inc Energy Inputs)

Set forth below are descriptions of each of the columns in each of the five worksheets:

The **Daily BPCG Output** worksheet contains daily mitigation impacts by owner (Organization), by generator. A generator fails the RTGP Test if the "As-Bid BPCG ($)" as shown in Column D exceeds the "As-Mitigated BPCG ($)" as shown in Column E by 50%.

- Column A: Org Name
- Column B: Gen Name
- Column C: Interval Start Day (Eastern Time) – Day with BPCG adjustment
- Column D: As-Bid BPCG ($) – 24 hour BPCG as determined in the original real-time "RT" settlement. May reflect some AMP mitigation, but does not include any RTGP mitigation.
- Column E: As-Mitigated BPCG ($) – Mitigated BPCG as determined by the RTGP Test.
- Column F: Adjustment ($) – Adjustment determined by the RTGP Test for the day. This adjustment reflects the amount owed by generators.
- Note: A monthly total by Org Name is also included.

The **Hourly BPCG Outputs** worksheet contains an hourly summary of RTGP mitigation for all hours (including hours where there were no conduct failing bids, and thus no mitigation) on days when RTGP mitigation was determined to be appropriate by the RTGP Test. The BPCG payment and the RTGP Test are based on a daily calculation rolled up from hourly components. In this worksheet, the hourly components are negative when a generator's revenue exceeds its bid cost. The hourly components are positive when a generator's bid cost exceeds its revenue. If a generator's daily bid costs exceed its daily revenues, a BPCG payment is ordinarily required to cover the daily bid costs. If, on a daily basis, the generator revenues exceed its bid cost, then no BPCG payment is needed for the generator.

- Column A: Org Name
- Column B: Gen Name
- Column C: Date Hour (Eastern Time) Note: Two hourly entries include an "*" in Column C, indicating that there was a problem with the market close process that

prevented the completion of the corresponding conduct tests in the NYISO's Market Information System ("MIS") for that hour. A Tariff Waiver is requested for hours impacted by a market close failure in the Informational Filing to which this Attachment A is appended.

- Column D: As-Bid BPCG Hourly Component ($) – Sum of "As-Bid Hourly Startup Cost ($)" and "As-Bid Hourly Energy and MinGen ($)" as included in the original settlement and described below (may include some bids or bid components that were already AMP mitigated).
- Column E: As-Mitigated BPCG Hourly Component ($): Sum of "As-Mitigated Hourly Startup Cost ($)" and "As-Mitigated Hourly Energy and MinGen ($)" as determined by the RTGP Test and described below.
- Column F: As-Bid Hourly Startup Cost ($) – The startup cost as included in the original real time "RT" settlement (may have already been AMP mitigated).
- Column G: As-Mitigated Hourly Startup Cost ($) – Mitigated start up cost as determined by the RTGP Test.
- Column H: As-Bid Hourly Energy and MinGen ($) – Sum of the incremental energy, minimum generation and ancillary services payments as included in the original settlement (may include bids or bid components that were already AMP mitigated).
- Column I: As-Mitigated Hourly Energy and MinGen ($) – Sum of the mitigated incremental energy, mitigated minimum generation and original ancillary services payments as determined by the RTGP Test.

The **Startup Inputs** worksheet contains the hourly bid detail for generators with startup payments that are affected by RTGP mitigation. Only hours with startup mitigation are displayed. In order to ensure that only mitigated startup bids are included, the NYISO has filtered for a difference in net revenue for the hour that exceeds $0.05. The filter eliminates rounding differences.

