

Compiled Market Participant Price Correction Comments
Comments submitted through October 26, 2005

Comments from the Transmission Owners, LIPA and NYPA:

October 26, 2005

TO: Ray Stalter
FROM: Paul L. Gioia
RE: Comments on Proposed Tariff Provisions

The following comments on the proposed tariff provisions regarding NYISO price corrections are submitted on behalf of the New York Transmission Owners,¹ LIPA and NYPA

1. No Limitation of Market Participant Rights

It should be made clear that the tariff filing is intended to clarify the NYISO's price correction procedures and the time periods in which the NYISO is obligated to reserve and correct prices; and not to in any way extinguish or limit a market participant's right to have prices calculated in conformity with the NYISO's tariffs. The tariff provisions should eliminate the distinction between TEP and non-TEP corrections under the NYISO's procedures, but should not affect a market participant's rights under the filed rate doctrine.² In addition, the NYISO should retain the responsibility of bringing incorrectly calculated prices to the attention of FERC and market participants, if discovered after the price correction period has expired.

¹ Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation, a National Grid Company, Orange and Rockland Utilities, Inc. and Rochester Gas and Electric Corporation.

² Before market participants can reasonably be asked to accept limitations on their rights to seek redress from FERC and the courts for prices that do not conform to the requirements of the NYISO's tariffs, the NYISO will have to significantly improve its ability to produce accurate prices on a consistent basis.

Specifically, the sixth paragraph under **Guiding Principles**, should be revised to read as follows:

An Energy or Ancillary clearing price that is found not to be calculated in accordance with the NYISO tariffs shall be corrected by the NYISO in accordance with the price correction provisions of the NYISO tariffs; provided, however, that the price correction provisions in the NYISO tariffs shall not affect the right of a market participant to seek relief from FERC or a court of competent jurisdiction with respect to a clearing price that is not calculated in accordance with the NYISO's tariffs. If any Energy or Ancillary clearing price that was not calculated in accordance with the NYISO tariffs is discovered after the period for price corrections in the NYISO tariffs has expired, the NYISO shall bring the incorrectly calculated price to the attention of market participants and FERC as soon as possible.

A similar revision should be made to the first paragraph under **IV C. Limitation of Price Corrections**. In addition, the first indented paragraph under **Key Terms of Proposed Provisions, I. Scope**, the words "or filed rate doctrine" should be deleted.

2. The Proposed Tariff Provisions Do Not Provide an Adequate Commitment to Improve Pricing Accuracy

The first paragraph under **Guiding Principles** states that the NYISO must achieve an acceptable level of initial price accuracy, and refers to the need for improved performance. It

also states that the NYISO is dedicating substantial resources to addressing the root causes of price errors, which were detailed in the Action Plan discussed with market participants on September 1.

The Action Plan discussed on September 1, however, is too general to provide a basis for confidence that the NYISO's price correction performance will be significantly improved in a reasonable time period. Furthermore, the NYISO has not completed nor provided a timeframe for completion of the elements in its Action Plan. The Action Plan makes a general reference to the NYISO's Lean Six Sigma program, but does not explain specifically how that program will improve the NYISO pricing process.

The NYISO filing should include an analysis and categorization of price errors, along with the NYISO's proposed remedial action and a timeframe for completion. The filing should also explain how the NYISO's Lean Six Sigma program will be applied to its pricing procedures and establish clear goals with respect to pricing accuracy. One of the objectives of the Lean Six Sigma program is to reduce complexity. However, the NYISO has not responded to suggestions by market participants that the complexity of its pricing procedures be reviewed to determine whether they can be simplified, within the framework of the NYISO's market rules.

The NYISO's Action Plan also should provide that an independent entity (internal or external) will have oversight responsibility for the NYISO's pricing activities to ensure that prices have been correctly calculated, are based on correct data, and are otherwise in conformity with its tariffs. The NYISO's pricing procedures also should be subject to independent audit.

