7/16/04 DRAFT FOR REVIEW

PROPOSED TARIFF LANGUAGE

NYISO
Comprehensive Planning Process for Reliability Needs

Table of Contents

1. New York Comprehensive Reliability Planning Process

1.1 General

This document describes the process that the NYISO, the Transmission Owners, and Market Participants shall follow for planning to meet the reliability needs of the New York State Bulk Power Transmission Facilities ("BPTFs"). The objectives of the process are to: (1) evaluate the reliability needs of the BPTFs; (2) identify, through the development of appropriate scenarios, factors and issues that might adversely impact the reliability of the BPTFs; (3) provide a process whereby solutions to identified needs are proposed, evaluated, and implemented in a timely manner to ensure the reliability of the system; (4) provide an opportunity for the development of market-based solutions while ensuring the reliability of the BPTFs; and (5) coordinate the NYISO's reliability assessments with Neighboring Control Areas.

1.1.1 The NYISO will provide, through the analysis of historical system congestion costs, information about historical congestion including the causes for that congestion so that Market Participants and other stakeholders can make appropriately informed decisions.

1.1.2 The Transmission Owners will continue to plan for their transmission systems, including the BPTFs.

2. Definitions

Unless otherwise defined in this document, capitalized terms used herein shall have the meanings ascribed to them in the OATT.

ATRA: The Annual Transmission Reliability Assessment conducted under Attachment S to the NYISO OATT.

CRP: The Comprehensive Reliability Plan as approved by the NYISO Board of Directors pursuant to this tariff.

ESPWG: The Electric System Planning Work Group, or any successor Market Participant work group or committee designated to fulfill the functions assigned to the ESPWG in this tariff.

Five Year Base Case: The model representing the New York State Power System over the first five years of the Study Period**.**

Gap Solution: A solution to a Reliability Need that is designed to be temporary and to strive to be compatible with permanent market-based proposals. A permanent regulated solution, if appropriate, may proceed in parallel with a Gap Solution.

Other Developers: Parties or entities sponsoring or proposing to sponsor

regulated solutions to Reliability Needs who are not Transmission Owners.

Management Committee: The standing committee of the NYISO of that name created pursuant to the ISO Agreement.

New York State Bulk Power Transmission Facilities: The facilities identified as the New York State Bulk Power Transmission Facilities in the annual Area Transmission Review submitted to NPCC by the NYISO pursuant to NPCC requirements.

NYDPS: The New York State Department of Public Service.

NYSPSC: The New York Public Service Commission.

Reliability Criteria: The electric power system planning and operating policies, standards, criteria, guidelines, procedures, and rules promulgated by the North American Electric Reliability Council ("NERC"), Northeast Power Coordinating Council ("NPCC"), and the New York State Reliability Council ("NYSRC"), as they may be amended from time to time.

Reliability Need: A condition identified by the NYISO in the RNA as a violation or potential violation of Reliability Criteria.

Responsible TO: The Transmission Owner or Transmission Owners designated by the NYISO, pursuant to the NYISO Planning Process, to prepare a proposal for a regulated solution to a Reliability Need or to proceed with a regulated solution to a Reliability Need. The Responsible TO will normally be the Transmission Owner in whose Transmission District the NYISO identifies a Reliability Need.

RNA: The Reliability Needs Assessment as approved by the NYISO Board under this tariff.

Study Period: The ten year time period evaluated in the RNA.

TPAS: The Transmission Planning Advisory Subcommittee, or any successor Market Participant work group or committee designated to fulfill the functions assigned to TPAS in this tariff.

3. NYISO Implementation and Administration.

3.1 The NYISO shall adopt procedures for the implementation and administration of the Comprehensive Reliability Planning Process set forth in this tariff. Such procedures will be incorporated in the NYISO's manuals.

3.2 The NYISO shall establish in its procedures a schedule for the collection and submission of data and the preparation of models to be used in the studies contemplated under this tariff. That schedule shall provide for an annual cycle of studies and reports.

