

August 28, 2006

**Via Hand Delivery**

Honorable Magalie R. Salas, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, D.C. 20426

**Re: PPL EnergyPlus, LLC v. New York Independent System Operator, Inc.,  
Compliance Report of New York Independent System Operator, Inc.,  
Docket No. EL06-72-001**

Dear Ms. Salas:

Pursuant to Rule 1907 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”),<sup>1</sup> the New York Independent System Operator, Inc. (the “NYISO”) provides the Commission, for informational purposes, copies of changed pages from the NYISO’s Installed Capacity Manual (the “ICAP Manual”) that improve the transparency of the external ICAP import rights allocation *procedures*.<sup>2</sup> The NYISO also provides a report concerning the consideration by the NYISO and its stakeholders of changes to the underlying allocation *methodology*.

This filing responds to the compliance obligations specified in the Commission’s June 29, 2006 order in the above-referenced proceeding (the “Order”).<sup>3</sup>

**I. INTRODUCTION AND BACKGROUND**

In the Order, the Commission granted in part and denied in part the complaint of PPL EnergyPlus, LLC (“PPL”) against the NYISO. Specifically, the Commission found that the NYISO had violated its tariff by allocating “capacity import rights” to Coral Power, L.L.C. for the summer 2006 capability period. However, the Commission denied the relief requested by PPL, and imposed compliance obligations on the NYISO, as outlined below.

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<sup>1</sup> See 18 C.F.R. § 385.1907 (2006).

<sup>2</sup> The ICAP Manual is not filed with the Commission, but is posted on the “Documents → Manuals → Operations” link on the NYISO’s website.

<sup>3</sup> *PPL EnergyPlus, LLC v. New York Indep. Sys. Operator, Inc.*, Order Granting In Part And Denying In Part Complaint, 115 FERC ¶ 61,383 (June 29, 2006).

By way of background, the allocation process at issue arises from the Services Tariff's installed capacity ("ICAP") provisions. Under these provisions, each load-serving entity in the New York Control Area ("NYCA") is assigned a NYCA Minimum ICAP Requirement that can be met by self-supply or by the purchase, in NYISO-administered auctions or otherwise, of Unforced Capacity. Load-serving entities may procure Unforced Capacity from areas External to the NYCA, in amounts determined by the NYISO consistent with the Reliability Rules. Use of external ICAP to meet the NYCA Minimum ICAP Requirement requires obtaining an allocation of "Import Rights." The first-come, first-served process for allocating external ICAP import rights to NYISO Customers is specified in Section 4.9.2 of the ICAP Manual, and the NYISO's compliance with this section was the focus of the complaint in this proceeding.

In P 31 of the Order, the Commission stated:

In light of the apparent lack of transparency in the external ICAP import rights allocation process, we will require the NYISO to propose within 60 days of the date of this order *improvements to the process and revisions to the ICAP Manual so that both the requester and NYISO know when an allocation process begins.* (emphasis added)

This requirement is referred to herein as "Compliance Obligation 1."

P 31 of the Order also provided that:

NYISO shall also *consider whether external rights should be awarded on a pro rata basis among all bidders who submit bids within some interval rather than continue the allocation on an "all or nothing" basis.* (emphasis added)

This requirement is referred to herein as "Compliance Obligation 2" which, together with Compliance Obligation 1, will be referred to as the "Compliance Obligations."

## **II. RESULTS OF CONSULTATION WITH NYISO CUSTOMERS REGARDING COMPLIANCE OBLIGATIONS**

### **A. Compliance Obligation 1**

With respect to Compliance Obligation 1, the NYISO has discussed and reached consensus with its Customers, through a meeting of the ICAP Working Group on August 1, 2006 and of the Business Issues Committee ("BIC") on August 9, 2006, regarding several improvements in the transparency with which the NYISO will indicate that it has initiated the existing first-come, first-served fax-based allocation procedures. These improvements are reflected in revisions to Section 4.9.2 of the ICAP Manual. The revisions are shown in Attachment 1 to this filing, and are described in Section III, below.