It should be noted that the projected reduction in the percentage of hours corrected by the NYISO, following the spike in corrections that occurred after the implementation of SMD2, does not, by itself, represent sufficient improvement in the NYISO's pricing performance. Furthermore, using the percentage of hours corrected for a billing code that changes every five minutes is not the appropriate measurement. It would be more appropriate to set targets at the 5-minute price-interval level (also referred to as the RTD pricing level). For example, if the target is set to have no more than 2% of hourly prices change in a month, this goal would be satisfied if less than 15 hours per month had price changes (2% of 744 hours). However, there are 180 5-minute pricing intervals in 15 hours, thus the NYISO would be allowed to have 180 price corrections in those 15 hours (15x12) and still meet the goal. While 180 of 8928 is still a 2% error rate, that number of errors should not be considered acceptable.

There are three additional dimensions to the 5-minute price changes than should have targets: First, the size of any 5-minute price-interval correction (it is relevant to know if a price-interval change results in a price that changes by 5% or 100%); Second, the number of 5-minute price-interval corrections made within any given hour (the impact on hourly prices would be far smaller if there is only one interval-price changed rather than ten interval-price changes); Third, the number of pricing locations that are affected by the price-interval change (is the price interval change for only one non-price setting generator bus, or for a zonal price setting bus). The NYISO also should report an estimate of the dollar impact of these price corrections.

3. The Rules Pertaining to Price Reservations and Corrections Have Not Been Clearly Established

The second paragraph under **Guiding Principles** states that the rules pertaining to all price reservations and corrections should be clearly established in the NYISO tariffs; and that the NYISO's tariffs should be revised to resolve any ambiguity regarding the NYISO's price correction responsibilities.

The proposed tariff filing, however, provides only general statements with respect to the procedures to be used in identifying prices that need to be corrected and the methodology to be used to correct specific types of errors. The NYISO tariffs, together with its manuals, should clearly identify specific types of pricing errors and the methodology by which they will be corrected. For example, **Section II B. Errors in Selecting the Price-Setting Resource** states that prices that are found not to have been calculated based on the appropriate price-setting resource are erroneous and shall be corrected by the NYISO. While the NYISO proposal provides several examples, it does not provide a definitive list of the data errors that would justify a price correction, thereby investing the NYISO with inappropriate discretion to decide whether or not a price should be changed.

4. The Proposed Tariff Revisions Do Not Adequately Address the Need for Pricing Transparency

The third paragraph under **Guiding Principles** states that the NYISO's price review and correction process must be transparent to NYISO market participants; and the NYISO should make available sufficient information to allow market participants to understand and monitor the price review and correction processes and determinations.

The proposed filing, however, does not identify the information that would be made available to market participants or when it would be made available, or explain how the information provided would enable market participants to understand and effectively monitor the NYISO's price review and correction processes and determinations. The proposed filing also does not set specific goals with respect to NYISO responses to market participant questions (*e.g.* the timeliness of the response, the completeness of the response, and feedback from market participants on the adequacy of the response).

5. The NYISO Filing Should Include an Action Plan that Addresses the Settlement Process and Bill Corrections

The seventh paragraph under **Guiding Principles** states that errors in the calculation of uplift charges or errors in the calculation of Bid Production Cost Guarantee payments are distinct from price errors and must be addressed separately through the NYISO's settlement correction process (*i.e.*, bill corrections).

While the NYISO seeks to address pricing errors and billing errors separately, they are related and the NYISO's inability to issue prompt and accurate bills has had an adverse effect on the NYISO markets comparable to that of pricing errors. The NYISO's filing, therefore, should include an action plan to address its settlement and billing process, similar to the Action Plan to address pricing. The billing action plan should include an analyses and categorization of settlement and billing problems, along with proposed remedial action to address those problems within a specified timeframe. The action plan also should explain how sufficient information will be provided to market participants to allow them to understand and effectively monitor the

NYISO's settlement and billing process and determinations, and should specifically address a more efficient process for NYISO responses to bill challenges.

The NYISO also should explain how the Lean Six Sigma program will be applied to its settlement and billing procedures and establish clear goals with respect to billing accuracy. The NYISO action plan should include a program to reduce settlement and billing complexity (*e.g.* documents clearly explaining all manual adjustments, posting of all data used to calculate manual adjustments, clear explanation of the reasons why some data may not be posted, standardization of the manual adjustment language and process as much as possible, and a plan to migrate manual adjustments into BAS).