3.2.1 The NYISO's procedures shall be designed to allow the coordination of the NYISO's planning activities with those of NERC, NPCC, and other regional reliability organizations so as to develop consistency of the models, databases, and assumptions utilized in making reliability determinations.

4. Reliability Needs Assessment.

4.1 General.

The NYISO shall prepare and publish RNA as described below. The RNA will identify Reliability Needs and provide an analysis of historic congestion costs. The NYISO shall also designate in the RNA the Responsible TO with respect to each Reliability Need.

4.1.1 Market Participant Participation in the Development of the RNA.

The NYISO shall develop the RNA in consultation with Market Participants. TPAS will have responsibility consistent with ISO Procedures for review of the NYISO's reliability analyses. ESPWG will have responsibility consistent with ISO Procedures for providing commercial input and assumptions to be used in the development of reliability assessment scenarios provided under section 4.2.5, and in the reporting and analysis of historic congestion costs. Coordination will be established between these two groups and NYISO Staff during each stage of the planning process. The NYISO Staff shall report any majority and minority views of these Market Participant work groups when it submits the RNA to the Operating Committee for a vote, as provided below.

4.2 Preparation of the Reliability Needs Assessment

4.2.1 The NYISO shall evaluate system needs in the RNA over the Study Period.

4.2.1.1 ~~Annual Reliability Assessment~~ The baseline for the first five year period will be the system as defined for the ATRA. The NYISO shall set out the details of the development of the Five Year Base Case in the procedures adopted under section 3, above.

4.2.1.2 The NYISO shall assess the Five Year Base Case to determine whether the BPTFs meet all Reliability Criteria for both resource and transmission adequacy in each year and report the results of its evaluation in the RNA. Transmission analyses will include thermal, voltage, short circuit, and stability studies. Then, if any Reliability Criteria are not met in any year, the NYISO shall perform additional analyses to determine whether additional resources and/or transmission capacity expansion are needed to meet those requirements, and to determine the expected first year of need for those additional resources and/or transmission. The study will not seek to identify specific additional facilities. Reliability needs will be defined in terms of total deficiencies relative to Reliability Criteria and not necessarily in terms of specific facilities. How does this establish cause? What if a line is at a lower limit due to some in-series element, will no report of that situation be made?

4.2.2 The NYISO will also evaluate the BPTFs over the second five years of the Study Period to determine whether they meet all Reliability Criteria for both resource and transmission adequacy in each year and report the results of its evaluation in the RNA. A short circuit assessment will be performed for the tenth year of the Study Period. Reliability needs will be defined in terms of total deficiencies relative to Reliability Criteria and not necessarily in terms of specific facilities.

4.2.2.1 The NYISO shall develop the system representation to be used for its evaluations of the second five years of the Study Period using the (1) the most recent Load and Capacity Data Report published by the NYISO on its web site; (2) the most recent versions of NYISO reliability analyses and assessments provided for or published by NERC, NPCC, NYSRC, and Neighboring Control Areas; (3) information reported by Neighboring Control Areas such as power flow data, forecasted load, significant new or modified generation and transmission facilities, and anticipated system conditions that the NYISO determines may impact the BPTFs; and (4) Market Participant data submitted pursuant to paragraph 4.2.3 below.

4.2.3 Market Participant Input

4.2.4 At the NYISO's request, Market Participants shall provide in accordance with the schedule set forth in the procedures adopted under section 3.1 the data necessary for the development of the RNA. This input will include but not be limited to (1) existing

and planned additions to the New York State Transmission System (to be provided by Transmission Owners and municipal electric utilities); proposals for merchant transmission facilities (to be provided by merchant developers); generation additions and retirements (to be provided by generator owners and developers); demand response programs (to be provided by demand response providers); and any long-term firm transmission requests made to the Transmission Owners.

4.2.5 The Transmission Owners shall submit their plans referenced in section 1.1.2 to the NYISO. The NYISO will review the Transmission Owners' plans to determine whether they will meet Reliability Needs, recommend an alternate means to resolve the needs from a regional perspective, where appropriate, or indicate that is not in agreement with a Transmission Owner's proposed additions. The NYISO shall report its determinations under this section in the RNA and in the CRP.

