



Order on Compliance Filing  
for FERC Order No. 741:  
Credit Reforms in Organized  
Wholesale Electric Markets

**Sheri Prevratil – *Manager, Corporate Credit***  
**New York Independent System Operator**

**Credit Policy Working Group**  
*September 29, 2011*

# Background

---

# Summary

- ◆ On January 21, 2010, FERC issued a Notice of Proposed Rulemaking (NOPR) to amend its regulations to reform credit practices in organized wholesale electric markets to ensure that credit practices in place in those markets reasonably protect consumers against the adverse effects of default.
  
- ◆ NYISO responded to the NOPR:
  - a) in comments filed with the IRC,
  - b) in comments filed with PJM and ISO-NE, and
  - c) in a separate NYISO filing.

---

# Summary

- On October 21, 2010, FERC issued a final rule in the NOPR proceeding: Order No. 741 – “Credit Reforms in Organized Wholesale Electric Markets.”
- ◆ Order 741 required each ISO/RTO to submit a compliance filing including proposed tariff revisions by June 30, 2011, with the tariff revisions to take effect on October 1, 2011.

---

# Summary

- ◆ In November 2010, NYISO sought rehearing of Order No. 741 on one credit reform (ability to offset market obligations).
- ◆ On February 17, 2011, FERC issued Order No. 741-A denying all requests for rehearing on the ability to offset market obligations issue and extending the deadline for filing revisions related to this reform to September 30, 2011, with tariff revisions to take effect January 1, 2012.

---

# Summary

- ◆ On August 15, 2011, the NYISO - together with ISO-NE and CAISO - filed for an extension of time, until January 31, 2012, to submit the filing to comply with the ability to offset market obligations credit reform.
  - *Additional time would permit the ISOs/RTOs to secure rulings from the IRS and, in the case of the NYISO, New York State, that the implementation of the preferred method of compliance (i.e. central counterparty in which the ISO/RTO would take title to all transactions) will not adversely affect their status as tax-exempt organizations or cause revenues to be classified as unrelated business income.*
  
- ◆ On September 13, 2011, FERC extended the deadline for making a compliance filing with respect to the ability to offset market obligations to January 31, 2012, with tariff revisions to take effect May 1, 2012.

# FERC Order on Compliance Filing

# Credit Reforms

## Shortening the Settlement Cycle

FERC Order 741	NYISO Compliance Filing	FERC Order on NYISO Compliance Filing
<p>Each ISO/RTO shall establish a billing period of no more than seven days and settlement periods of no more than seven days after issuance of bills (p. 17).</p> <p>FERC did not provide an exemption for municipalities and state agencies.</p>	<p>NYISO will establish a standard weekly billing period that will run from Saturday through the following Friday.</p> <ul style="list-style-type: none"> <li>• NYISO will typically issue invoices on Wednesday for the net amount owed for the prior weekly billing period, with payment due to NYISO two business days later. Payment due to Market Participants will occur two business days thereafter.</li> <li>• Revisions to Attachment V - to provide a mechanism to return excess Working Capital, at the NYISO's discretion.</li> <li>• Revisions to Attachment K - reducing the energy and ancillary services credit requirement, modifying the terms of the prepayment agreement and eliminating the paydown program.</li> <li>• Revising the use of a net receivable to weekly and requiring a customer to enter into a security agreement prior to utilizing this form of collateral.</li> </ul>	<p>FERC accepted NYISO's proposed revisions as follows:</p> <p><u>Effective October 1, 2011</u></p> <ul style="list-style-type: none"> <li>• Weekly invoicing.</li> <li>• Revisions to Attachment V.</li> <li>• Revised prepayment agreement.</li> <li>• Elimination of paydown program.</li> </ul> <p><u>Effective October 18, 2011</u></p> <ul style="list-style-type: none"> <li>• Reduced energy credit requirement.</li> </ul> <p><u>Conditionally Accepted</u></p> <ul style="list-style-type: none"> <li>• Use of a net receivable as collateral with grant of security interest accepted upon acceptance of NYISO's future filing regarding the ability to offset market obligations.</li> </ul>



# Credit Reforms

## Use of Unsecured Credit – Individual Market Participant Cap

FERC Order 741	NYISO Compliance Filing	FERC Order on NYISO Compliance Filing
<p>Require each ISO/RTO to revise its tariff provisions to reduce the extension of unsecured credit to no more than \$50M per market participant (p. 24). This limit is a ceiling, not a mandated amount (p. 26).</p> <p>FERC did not provide for exceptions to the cap or for indexing.</p>	<p>NYISO proposed to revise Attachment K to cap the amount of unsecured credit extended to any one customer at \$50 million.</p> <p>NYISO requested that this revision become effective on October 18, 2011 to reflect the transition to weekly invoicing.</p>	<p>FERC accepted NYISO's proposal effective October 18, 2011.</p>

# Credit Reforms

## Use of Unsecured Credit – Aggregate Corporate Family Cap

FERC Order 741	NYISO Compliance Filing	FERC Order on NYISO Compliance Filing
<p>Require each ISO/RTO to revise its tariff provisions to account for a maximum level of \$100M* in unsecured credit for all entities within a corporate family (p. 26). <i>*Amount lowered to \$50M per Order No. 741-A.</i></p> <p>Parent guarantees are allowed, however, they are simply another form of unsecured credit and the amount utilized would be included in determining the appropriate level of unsecured credit for a market participant and corporate family cap (p. 28).</p>	<p>NYISO proposed to revise Attachment K to cap the amount of unsecured credit extended to any group of customers that are affiliates at \$50 million.</p> <p>NYISO requested that this revision become effective on October 18, 2011 to reflect the transition to weekly invoicing.</p>	<p>FERC accepted NYISO's proposal effective October 18, 2011.</p>