Furthermore, the NYISO should establish clear goals with respect to settlement and billing accuracy, and milestones to be achieved before proposing reductions the current billing cycle. The NYISO's settlement and billing action plan also should provide that an independent entity (internal or external) will have oversight responsibility for the NYISO's settlement activities to ensure that settlements have been correctly calculated, are based on correct data, and are otherwise in conformity with its tariffs. The NYISO's settlements procedures also should be subject to independent audit, and available to market participants for review and comment.

6. The Limitation on the NYISO's Liability Should Except Gross Negligence and Intentional Misconduct

A request by the NYISO that the limitation on its liability include acts of gross negligence in the execution of its pricing responsibilities is unreasonable and is likely to be rejected by FERC on public policy grounds. A limitation on liability for ordinary negligence that excepts gross negligence and intentional misconduct would be appropriate.

Comments from Bill Heinrich for the NYS DPS:

Ray - My apologies for the informality and brevity of this response but there's a lot going on. I won't comment on the ramification of this to parties' rights under the filed rate doctrine or the question of the NYISO's limits of liability at this time as I would need input from my attorney who is unavailable this week, but just wanted to convey back that with regard to the rest of this document I believe the NYISO is on the whole on the right track. It is imperative that prices reflect the appropriate price-setting resource, and to simply price at all times based on actual dispatch simply ignores errors that may occur. Prices should not be corrected for improper mitigation, or improper failure to mitigate, as these are not generally transient errors and suppliers are otherwise protected while loads are not. I would not in principle be opposed to changes that would preserve a supplier's margin preservation payment in such a case, though the costs and benefits of various options for doing so would need to be addressed. I would also like to see a little more detail added to this document to address the process for corrections such as the TLR corrections that Nicole brought up at the last meeting. And finally, to state the obvious, support for this is dependent upon the NYISO's ability to eliminate pricing errors. Thanks.

Comments from Mat Millhous for Keyspan Ravenswood:

Ray,

Since it appears that virtually no changes have been made made from NYISO's original proposal with respect to procedural issues, I will reiterate my comments of 9/20/05 (attached) and point out that NYISO agreed, I believe at the suggestion of Doreen Saia, that the NYISO would not simply put out a revised proposal, but provide a summary of how MP comments were addressed, including reasons why proposed revisions were not accepted.

The attached comments are focused on the need for a specific, but limited, opportunity for market participants to seek a review of NYISO price corrections, if necessary. There is also a broader concern. KeySpan will not support any tariff changes that could be construed to limit the ability of a market participant to seek FERC action to correct a price it believed was not in accordance with the tariff and that it had no way of knowing earlier that it was not in accordance with the tariff.

KeySpan has no problem with sharing these comments. It is important that these issues be discussed openly if we are to arrive at the balance we are seeking, in a timely fashion.

Mat

Additional comments from Keyspan Ravenswood:

9/20/05

Ray,

During the September 1 BPCTF meeting, I noted that the NYISO's August 25 draft white paper on proposed tariff provisions provided for correction of prices only within the reservation and price correction times, or through FERC or judicial intervention. I suggested that consideration be given to an opportunity, within a limited time frame after the correction, for market participants to seek correction of any flaws in the correction process. I understand from Elaine Robinson's response in the September 19 meeting, that this concept was considered, but rejected in favor of greater price certainty sought by some market participants.

I will reiterate my concern here and provide some context.

- * The concern of market participants for price certainty is certainly recognized, but the price error elimination effort can reasonably be expected to deal with most of that concern.
- * Posting notice of the price correction with a description, the corrections and supporting references will certainly make the process more transparent, but to provide absolutely no opportunity for a market participant to question such corrections and seek resolution of perceived errors, absent a FERC filing, seems inconsistent with the overall goals of the BPCTF effort. I believe that four months is currently allowed for a final bill challenge. But that process does not address prices. Some limited, but reasonable window, for example, 30 days, should be allowed for challenge of a price correction.
- * The fact that it may be difficult for any particular market participant to discern any errors in the corrections, particularly given confidentiality restrictions, should not be a reason to dismiss this proposal. The presentation yesterday brought out that on some occasions market participants have noted problems, which the NYISO has investigated and corrected. This was without the benefit of the more transparent process BPCTF is seeking.
- * This proposal is consistent with the balance of accuracy and finality that NYISO states it is trying to achieve. It is also consistent with the fifth comment in the submission by the TO's.

Mat