- Column A: Org Name
- Column B: Gen Name
- Column C: Date Hour (Eastern Time)
- Column D through Column I: Downtime – Pt# (Hours) – Generators that have been shut down for a short period of time may incur reduced startup costs to resume operation. The NYISO reflects these reduced startup costs via generator-specific startup cost curves. The startup curve may include up to six bid points. The data in columns D through I of the Startup Inputs worksheet reflect generator downtime in hours, as included in the startup curve used in the original settlement. Null entries indicate no corresponding point on the curve.
- Column J through Column O: As-Bid Gen Startup Cost- Pt# ($) – Startup dollars that correspond with downtimes as included in the startup curve used in the original settlement (may include points on the startup curve that were already AMP mitigated). Null entries indicate no corresponding point on the curve.
- Column P through Column U: As-Mitigated Gen Startup Cost - Pt# ($) – Mitigated startup dollars that correspond with downtimes as included in the mitigated startup curve and applied based on the RTGP Test's determination of RTGP impact. Null entries indicate no corresponding point on the curve.

The **MinGen Inputs** worksheet includes all the hourly bid detail for minimum generation bids affected by RTGP mitigation. Only hours that include mitigation are displayed. In order to ensure that only mitigated minimum generation bids are included, the NYISO has filtered for a difference in net revenue for the hour that exceeds $0.05. The filter eliminates rounding differences.

- Column A: * or blank. For certain hours there are 2 lines of data. The second data entry for the hour, which will have an "*" in column A, addresses the last five minutes of the hour. RT prices and schedules are determined in five minute intervals and reflect system conditions at the end of the interval. The last five minutes of each hour uses the next hour's bid data to determine costs for the interval and the mitigation results may, therefore, vary from the results for the first 55 minutes of the hour.
- Column B: Org Name
- Column C: Gen Name
- Column D: Date Hour (Eastern Time)
- Column E: Min Gen MW (MW) – The number of MW being offered in the minimum generation block bid.
- Column F: As-Bid Min Gen Cost ($) – The minimum generation bid dollars as included in the original settlement (may include some bids that have already been AMP mitigated); in fact, the very first entry on the MinGen Inputs spreadsheet provides an example of a minimum generation bid that has already been AMP mitigated.
- Column G: As-Mitigated Min Gen Cost ($) – The mitigated minimum generation bid dollars as determined by the RTGP Test.

The **Incremental Energy Inputs** worksheet includes all the hourly bid detail for energy bids affected by RTGP mitigation. In order to ensure that only mitigated energy bids are included, the NYISO has filtered for a difference in net revenue for the hour that exceeds $0.05. The filter eliminates rounding differences.

- Column A: * or blank. For certain hours there are 2 lines of data. The second data entry for the hour, which will have an "*" in column A, addresses the last five minutes of the hour. RT prices and schedules are determined in five minute intervals and reflect system conditions at the end of the interval. The last five minutes of each hour uses the next hour's bid data to determine costs for the interval and the mitigation results may, therefore, vary from the results for the first 55 minutes of the hour.
- Column B: Org Name
- Column C: Gen Name
- Column D: Date Hour (Eastern Time)
- Column E through Column P: As-Bid Gen MW – Pt# (MW) – Dispatch point in MW in accordance with the incremental energy curve used in the original settlement. The energy curve may include up to twelve bid points. Null entries indicate no corresponding point on the curve.
- Column Q through Column AB: As-Bid Gen $/MW – Pt# ($/MW) – Dispatch dollars ($/MW) in accordance with the incremental energy curve used in the original settlement (may include some bid components that have already been AMP mitigated). Null entries indicate no corresponding point on the curve.
- Column AC through Column AN: As-Mitigated Gen MW – Pt# (MW) – Mitigated dispatch point in MW as determined by the RTGP Test. Null entries indicate no corresponding point on the curve.

- Column AO through Column AZ: As-Mitigated Gen $/MW – Pt# ($/MW) – Mitigated dispatch dollars ($/MW) as determined by the RTGP Test. Null entries indicate no corresponding point on the curve.