# Credit Reforms

## Elimination of Unsecured Credit for FTR Markets

FERC Order 741	NYISO Compliance Filing	FERC Order on NYISO Compliance Filing
<p>Eliminate unsecured credit for FTR or equivalent (TCC) positions (p. 34).</p> <p>The Final Rule does not provide exemptions for holders of “fixed price TCCs,” or other products, from the prohibition on the use of unsecured credit in this market as they may vary in value despite being called “fixed price” (p. 38).</p>	<p>NYISO proposed to revise Attachment K to disallow the use of unsecured credit for Fixed Price TCCs.</p>	<p>FERC accepted NYISO’s proposal effective October 1, 2011.</p>

# Credit Reforms

Ability to Offset Market Obligations		
FERC Order 741	NYISO Compliance Filing	FERC Order on NYISO Compliance Filing
<p>Require each ISO/RTO to include in its tariffs one of the following options:</p> <ul style="list-style-type: none"> <li>• Establish a central counterparty.</li> <li>• Require market participants to provide a security interest in their transactions.</li> </ul> <p>Propose another alternative with the same degree of protection as the two above-mentioned methods.</p> <p>Establish credit requirements for market participants based on their gross obligations (pp. 55-56).</p>	<p>This compliance filing is due January 31, 2012 with tariff revisions to take effect May 1, 2012.</p>	<p>N/A for this Order</p>

# Credit Reforms

Minimum Criteria for Market Participation		
FERC Order 741	NYISO Compliance Filing	FERC Order on NYISO Compliance Filing
<p>Require each ISO/RTO to include in its tariff, language to specify minimum participation criteria to be eligible to participate in the organized wholesale electric market (p. 62).</p> <p>Minimum criteria could include the capability to engage in risk management or hedging or to outsource this capability with periodic compliance verification to make sure each market participant has adequate risk management capabilities (p. 62).</p> <p>FERC directs each ISO/RTO to develop these criteria through their stakeholder process (p. 62).</p>	<p>NYISO proposed to add a section to Attachment K setting forth minimum participation criteria including the following requirements:</p> <ul style="list-style-type: none"> <li>• Written risk management procedures.</li> <li>• Appropriate training and/or experience in the ISO-administered markets</li> <li>• Appropriate personnel resources and procedures to respond to NYISO directions on financial matters.</li> <li>• Capitalization of \$10M in assets or \$1M in TNW. If a Market Participant cannot meet this criteria it must post \$200K in security (\$500k if participating in the TCC market).</li> </ul> <p>Each Market Participant must certify annually to the NYISO that it is in compliance with the minimum participation criteria.</p>	<p><b>FERC conditionally accepted NYISO's proposal effective October 1, 2011.</b></p> <ul style="list-style-type: none"> <li>• Officer certification forms are due October 1, 2011.</li> </ul> <p>FERC found that an officer certification attesting that a Market Participant has risk management policies does not by itself satisfy the criteria set forth in Order 741 without independent verification that risk management policies are actually being implemented.</p> <p>NYISO must make a compliance filing by December 14, 2011 to establish such verification as part of its minimum participation criteria.</p>

# Credit Reforms

<b>Use of “Material Adverse Change”</b>		
<b>FERC Order 741</b>	<b>NYISO Compliance Filing</b>	<b>FERC Order on NYISO Compliance Filing</b>
<p>Require each ISO/RTO to specify in their tariffs the conditions under which they will request additional collateral due to a material adverse change. This list should be illustrative rather than exhaustive (pp. 68 – 69).</p> <p>Requires each ISO/RTO to provide reasonable advance notice to a market participant, when feasible, if invoking a material adverse change clause. It should be in writing, contain the reasoning and be signed by a person with authority to represent that ISO/RTO in such actions (p. 71).</p>	<p>NYISO proposed revisions to provide an illustrative, but not exhaustive, list of examples and circumstances that would entitle NYISO to invoke a material adverse change.</p> <p>In addition, the NYISO will provide Market Participants a written explanation of the reasons for its decision.</p>	<p>FERC accepted NYISO’s proposal effective October 1, 2011.</p>

# Credit Reforms

<b>Grace Period to “Cure” Collateral Posting</b>		
<b>FERC Order 741</b>	<b>NYISO Compliance Filing</b>	<b>FERC Order on NYISO Compliance Filing</b>
Require each ISO/RTO to include in the credit provisions of its tariff, language to limit the time period allowed to post additional collateral to no more than two days (p. 76).	NYISO proposed to add a new section to Attachment K to specify that a Market Participant shall have no more than two business days to cure a collateral shortfall.	FERC accepted NYISO’s proposal effective October 1, 2011.

# Next Steps

- ◆ Pursue both IRS and NYS rulings regarding the ability to offset market obligations.
  - *NYISO staff will continue to provide regular updates to Market Participants and appropriate regulators, as needed.*
  - *In the event tax discussions reveal that becoming a central counterparty is not in the best interest of NYISO and its Market Participants, the NYISO will need to revisit remaining options.*
- ◆ Determine, with input from Market Participants, a periodic verification process as part of minimum participation criteria.
  - *Must be completed for filing with FERC by December 14, 2011.*





The New York Independent System Operator (NYISO) is a not-for-profit corporation that began operations in 1999. The NYISO operates New York's bulk electricity grid, administers the state's wholesale electricity markets, and provides comprehensive reliability planning for the state's bulk electricity system.

---

***[www.nyiso.com](http://www.nyiso.com)***