~~4.2.5~~4.2.6 Reliability Scenario Development

The NYISO, in consultation with the ESPWG and TPAS, shall develop reliability scenarios addressing the first five years and the second five years of the Study Period. Variables for consideration in the development of these reliability scenarios include but are not limited to: load forecast uncertainty, fuel prices and availability, new resources, retirements, transmission network topology, and limitations imposed by proposed environmental legislation.

~~4.2.5.1~~4.2.6.1 Evaluation of Alternate Reliability Scenarios

The NYISO will conduct additional reliability analyses for the alternate reliability scenarios developed pursuant to paragraph 4.2.6. These evaluations will test the robustness of the needs assessment studies conducted under paragraphs 4.2.1.2 and 4.2.2. This evaluation will only identify conditions under which Reliability Criteria may not be met. It will not identify or propose additional needs. In addition, the NYISO will perform appropriate sensitivity studies to determine whether Reliability Needs previously identified can be mitigated through alternate system configurations or operational modes. The reliability needs may increase in some reliability scenarios and may decrease, or even be eliminated, in others. The NYISO shall report the results of these evaluations in the RNA.

~~4.2.6~~4.2.7 Reliability Needs Assessment Report Preparation

Once all the analyses described above have been completed, NYISO Staff will prepare a draft of the RNA including discussion of its assumptions, Reliability Criteria, and results of the analyses.

5. Review Process

5.1 Market Participant Process

The draft RNA shall be submitted to both TPAS and the ESPWG for review and comment. Following completion of that review, the draft RNA shall be forwarded to the

Operating Committee for discussion and action. The NYISO shall notify the Business Issues Committee of the date of the Operating Committee meeting at which the draft RNA is to be presented. Following the Operating Committee vote, the draft RNA will be transmitted to the Management Committee for discussion and action.

5.2 Board Action

Following the Management Committee vote, the draft RNA, with working group, Operating Committee, and Management Committee input, will be forwarded to the NYISO Board for review and action. Concurrently, the draft RNA will be provided to the Independent Market Advisor for his review and consideration of whether market rules changes are necessary to address an identified failure, if any, in one of the NYISO's competitive markets. The Board may approve the RNA as submitted, or propose modifications on its own motion. If any changes are proposed e by the Board, the revised RNA shall be returned to the Management Committee for comment. The Board shall not make a final determination on a revised RNA until it has reviewed the Management Committee comments. Upon approval by the Board, the NYISO shall issue the final RNA to the marketplace by posting it on its web site.

5.2.1 In the event that a Market Participant raises a dispute relating to the final conclusions or recommendations of the RNA, a Market Participant may refer such dispute to the NYPSC for resolution. The NYPSC determination shall be binding, subject only to judicial review in the courts of the State of New York pursuant to Article 78 of the NYCPLR.

5.3 Public Information Sessions

In order to provide the ample exposure for the marketplace to understand the identified reliability needs, the NYISO will provide various opportunities for Market Participants and other potentially interested parties to discuss the final RNA. Such opportunities may include presentations at various NYISO Market Participant committees, focused discussions with various industry sectors, and/or presentations in public venues.

6. Development of Solutions to Reliability Needs

The first time any Reliability Need is identified in any RNA issued under this tariff, the NYISO shall request and the Responsible TO shall provide to the NYISO, as soon as reasonably possible, a proposal for a regulated solution that shall serve as a potential backstop. Such proposals may include reasonable alternatives that would effectively address the Reliability Need. The Responsible TO shall also estimate the lead time necessary for the implementation of its proposal. The NYISO will establish a lead time for responses submitted pursuant to sections 6.1, 6.2 and 7.3 on the basis of the time period required for implementation of the proposed backstop solution. Contemporaneous with the request to the TO, the NYISO shall solicit responses using the two-step process defined below, which shall not be a formal RFP process.

Market Participants may submit at any time optional suggestions for changes to NYISO rules or procedures which could result in the identification of additional resources or market alternatives suitable for meeting Reliability Needs.