A draft revised version of the relevant portions of Section 4.9.2 was e-mailed on August 23, 2006 for comment to all members of the ICAP Working Group and the BIC and was also being posted that day under "Manuals Under Review" in the "Documents" section of the NYISO website. The next allocation of external ICAP import rights (for the Winter Capability Period) will occur beginning at 8 a.m. EDT on August 30, 2006. So that the August 30 allocation is administered using these clarified procedures, the NYISO has today adopted and posted on its website an updated ICAP Manual (reflecting additional clarifications in response to stakeholder feedback on the August 23 posting) to reflect these revisions, and has notified all of its Customers by e-mail that the ICAP Manual has been updated, including a link to the revised Manual. This will ensure that all Customers are aware that these clarified procedures will be used on August 30.

Because changes to NYISO manuals are, at least in the absence of a compliance obligation, normally approved through the stakeholder process, the NYISO will continue to accept stakeholder comments on revised Section 4.9.2. Any comments received will be considered at the September BIC meeting. The NYISO will inform the Commission of any further changes to Section 4.9.2 made as a result of that meeting.

## **B. Compliance Obligation 2**

With respect to Compliance Obligation 2, the NYISO has considered, with its stakeholders, "whether external rights should be awarded on a pro rata basis among all bidders who submit bids within some interval rather than continue the allocation on an 'all or nothing' basis," as required in P 31 of the Order. Specifically, the NYISO considered this issue at the meetings of the ICAP Working Group and BIC on August 1 and August 9, 2006, respectively.

The ICAP Working Group's consideration of this issue entailed discussions of the current first-come, first-served allocation methodology versus *pro rata* or auction allocation methodologies. The discussion concluded in a straw vote, with only one member (PPL) supporting the concept of a *pro rata* allocation methodology. As a result, the ICAP Working Group recommended to the BIC that the current allocation methodology not be amended at this time.

The BIC discussed such issues as the potential impact on external ICAP import rights of the on-going revisions to the ICAP markets of neighboring ISOs and the other market re-design and implementation efforts that require the market participants' and the NYISO's immediate attention. After hearing from many participants including representatives of PPL regarding their interest in pursuing other allocation approaches, the BIC concurred in the ICAP Working Group's recommendation.

Subsequent to these meetings, however, it has come to the NYISO's attention that PPL would like additional consideration of alternatives to the existing allocation methodology. Accordingly, the NYISO plans to prepare specific ICAP Manual language changes that could be used to implement a *pro rata* allocation methodology and present it, together with supporting presentation materials, to the ICAP Working Group and to

the BIC meeting in October.<sup>4</sup> The NYISO commits to filing with the Commission a status report regarding these additional efforts on or before October 27, 2006, and will supplement this filing if any ICAP Manual changes are adopted as a result of this further consideration..

### **III. DESCRIPTION OF REVISIONS TO SECTION 4.9.2 OF THE ICAP MANUAL TO ADDRESS COMPLIANCE OBLIGATION 1**

In response to P 31 of the Order, the NYISO has revised – as shown in Attachment 1 hereto – the pertinent terms of Section 4.9.2 of the ICAP Manual to make the existing external ICAP import rights procedures more transparent to Customers. The revisions are facilitated by the ISO’s acquisition of a new facsimile machine that can be synchronized with U.S. atomic clock time.

As before, requests for Import Rights will be sent by facsimile, and submissions of such requests, whether prior to the start of a Capability Period or prior to the start of a Monthly Auction, may be made only after the occurrence of the start time of 8:00 AM ET. Under the revised procedures, the new fax machine will be programmed to begin receiving faxes only after the occurrence of 8:00 AM ET based on the synchronization of the clock in the new fax machine with a Network Time Protocol (NTP) server that is, in turn, synchronized with the U.S. atomic clock. Accordingly, NYISO Customers may wish to synchronize their fax-sending equipment with, or time the sending of their facsimiles based upon, the U.S. atomic clock. However, the clock in the new fax machine will establish, for Import Rights allocation purposes, the occurrence of the start time of 8:00 AM ET. The fax machine will create a log of received faxes and place a date/time stamp on each request.

Additional clarifications have been made to the “Priority” section of Section 4.9.2 to account for NYISO’s handling of the range of Import Rights allocation requests that the NYISO currently anticipates could be received.

A clock displaying Eastern (EST/EDT) time in hours, minutes and seconds (HH:MM:SS) will be visible on the NYISO website. This clock will be synchronized with a NTP server that is, in turn, synchronized to the US atomic clock. This NYISO website clock display is for the convenience of Customers only and does not govern the start time for the Import Rights allocation process. Instead, as noted above, the fax machine establishes the start time of the Import Rights allocation process.

