

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

New York Independent System Operator, Inc.)	Docket No. ER00-3038-000
)	
New York State Electric & Gas Corporation)	
)	
v.)	Docket No. EL00-70-000
)	and EL00-70-001
New York Independent System Operator, Inc.)	

**NEW YORK INDEPNDENT SYSTEM OPERATOR INC.'S: (1)
EMERGENCY REQUEST FOR LIMITED CLARIFICATION,
(2) ALTERNATIVE EMERGENCY REQUEST FOR
LIMITED REHEARING AND PARTIAL STAY, AND (3) REQUEST
FOR A SHORTENED PERIOD TO FILE ANSWERS**

Pursuant to Rule 212 of the Commission's Rules of Practice and Procedure,¹ the New York Independent System Operator, Inc. ("NYISO") hereby respectfully submits an emergency request for limited clarification of one aspect of the Commission's July 26, 2000 order in this proceeding

² *i.e.*, its holding that sink price cap bids should not be subject to temporary bid caps.

Alternatively, if the Commission denies the requested clarification, the NYISO hereby respectfully submits an emergency request for limited rehearing and partial stay of the Commission's sink price cap bid holding pursuant to Rule 713 of the Commission's Rules of Practice and Procedure.³

¹ 18 C.F.R. § 385.212 (2000).

² *New York Independent System Operator, Inc.*, 92 FERC ¶ 61,073 (2000).

³ 18 C.F.R. § 385.713 (2000).

The NYISO is submitting this emergency filing because the Order's decision on sink price cap bids is predicated on two factual errors.⁴ First, the Commission incorrectly determined that the NYISO's temporary bid caps should not apply to sink price cap bids used for scheduling exports from NYISO "because Sink Price Cap Bids are not used to determine prices that are paid by buyers and

⁵ The Commission evidently assumed that sink price cap bids are "used only to determine scheduling for exports," which is correct with respect to bids in the hour-ahead market, but is incorrect with respect to such bids in the day-ahead market. Second, if the Order was intended to apply to sink price cap bids in the day-ahead market, then the Commission incorrectly determined that capping sink price cap bids would increase the frequency of erroneous export curtailments by undermining a bidding strategy the NYISO advised market participants to follow in the hour-ahead market until it fixes an export-related software problem.⁶

As is explained below, sink price cap bids in the day-ahead market can in fact establish "prices that are paid by buyers and received by sellers." Thus, to the extent that the Order rejects temporary bid caps on both hour-ahead market and day-ahead market sink price cap bids, the Commission has created a loophole that could permit energy prices in New York to rise as high as \$9,999.99 this summer. In addition, imposing the same temporary bid cap on day-ahead market sink price cap bids,

⁴ The NYISO will soon make another filing seeking clarification and rehearing of another issue and reporting on certain compliance matters addressed by the Order. However, the need for clarification or modification of the Order's sink price cap bid holding is so urgent that the NYISO has made this separate filing first.

⁵ Order, *slip op.* at 16.

⁶ *Id.* The NYISO has discussed its efforts to correct this software problems in its pleadings in Docket No. EL00-82-000 and will address the subject again in its September 1 compliance filing in this and other proceedings.

as the NYISO proposed, will not prevent exporters from using the NYISO's recommended hour-ahead market bidding strategy to minimize erroneous export curtailments until the NYISO corrects its software.

II. The NYISO's Treatment of Sink Price Cap Bids

A. Sink Price Cap Bids Are Primarily a Scheduling Mechanism, But They Can Also Establish Locational Based Marginal Pricing Rates

The NYISO's scheduling of export transactions is based on sink price cap bids that are submitted by exporters and should reflect the price they are willing to pay for energy. The operation of the sink price cap bid mechanism is straightforward. If the locational based marginal price ("LBMP") at the relevant external proxy bus (*i.e.*, the sink) is less than an exporter's sink price cap bid then the export transaction will be scheduled. Conversely, if the LBMP at the relevant external proxy bus is greater than the sink price cap bid then the export transaction will not be scheduled, and energy will not be exported.

Although one purpose of the sink price bid cap mechanism is to serve as an export scheduling tool, it is also possible for day-ahead market sink price cap bids to set LBMPs for the NYISO-administered markets, *i.e.* to determine actual payment obligations. This could occur if the NYISO were to experience a capacity deficiency when attempting to meet the New York Control Area's ("NYCA") load and reserve requirements. In this situation, allowing export transactions to continue to use uncapped day-ahead market sink price cap bids would cause the NYISO's Security Constrained Unit Commitment ("SCUC") software to set the NYCA LBMP at a level equal to uncapped day-ahead market sink price cap bid of the export transactions. This is true because the export transactions would be the last to be backed down (*i.e.*, not scheduled) and would therefore set the marginal price of

energy in the NYCA. This result would not be the product of a software glitch or “market flaw” but would reflect the proper operation of SCUC, since sink price cap bids are always eligible to set LBMP. Given the tight supply conditions that the NYISO anticipates will occur from time to time during the remainder of the summer, it is possible that the kind of capacity deficiency described above could occur. Because the NYISO software is capable of handling \$9,999.99 bids, and because exporters, including NYCA generation owners, may submit sink price cap bids at this level if they were permitted to do so, NYCA energy prices could reach \$9,999.99 MWh, despite the Order’s imposition of a temporary \$1,000 cap, if day-ahead market sink price cap bids are not capped.