6.1 Market-Based Responses

The NYISO will first request market-based responses from the market place. To the extent timing considerations allow, as the NYISO determines pursuant to section 6.0 above, and while continuing to ensure reliability, a period of time will be reserved for the development and review of market-based responses only. Subject to the execution of appropriately drawn confidentiality agreements and FERC's standards of conduct, the NYISO and the appropriate Transmission Owner or Transmission Owners shall provide any party who wishes to develop such a response access to the data that is necessary to develop its response. Such data shall only be used for the purposes of preparing a market-based response to a Reliability Need under this section. Such responses will be open to all resources, including generation, demand response providers, and merchant transmission developers.

~~6.1.1 The Transmission Owners and the NYISO shall follow the same procedures set forth in this paragraph the first time a Reliability Need is identified in any subsequent RNA.~~

6.1.1 Qualifications for a Valid Response

The NYISO will develop procedures establishing qualifications and criteria for a valid market-based solution in conjunction with ESPWG. Such qualifications shall recognize the differences between various resources' characteristics and development time lines.

6.2 Regulated Responses

In the event that no market-based solution qualified under section 6.1.1 is proposed, the NYISO will initiate the second step of the solicitation process by requesting regulated responses to Reliability Needs. Such proposals may include reasonable alternatives that would effectively address the identified Reliability Need.

6.2.1 In response to the NYISO's request, Other Developers may develop regulated proposals for generation, demand side alternatives, and/or other solutions to address a Reliability Need. Transmission Owners, at their option, may submit additional proposals for backstop regulated solutions to the NYISO. Other Developers shall submit such proposals to the NYDPS. Subject to the execution of appropriately drawn confidentiality agreements and FERC's standards of conduct, the NYISO and the appropriate Transmission Owner or Owners shall provide Other Developers access to the

data that is needed to develop their proposals. Such data shall only be used for purposes of preparing an alternative regulated proposal in response to a Reliability Need. Proposals sponsored by Other Developers that satisfy the NYDPS may be submitted by the respective Other Developer to the NYISO for review under this tariff.

7. NYISO Evaluation of Proposed Solutions

The NYISO shall evaluate the market-based proposals that qualify for review under section 6.1.2 and all regulated proposals submitted in accordance with Section 6.2, to determine which, if any, of these proposed solutions will meet Reliability Needs. The NYISO shall report the results of its evaluations in the CRP, as provided below.

7.1 Market Based Proposals

The NYISO shall review proposals for market-solutions and determine whether they resolve a Reliability Need. If market-based solutions are found by the NYISO to be sufficient to meet Reliability Needs in a timely manner, the NYISO will so state in the CRP.

7.1.1 The NYISO will not select from among the market-based solutions if there is more than one proposal which will meet the same Reliability Need.

7.2 Regulated Responses

If market-based solutions do not resolve Reliability Needs, the NYISO shall proceed to review the proposed regulated solutions submitted in accordance with sections 6.0 and 6.2 above.

7.2.1 The NYISO will determine whether the proposed regulated solutions will address Reliability Needs in a timely manner. Following initial review of the proposals, NYISO Staff will identify any reliability deficiencies in each of the proposed solutions. The Responsible TO or Other Developer will discuss any identified deficiencies with the NYISO Staff. Other Developers shall have the option to revise and resubmit their proposals to address any identified deficiency. The Responsible TO shall make necessary changes to its proposed backstop solution to address such reliability deficiencies and submit a revised proposal to the NYISO for review. The NYISO shall review all such revised proposals to determine that all of the identified deficiencies have been resolved.

7.2.2 If the NYISO determines that a market-based solution will not be available in time to meet a Reliability Need, and finds that it is necessary to take action to ensure reliability, it will state in the CRP that implementation of a backstop ~~backstop~~ regulated solution is necessary. The NYISO will also identify in the CRP (1) the backstop ~~backstop~~ regulated solution that will resolve the Reliability Need, and (2) the Responsible TO.

7.2.3 If the NYISO determines that it is necessary for the Responsible TO to proceed with a backstop regulated solution to be conducted in parallel with a market-

based solution in order to ensure that a Reliability Need is met in a timely manner, the CRP will so state.