In summary, these revisions fulfill the Commission’s directive to make “improvements to the process and revisions to the ICAP Manual so that both the requester and NYISO know when an allocation process begins.”

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<sup>4</sup> For this reason, the Management Committee will not be considering at this time the Motion approved by the Business Issues Committee on August 9 to retain the existing import rights methodology.

#### IV. ADDITIONAL SUPPORTING INFORMATION

The following materials and documents are included as part of this compliance filing:

- This compliance filing letter;
- Blacklined version of revised portions of Section 4.9.2 of the ICAP Manual, marked to show changes clarifying the external ICAP import rights allocation procedures in response to Compliance Obligation 1 of the Order (Attachment 1).

The NYISO is electronically serving a copy of this filing on each party on the official service list in this proceeding, on the official representative of each of its customers, on each member of its Market Participant committees, and on the New York State Public Service Commission, and by first class mail on the electric utility regulatory agencies of New Jersey and Pennsylvania.

Correspondence and communications regarding this filing should be addressed to the persons listed below:

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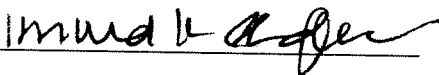
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Please acknowledge receipt of the foregoing by date-stamping the enclosed extra copy of this compliance filing and returning it to the courier delivering this filing

Respectfully submitted,

**NEW YORK INDEPENDENT SYSTEM  
OPERATOR, INC.**

By: 

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Counsel for New York Independent System  
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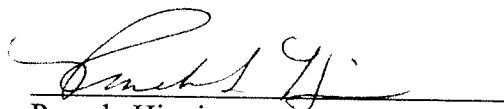
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## CERTIFICATE OF SERVICE

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 these proceedings.

Dated at Washington, D.C. this 28th day of August, 2006.



Pamela Higgins  
Ballard Spahr Andrews & Ingersoll, LLP  
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## **Attachment 1**



#### **4.9.2 Allocation of Import Rights**

The NYISO establishes the maximum amount of Unforced Capacity that can be provided to the NYCA by Resources located in each neighboring Control Area according to the procedures contained in Section 2.7 of this Manual. Once this amount has been determined for each neighboring Control Area, the allocation among NYISO customers of Import Rights to External Unforced Capacity supply is done according to the following procedures.

#### **Grandfathered External Installed Capacity Rights**

Details concerning Grandfathered Rights are provided in [Attachment E](#) to this Manual.

#### **Other Allocations**

After accounting for Grandfathered External Installed Capacity rights, the NYISO will allocate the remaining rights for External Unforced Capacity supply on a first-come, first serve basis. Import Rights may ultimately only be used by LSEs located within the NYCA, but any NYISO Customer may submit a request along with all required supporting documents seeking External Installed Capacity rights.

#### **Request**

Requests for Import Rights for one or more months within a Capability Period may be sent by facsimile to the NYISO (at the number listed below) during the following time period. A request sheet is available at: ([http://www.nyiso.com/public/webdocs/products/icap/auctions/Winter-2005-2006/forms/icap\\_import\\_rights\\_fax\\_form.pdf](http://www.nyiso.com/public/webdocs/products/icap/auctions/Winter-2005-2006/forms/icap_import_rights_fax_form.pdf)) or participants may use their own request sheet.

- ♣• Beginning at 8:00 AM ET
- ♣• For Summer Capability Period: on the first business day following the publication of the total number of import rights made available by the NYISO (on or about February 15)
- For Winter Capability Period: on the first business day not more than thirty (30) days prior to a Capability Period (strip) Auction, and
- Ending at 5:00 PM ET four (4) business days prior to a Capability Period Strip Auction.

On or about February 15 the NYISO shall post the final quantity of Import Rights available for request for the following Capability Year. The quantity of rights that will be available at that time prior to the Summer and the Winter Capability Period (strip) Auctions shall be 100 % of the Import Rights available, as posted by the NYISO.

If Import Rights are not fully subscribed after the Capability Period (strip) Auction has concluded, the NYISO will open another period of first-come, first-serve allocations

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prior to each Monthly Auction for the month or months in which Import Rights remain and the NYISO will post the available Import Rights after each subsequent auction.

