

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

New York Independent System Operator, Inc.) Docket No. ER03-766-003

**MOTION OF
THE NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.
FOR CLARIFICATION**

Pursuant to Rule 212 of the Commission's Rules of Practice and Procedure,¹ the New York Independent System Operator, Inc. ("NYISO") requests that the Commission clarify one aspect of its June 20, 2003 Order in this docket ("Scarcity Pricing Order").² The Scarcity Pricing Order accepted the administrative scarcity pricing rules, but ordered that they cease to be effective on June 23, 2004. The premise for this ruling was the Commission's expectation that the administrative rules would be superseded by the more efficient scarcity pricing features of the NYISO's real-time scheduling ("RTS") market enhancements before Summer 2004. Subsequently, it has become apparent that the core features of RTS will not be implemented until Fall 2004. Unless the Commission acts, the administrative scarcity pricing rules will expire before the rules intended to replace them are in place. This would reduce the efficiency of the NYISO's markets and result in suppliers being under compensated during scarcity conditions. The NYISO therefore respectfully asks that the Commission clarify that it intended for the NYISO's currently effective scarcity pricing rules to remain in effect until RTS is successfully implemented.

¹ 18 C.F.R. § 385.212 (2003).

² See *New York Independent System Operator, Inc.*, 103 FERC ¶ 61,339 (2003).

I. Copies of Correspondence

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II. Background

In the Scarcity Pricing Order, the Commission conditionally accepted the NYISO's proposed revisions to its Open Access Transmission Tariff ("OATT") and Market Administration and Control Area Services Tariff ("Services Tariff") pertaining to administrative rules that would ensure scarcity conditions were appropriately reflected in clearing prices. The Commission established a June 23, 2003 effective date for these rules and accepted them for a one-year period with the understanding that RTS would make them unnecessary.

On November 26, 2003, the NYISO submitted its RTS Filing in Docket No. ER04-230-000. The RTS Filing included scarcity pricing features that would eliminate the need for most of the administrative rules accepted by the Scarcity Pricing Order. The Commission accepted the NYISO's proposal, including the continuation of certain existing scarcity pricing rules. The Commission also granted the NYISO's request for a "flexible" RTS effective date, with the understanding that most of RTS would not be implemented until Fall 2004.

III. Motion for Clarification

The NYISO respectfully asks that the Commission clarify that its currently effective scarcity pricing rules will not expire until RTS is fully implemented.

The Commission has ample authority to take this action in response to a motion. The expiration date for the scarcity pricing rules is not established by the OATT, the Services Tariff, or any other document on file with the Commission. It was simply a condition imposed by the Scarcity Pricing Order that can be modified without a Section 205 filing. The Commission need only clarify its condition to better reflect its intent that the administrative scarcity pricing rules continue in effect until RTS implementation.

Extending the term of the existing scarcity pricing rules would be sound policy because it will avoid reintroducing harmful market uncertainty and the market inefficiencies that the existing rules address. While the RTS rules will work better than the existing rules there is no reason to abandon the currently effective rules before RTS is ready. The Commission has recognized that the currently effective scarcity pricing rules are superior to those that preceded them.³ The case for keeping the existing rules in place is especially valid because efficient scarcity pricing is most likely to matter during the peak demand periods of the summer season.

Because the NYISO is working diligently to implement RTS as rapidly as possible, and is on schedule to meet its Fall 2004 target, there is no reason for concern that granting this motion would perpetuate the existing rules for an unreasonable time. The NYISO is committed to putting the improved rules into effect as soon as it can.

³ Scarcity Pricing Order at P 18.

IV. Conclusion

Wherefore, good cause exists for the Commission to grant the NYISO's motion and clarify that the existing scarcity pricing rules shall remain in effect until RTS is fully implemented.

Respectfully submitted,

NEW YORK INDEPENDENT
SYSTEM OPERATOR, INC.

/s/ Ted J. Murphy

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April 15, 2004

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each party designated on the official service list compiled by the Secretary in Docket No. ER03-766 in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.2010 (2003).

Dated at Washington, DC this 15th day of April, 2004.

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Submission Contents

MotionforClarification.doc..... 1-5