7.3 Gap Solutions

7.3.1 If the NYISO determines that neither market-based proposals nor regulated proposals can satisfy the Reliability Needs in a timely manner, the NYISO will set forth its determination that a Gap Solution is necessary in the CRP. The NYISO will also request the Responsible TO ~~to~~ seek a Gap Solution.

7.3.2 If there is an imminent threat to the reliability of the New York power system, the NYISO Board, after consultation with the NYSDPS, may request the appropriate TO or TOs to propose a Gap Solution outside of the normal planning cycle.

7.3.3 Upon the NYISO's determination of the need for a Gap Solution, pursuant to either Section 7.3.1 or 7.3.2 above, the Responsible TO will immediately propose such a solution for consideration by the NYISO and NYSDPS.

7.3.4 Any party may submit an alternative Gap Solution proposal to the NYISO and the NYS DPS for their consideration. The NYISO shall evaluate all Gap Solution proposals to determine whether they will meet the Reliability Need or imminent threat. The NYISO will report the results of its evaluation to the party making the proposal as well as to the NYS PSC and/or other appropriate regulatory agency(ies) for consideration in their review of the proposals.

7.3.5 Gap Solution proposals submitted under Sections 7.3.3 and 7.3.4 shall be designed to be temporary solutions and to strive to be compatible with permanent market-based proposals.

7.3.6 A permanent regulated solution, if appropriate, may proceed in parallel with a Gap Solution.

8. Comprehensive Reliability Plan

Following the NYISO's evaluation of the proposed market-based and regulated solutions to Reliability Needs, the NYISO will prepare a Comprehensive Reliability Plan ("CRP"). The CRP shall set forth the NYISO's findings and recommendations, including any determination that implementation of a regulated solution (which may be a Gap Solution) is necessary to ensure system reliability.

8.1 Market Participant Process

The NYISO Staff shall submit the draft CRP to TPAS and ESPWG for review and comment. Following completion of that review, the draft CRP shall be forwarded to the Operating Committee for a discussion and action. The NYISO shall notify the BIC of the date of the Operating Committee meeting at which the draft CRP is to be presented. Following the Operating Committee vote, the draft CRP will be transmitted to the Management Committee for a discussion and action. .

8.2 Board Action

Following the Management Committee vote, the CRP, with working group, Operating Committee, and Management Committee input, will be forwarded to the NYISO Board for review and action. Concurrently, the CRP will also be provided to the Independent Market Advisor for his review**.** The Board may approve the draft CRP as submitted or propose modifications on its own motion. If any changes are proposed by the Board, the revised CRP shall be returned to the Management Committee for comment. The Board shall not make a final determination on the CRP until it has reviewed the MC comments. Upon final approval by the Board, the NYISO shall issue the CRP to the marketplace by posting on its website.

8.2.1 The NYISO will provide the CRP to the appropriate regulatory agency(ies) for consideration in their review of the proposals.

8.3 In the event that a Market Participant disputes the NYISO's final determination in the CRP that proposed solutions will or will not meet Reliability Needs, a Market Participant seeking further review shall refer such dispute to the NYPSC for resolution. The NYPSC's final determination shall be binding, subject to judicial review in the courts of the State of New York pursuant to Article 78 of the NYCPLR.

8.4 If the NYISO determines in the CRP that implementation of a backstop regulated solution is necessary, the NYISO will request the Responsible TO to submit its proposal for a regulated solution to the appropriate state regulatory agency(ies) to begin the approval process. The Responsible TO in response to the NYISO request shall make such a submission. Other Developers proposing alternative regulated solutions pursuant to Section 6.2.1 that have completed any changes required by the NYISO under Section 7.2.1, which the NYISO has determined will resolve the identified deficiencies, may submit these proposals to the appropriate state regulatory agency(ies) for review.

8.4.1 If the NYISO determines in the CRP that it is necessary for the Responsible TO to proceed with the regulated solution identified in 8.4 in parallel with a market-based solution in order to ensure that a Reliability Need is met in a timely manner, the Responsible TO shall proceed with due diligence to develop it in accordance with Good Utility Practice unless or until notified by the NYISO that it has determined that the regulated solution is no longer needed.