By contrast, hour-ahead market sink price cap bids cannot set the LBMPs that are paid by buyers and received by sellers. This is because hour-ahead market bids are evaluated by the NYISO’s Balancing Market Evaluation (“BME”) software, which serves as a scheduling tool, whereas day-ahead market bids are evaluated by the SCUC software, which establishes day-ahead market LBMPs and schedules.

B. Exports Would Not Be Any More Likely to Be Curtailed if Sink Price Cap Bids Were Subject to the Same Temporary Caps As Other Energy Bids

The Order is correct to note that the NYISO has previously instructed exporters to submit \$9,999.99 hour-ahead market sink price cap bids as a means of minimizing the chances that their transactions will be erroneously cut by BME until such time as a permanent SCUC software fix can be implemented. However, the Order errs insofar as it concludes that imposing a \$1,000 bid cap on day-ahead market sink price cap bids would undermine the NYISO’s recommended hour-ahead market bidding strategy. Prior to the Commission’s Order, sink price cap bids, energy bids, minimum generation bids, decremental bids, price cap load bids and installed capacity recall bids in the day-

ahead market were all subject to a *de facto* cap of \$9,999.99 because the NYISO software does not accommodate larger numbers. If all bids were temporarily capped at the same level, as the NYISO has proposed, exporters would be in the same position as they were before the temporary \$1,000 bid cap was imposed. Exporters would be able to bid as high as other bidders, just as they were in the absence of temporary bid caps. Thus, imposing temporary bid caps on day-ahead market sink price cap bids will not increase the frequency of erroneous export curtailments, provided that day-ahead market sink price cap bids are capped at the same level as other bids.

III. Emergency Request for Limited Clarification

As was noted above, day-ahead market sink price cap bids can “determine prices that are paid by buyers and received by sellers” this summer, while hour-ahead market sink price cap bids cannot. Accordingly, the NYISO seeks clarification that the Commission’s directive to “exclude Sink Price Cap⁷ should be interpreted as applying only to hour-ahead market sink price cap bids and not to day-ahead market sink price cap bids. Hour-ahead market sink price cap bids cannot set LBMP, and the NYISO does not believe there would be any harm in permitting hour-ahead market sink price cap bids to exceed \$1,000.

The NYISO respectfully submits that clarification of this point is warranted because any other interpretation of the Order would place the Order’s holding at odds with the way sink price cap bids actually work. Moreover, clarification should be provided on an expedited, emergency basis since a contrary reading of the Order would leave the NYISO’s customers exposed to prices that the Commission determined would be inappropriately high for this summer.

⁷ Order, *slip op.* at 16.

⁹ In applying this standard, the Commission has traditionally considered three factors in determining whether a stay should be granted. These are: (i)

⁸ A stay will not be necessary if the Commission grants the NYISO's request for clarification.

⁹ 5 U.S.C. § 705 (1994).

whether the moving party will suffer irreparable injury without a stay; (ii) whether issuing a stay will not substantially harm other parties; and (iii) whether a stay is in the public interest.¹⁰ The NYISO believes that the facts of this case justify a stay under the applicable standards.

In this case, granting a stay would clearly be in the public interest. The Order found that temporary bid caps were required to protect the public interest. The NYISO's request for a stay will simply ensure that the public interest is not harmed by a loophole that would permit prices to rise to levels the Commission has concluded would be inappropriately high (at least this summer). No market participant will suffer a legally cognizable harm if a stay is granted, since the Order has rejected arguments that the imposition of a \$1,000 bid cap, without loopholes, would harm market participants. Finally, although the NYISO itself would not be irreparably harmed if its request for a stay were denied, the integrity of the markets that the NYISO administers would be irreparably harmed. The NYISO should be permitted to represent the market in this context.

V. Request for Waiver of Notice Requirement and Request for Expedited Commission Action

The NYISO respectfully submits that expedited Commission action is appropriate in this proceeding because if the Order is not clarified, or, in the alternative modified, as the NYISO has requested, energy prices in the NYISO-administered markets could be much higher than \$1,000 this summer. This would clearly contravene the Order's intent and would expose customers in the NYISO-administered markets to prices that the Order deemed to be inappropriately high (at least for this

¹⁰ See, e.g., *CMS Midland, Inc., Midland Cogeneration Venture Limited Partnership*, 56 FERC ¶ 61,177 at 61,631 (1991), *aff'd sub. nom, Michigan Municipal Cooperative Group v. FERC*, 990 F.2d 1377 (D.C. Cir. 1993), *cert. denied*, 510 U.S. 990 (1993).

summer.) Accordingly, the NYISO submits that good cause exists for the Commission to permit no more than five days for the submission of answers to this filing. The NYISO also urges the Commission to issue an order granting its emergency request for clarification, or its alternative request for rehearing and partial stay, as expeditiously as possible so as to eliminate uncertainty concerning the treatment of sink price cap bids. .

VI. Conclusion

WHEREFORE, for the foregoing reasons the New York Independent System Operator, Inc., respectfully asks that the Commission: (i) grant its emergency request for limited clarification concerning sink price cap bids; or (ii) grant its alternative emergency request for limited rehearing and partial stay of the Commission's holding concerning sink price cap bids; and (iii) reduce the time for the filing of answers.

Respectfully submitted,

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July 31, 2000

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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 Washington, D.C. this 31st day of July 2000.

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Path: DOCSOPEN\WASHINGT\08239\55430\000005\3\$Z002!.DOC
Doc #: 164556; V. 2
Doc Name: Emergency Motion Re: Sink Price Cap Bids
Author: Murphy, Ted, 08239
Last Edit: 7/31/00 11:14 AM