Attachment B

PRIVILEGED AND CONFIDENTIAL

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Attachment C

Copy of NYISO's June 29 Slide Presentation to the Market Structures Working Group

NEW YORK INDEPENDENT SYSTEM OPERATOR

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Real Time Guarantee Payment Impact Test

Market Structures Working Group

June 29, 2006

Draft – For Discussion Purposes Only

Tariff Compliance

- In accordance with the plan outlined in its November 8, 2005 Report of Tariff Implementation Errors, the NYISO proposes procedures to implement the Real-Time Guarantee Payment (RTGP) impact tests.
- The RTGP impact test is the third step of the NYISO's plan to bring its SRE/OOM, TSA and BPCG mitigation back into full compliance with Attachment H to the Market Services Tariff.
- In accordance with Ordering Paragraph B of the FERC's April 7, 2006 Order Granting Tariff Waivers, the RTGP test would be applied and, where warranted, corrected bills will be calculated and posted with the Final Bill postings from February 2005 forward.
- The NYISO proposes to apply the same RTGP mitigation methodology going forward that it is using to correct bills from February of 2005.
  - *Units located outside the Constrained Area defined in Section 2.1 of Attachment H (the "Constrained Area") have been manually screened by MMP and are not subject to a prior period review.*
  - *On a going forward basis the RTGP impact test will apply to generators located outside the Constrained Area.*
- The final calculation methodology and prior period financial impacts will be reported to FERC as required in the April 7 Order.

General Description

- RTGP mitigation measures apply conduct and impact threshold evaluations
  - *All units are evaluated for conduct based on the appropriate thresholds.*
  - *Units located in the Constrained Area may be evaluated for conduct based on the Constrained Area Load Pocket Thresholds (LPTs).*
    - There must be active constraints, a TSA, or SRE/OOM dispatch in order for the LPTs to apply.
  - *All conduct failing Bid components will have reference levels substituted for purposes of performing the RTGP impact test.*
  - *If RTGP impact is found, the unit's real time BPCG will be modified to reflect the replacement of conduct-failing Bid components with reference levels.*
  - *Details of the potential mitigation will be reported to the MP in the Alternative Daily Delivery Report and DSS.*

Conduct thresholds

- Generators located in the Constrained Area when there exists active transmission constraints
  - *Start up – 50% increase*
  - *Energy & MinGen – Based on LPTs per Att. H Sec 3.1.2(b)(1)*
- Thunderstorm Alert – applies to the Constrained Area if no other constraint active
  - *Start up – 50% increase*
  - *Energy & Min Gen – Dunwoodie LPT*
- SRE / OOM – applies to Constrained Area during unconstrained periods
  - *Start up – 200% increase*
  - *Energy & Min Gen – Dunwoodie LPT*
- Generators located outside the Constrained Area* and generators in the Constrained Area during periods with no active transmission constraints
  - *Start up – 200% increase*
  - *Energy & MinGen – Lesser of 300% or $100 increase*

**FERC's Sept. 15, 2005 Order in ER04-230 (Para. 18) clarified that the NYISO is not precluded from using its software to apply conduct and impact mitigation outside New York City after appropriate consultation with the relevant Market Participant has occurred.*

Constraint Definition –Applies to Constrained Area

- RTC constraints will be identified for all intervals evaluated in a given hour once the period for submitting new or revised Bids has ended.
  - *Load pockets affected will be flagged as having active constraints for that hour.*
  - *The most restrictive load pocket identified for a given hour by RTC will be used in the RTGP impact test for all generators (*See exception for 10 minute Quick Start generators below).*

- RTD and RTD-CAM constraints will be identified for a given hour by all RTD and RTD-CAM intervals in that hour.
  - *Load pockets affected will be flagged as having RTD constraints active for that hour.*
  - **The most restrictive load pocket identified for a given hour by RTC and RTD and RTD-CAM will be used in the RTGP impact test for generators that are capable of being started by RTD and RTD-CAM (10 minute Quick Start).*

Constraint Definition – Applies to Constrained Area (Continued…)

- TSA active during any interval in an hour
  - *Dunwoodie load pocket will be flagged as having a constraint active for that hour*
- SRE/OOM in place for a given generator during any interval in an hour
  - *For a given generator for a given hour, the conduct tests at the Dunwoodie load pocket thresholds will be used for the RTGP impact test when there are no active load pocket constraints*
- Minimum Run Time – may span more than one hour for generators started by RTC/RTD/RTD-CAM. If so:
  - *Constraints active in hour 1 will apply to hour 2 unless a constraint is active in hour 2 that requires the application of a more limiting LPT*