8.5 If, after consultation with the Responsible TO, the NYISO determines that the Responsible TO has not submitted its proposed solution for state regulatory action within a reasonable period of time, or that the TO has been unable to obtain the approvals or property rights necessary under applicable law to construct the project, the NYISO shall submit a report to the FERC for its consideration and determination of whether any action is appropriate under federal law.

9. Monitoring of Project Status

9.1 The NYISO will monitor and report on the status of market-based solutions to ensure their continued viability to meet Reliability Needs on a timely basis in the CRP. The NYISO will develop criteria, in conjunction with the ESPWG, to assess the continued viability of such projects.

9.2 The NYISO will monitor and report on the status of regulated solutions to ensure their continued viability to meet Reliability Needs on a timely basis in the CRP. The NYISO will develop criteria, in conjunction with the ESPWG, to assess the continued viability of such projects.

9.3 The NYISO, in conjunction with ESPWG, will develop the criteria for halting a regulated solution that is already underway because of the entry of a viable market-based solution that the NYISO has determined will meet the same Reliability Need. Such criteria shall also establish a cut-off point following which a regulated solution may not be cancelled regardless of the appearance of a market-based solution.

9.4 The NYISO, in conjunction with the ESPWG, will develop criteria for determining the cutoff date for a determination that a market-based solution will not be available to meet a Reliability Need on a timely basis.

10. Cost Allocation Principles

10.1 Market-Based Responses

The costs of market-based solutions shall be the responsibility of the developer of the market-based proposal and shall not be subject to the provisions of Section 10.2.

10.2 Regulated Responses

Cost allocation for regulated solutions to Reliability Needs shall be determined by the NYISO based upon the principle that beneficiaries should bear the cost responsibility. The NYISO will develop criteria in consultation with Market Participants for determining the beneficiaries of regulated solutions to Reliability Needs. The specific cost allocation methodology, to be developed by the NYISO in consultation with the ESPWG, will incorporate the following elements:

10.2.1 The focus of the cost allocation methodology shall be on solutions to violations of specific Reliability Criteria.

10.2.2 Potential impacts unrelated to addressing the Reliability Needs shall not be considered for the purpose of cost allocation for regulated solutions.

10.2.3 Primary beneficiaries shall initially be those Transmission Districts who are identified as contributing to the reliability violation.

10.2.4 The cost allocation among primary beneficiaries shall be based upon their relative contribution to the need for the regulated solution.

10.2.5 The NYISO will examine the development of specific cost allocation rules based on the nature of the reliability violation (e.g. – thermal overload, voltage, stability, resource adequacy & short circuit).

10.2.6 Cost allocation among Transmission Districts shall recognize the terms of prior agreements among the Transmission Owners, if applicable.

10.2.7 Consideration should be given to the use of a materiality threshold for cost allocation purposes

10.2.8 The methodology shall provide for ease of implementation and administration to minimize debate and delays to the extent possible.

10.2.9 Consideration should be given to the "free rider" issue as appropriate.

10.2.10 The methodology shall be fair and equitable.

10.2.11 The methodology shall provide cost recovery certainty to investors to the extent possible.

10.2.12 The methodology shall apply, to the extent possible, to Gap Solutions.

10.3 Interconnection Cost Allocation

The cost allocation methodology developed under this section shall not apply to the allocation of interconnection costs for market based generation and merchant transmission projects, which is determined in accordance with Attachment S of the NYISO OATT.

11. Cost Recovery for Regulated Projects

The Transmission Owners will be entitled to full recovery of all reasonably incurred costs related to the development, construction, operation and maintenance of regulated solutions, including Gap Solutions, undertaken by a Transmission Owner at the request of the NYISO pursuant to this tariff to meet a Reliability Need, including a reasonable return on investment and any applicable incentives.