For each month within a Capability Period, requests for Import Rights may be sent by facsimile to the NYISO (at the number listed below) during the following time period:

- Beginning at 8:00 AM ET on the business day following the day the NYISO posts the results of each Capability Period (Strip) or Monthly Auction.
- Ending at 5:00 PM ET four (4) business days prior to the next Monthly Auction.

### **Determination of Start Time for Submission of Requests**

As described above, submissions by facsimile of requests for Import Rights, whether prior to the start of a Capability Period or prior to the start of a Monthly Auction, may be made only after the occurrence of the start time of 8:00 AM ET.

This procedure will be implemented by programming of the NYISO's facsimile machine (the "FAX Machine") to begin receiving faxes only after the occurrence of 8:00 AM ET based on the synchronization of the clock in the FAX Machine with a Network Time Protocol (NTP) server that is, in turn, synchronized with the U.S. atomic clock. Accordingly, NYISO Customers may wish to synchronize their fax-sending equipment with, or time the sending of their facsimiles based upon, the U.S. atomic clock. However, the clock in the FAX Machine will establish, for Import Rights allocation purposes, the occurrence of the start time of 8:00 AM ET. The FAX Machine will create a log of received faxes and place a date/time stamp on each request.

A clock displaying Eastern (EST/EDT) time in hours, minutes and seconds (HH:MM:SS) will be visible on the NYISO website. This clock will be synchronized with a NTP server that is, in turn, synchronized to the US atomic clock. This NYISO website clock display is for the convenience of Customers only and does not govern the start time for the Import Rights allocation process. Instead, as noted above, the FAX Machine establishes the start time of the Import Rights allocation process.

### **Contents of Request**

Each request must contain the following information:

1. The identity of the NYISO Customer making the request;
2. The identity of the External Installed Capacity Supplier;
3. The name and location of the Resource;
4. The Control Area in which the Resource for which the Installed Capacity Supplier seeks rights is located;
5. The MW amount requested, equal to the Installed Capacity Equivalent of the Unforced Capacity sale to the NYCA from the Resource designated in (4) above.

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For example, a request for 100 MW of Import Rights from a Resource with a 10% EFORd will support a UCAP sale of 90 MW;

6. The time period, in blocks of whole months, for which the rights are requested;
7. E-mail address of the requesting party to which a response will be made.

The information listed above must be provided as a “Request for External Installed Capacity Import Rights” to the ISO’s Manager of Auxiliary Market Operations via facsimile to the following NYISO FAX Machine number: 518-356-6208.

If the NYISO determines that the information provided in the request is incomplete or inadequate, the NYISO will immediately notify the requesting party. By 5:00 PM of the day on which requests are received, the NYISO will notify all requestors that have submitted a complete and adequate request for Import Rights of their priority.

### **Priority**

Only complete requests submitted within the time periods specified above will be evaluated by the NYISO. A facsimile transmission that is shown on the FAX Machine log as incomplete will result in the treatment as incomplete of any requests included in any portion of the facsimile transmission that is received. The start time for these time periods will be established in the manner described in the “Determination of Start Time for Submission of Requests” section above. The time/date and time-stamp provided by the FAX machine Machine (as described in that section) will determine the relative priority among the requests received following the start time; however, the maintenance of a Customer’s priority is contingent upon the NYISO’s receipt from the Customer of the supporting documents within the time period set forth in the “Supporting Documents” section below. If the complete and adequate supporting documents are not submitted within that time period, the corresponding request will be automatically rejected upon expiration of that time period.

If multiple requests are to be submitted by a Customer in multiple separate facsimile transmissions within a single request period with the intent that the ISO evaluate each request individually, the Customer must provide notice to the ISO of that intent separately and in writing (by e-mail to: ICAP\_Info@nyiso.com) at least one hour prior to the start time for the request period. If a Customer’s request (by separate facsimile transmission) changes the content of a prior request submitted by that Customer in an earlier facsimile transmission within the same request period without prior notice of intent to submit separate requests for individual evaluation, or if an identical request is submitted more than once in multiple facsimile transmissions, the latest time stamp will determine its priority relative to other Customers’ requests. If duplicate requests are submitted in the same facsimile transmission, they must be identified as duplicates or they will be treated by the NYISO as requests for a cumulative megawatt amount. If a request is resubmitted for any reason, the latest time stamp will determine its priority. Priority is assigned to each request and assumes that supporting documents are received

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by the NYISO within the time period set forth below. Late submissions of supporting documentation will result in the automatic rejection of the Import Rights request.