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Calculation Process

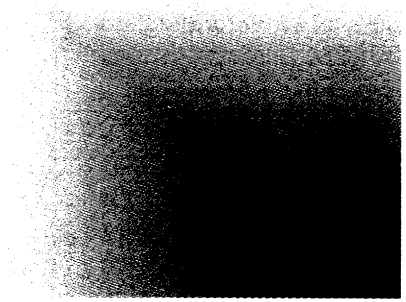
- BAS calculates a BPCG based on a set of Bids used in real time by RTD
  - *Uses either as-submitted Bids or Bids mitigated for LBMP impact*
  - *Bid components that have already been LBMP mitigated cannot be further affected*
  - *All Bid components that fail conduct are candidates for reference level substitution*
- For Constrained Area units components are chosen based on the constrained load pocket with the most limiting LPT
  - *Units can be in multiple load pockets*
  - *If there is no active constraint identified for the load pocket then the LPT for that pocket won't be applied but units will be tested against unconstrained thresholds (except that the Dunwoodie threshold may apply to SRE/OOM, TSA).*

Example

- Gen. X is located in both LP1 and LP4.
  - *There are no active constraints identified in LP4*
    - The NYISO will not test Gen. X's Bids for conduct based on the LP4 LPT
    - Gen. X's Bids will be tested for conduct based on the LP1 LPT assuming there are active constraints identified in LP1.
  - *There are no active constraints identified in the Constrained Area*
    - Gen. X's Bids are still subject to conduct testing at the unconstrained thresholds set forth in Section 3.1.2(a) of Att. H.

Impact test

- Reference levels are substituted for conduct-failing Bid components in each hour of the day.
- The BPCG that the generator would receive over 24 hours if its conduct-failing Bid components were replaced is compared to the BPCG that the generator would receive over 24 hours based on its original bids (modified to reflect LBMP mitigation).
- Thresholds
  - *Units in the Constrained Area – 50% increase*
  - *All other units – 200% increase*



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Reporting Results

- If a Generator fails the RTGP impact test
  - *RT BPCG will be reduced to reflect potential mitigation*
    - Minimum payment $0.
  - *Alternative Daily Delivery (ADD) Reporting*
    - At the hourly level - value of hourly mitigated BPCG
    - At the daily level – daily total mitigated BPCG
    - Any non-zero value is an indicator that the unit has been RTGP mitigated
  - *DSS data available to the affected Generator*
    - Reference bids used in the RTGP calculation reported at the 5 minute level
    - Reference start up used in the RTGP calculation reported at the hourly level
    - Daily delta between the unmitigated and mitigated BPCG will be provided

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Reporting Results - Consultation

- MMP will consult with generators prior to imposing mitigation per Att. H Sec. 3.3.
- The NYISO proposes to satisfy the consultation requirement by specifically identifying potential RTGP mitigation in the DSS advisory bills.
  - *This practice ensures that information on the potential mitigation is available to the generator at the earliest opportunity.*
- If not contacted directly by MMP, generators should contact MMP if they believe the reference level used in the evaluation was not appropriate or to explain why the Bid was consistent with competitive behavior.
  - *MMP can modify reference bids used in the RTGP process.*
  - *Reference bids can be modified any time prior to final bill close-out.*

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Reporting Results – Consultation, Cont.

- The posting of an advisory bill that identifies potential mitigation is not mitigation. Mitigation occurs when the NYISO issues a payment that excludes mitigated BPCG revenues.
  - *If a potentially mitigable event occurs near the end of the calendar month and the affected generator and the NYISO are not able to complete the consultation process prior to the issuance of the monthly invoice, then the NYISO will correct mitigation that it determines to be overstated or inappropriate at the next available true-up.*
- The NYISO proposes to apply the same consultation process to generators located within and outside the Constrained Area.
- Due to changes in prices or meter data it is possible to be mitigated in one billing run and not in the next run, or vice-versa, since these data changes will affect the BPCG calculations.

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