11.1 The Responsible TO will receive cost recovery for a regulated solution it undertakes at the NYISO's request under this tariff that is subsequently cancelled in accordance with the criteria established pursuant to section 9.3 above. Such costs will include costs incurred through the time of cancellation, including any forward commitments made.

11.2 The Responsible TO shall have the right to make a filing with FERC, under Section 205 of the Federal Power Act, for approval of its costs described in section 11 incurred with respect to the implementation of a regulated transmission solution determined by the NYISO in the CRP to be necessary to meet a Reliability Need. Upon request by LIPA or NYPA, the NYISO will make a filing with FERC on behalf of LIPA or NYPA, as the case may be.

11.3 Cost recovery for regulated transmission projects undertaken pursuant to the NYISO's request under this tariff shall be under the NYISO OATT and in accordance with the provisions of the Agreement Between the New York Independent System Operator, Inc. and the New York Transmission Owners on the Comprehensive Planning Process for Reliability Needs.

11.4 Costs related to regulated non-transmission reliability projects will be recovered by the Transmission Owners in accordance with the provisions of New York Public Service Law.

12. FERC Role in Dispute Resolution

Disputes directly relating to the NYISO's compliance with its tariffs that are not resolved in the internal NYISO appeals process shall be reviewed at the Federal Energy Regulatory Commission pursuant to the Federal Power Act if such review is sought by a Market Participant.

13. **Non-Jurisdictional Entities**

LIPA's and NYPA's participation in the NYISO Comprehensive Reliability Planning Process shall in no way be considered to be a waiver of their non-jurisdictional status pursuant to Section 201(f) of the FPA, including with respect to the FERC's exercise of the FPA's general ratemaking authority.

14. **Tax Exempt Financing Provisions**

None of Con Edison, NYPA or LIPA shall be required to construct, or cause to construct, a transmission facility identified through the NYISO Comprehensive Reliability Planning Process if such construction would result in the loss of tax-exempt status of any tax-exempt bond issued by any of Con Edison, NYPA or LIPA, or impair their ability to secure future tax-exempt financing.

APPENDIX A: REPORTING OF HISTORIC CONGESTION

1.0 General

As part of its Comprehensive Planning Process, the NYISO will prepare summaries and detailed analysis of historic congestion across the New York Transmission System. This will include analysis to identify the significant causes of historic congestion in an effort to help Market Participants and other stakeholders distinguish persistent and addressable congestion from congestion that results from one time events or transient adjustments in operating procedures that may or may not recur. This information will assist Market Participants and other stakeholders to make appropriately informed decisions.

2.0 Definition of Congestion

The NYISO will report the cost of congestion as the change in bid production costs that results from transmission congestion. In addition, the following elements of congestion-related costs will also be reported: (i) impact on load payments; (ii) impact on generator payments; and (iii) hedged and unhedged congestion payments.

The determination of the change in bid production costs and the other elements of congestion will be based upon the difference in costs between the actual constrained system prices computed in the NYISO's Day-Ahead Market and a simulation of an unconstrained system. The simulation shall be developed by the use of the PROBE model approved by the NYISO Operating Committee on January 22, 2004.

3.0 Analysis

Each Reliability Needs Assessment will include the NYISO's summaries and detailed analysis of the prior year's congestion across the New York Transmission System. The NYISO's analysis will identify the significant causes of the historic congestion.

4.0 Detailed Cause Analysis for Unusual Events

The NYISO will perform an analysis to identify the cause of unusual events causing significant congestion levels. Such analysis will include the following elements: (i) identification or the cause of major transmission outages; and (ii) quantification of the market impact of reliveing historic constraints.

Some of the information necessary to this analysis may be constitute sensitive electric infrastructure material and will need to be handled with appropriate confidentiality limitations to protect national security interests.

5.0 Summary Reports

The NYISO will prepare various reports of historic congestion costs. These reports will be based upon the actual congestion data from the NYISO day-ahead market, and will include summaries, aggregated by month and calendar year, such as: (i) NYCA; (ii) by zone; (iii) by contingency in rank order; (iv) by constraint in rank order; (v) total dollars; and (vi) number of hours.

These reports will be based upon the foregoing definitions of congestion.