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BY HAND DELIVERY

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

Re: *New York Independent System Operator, Inc.*, Docket No. EL05-137-000
Informational Filing Concerning Residual Transmission Congestion Contract
Issues

Dear Ms. Salas:

The New York Independent System Operator, Inc. ("NYISO") respectfully submits this informational report concerning two residual issues involving Transmission Congestion Contract ("TCC")¹ calculation and database errors. This report describes the nature of the residual issues and informs the Commission that the NYISO does not believe that any Commission action is required to address these issues.

I. Background

On July 22, 2004, the Commission accepted a settlement agreement among the NYISO and certain market participants that resolved issues involving a TCC database transcription error that contributed to congestion rent shortfalls from the summer of 2002 through the spring of 2004.² In the *TCC Settlement Order*, the Commission granted the NYISO's request to waive tariff provisions to allow the NYISO to effect the terms of the agreement and make whole parties that were harmed by the congestion rent shortfalls. In addition, the NYISO

¹ Capitalized terms not otherwise defined have the meaning specified in Article 2 of the NYISO's Market Administration and Control Area Services Tariff.

² See *New York Independent System Operator, Inc., et al.*, 108 FERC ¶ 61,075 (2004) ("*TCC Settlement Order*").



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instituted an independent review and customer self-verification process to mitigate the chances that other such problems would arise in the future.³

During the course of the NYISO's independent review and the customer self-verification process, the NYISO discovered that similar, smaller calculation and database errors occurred prior to the period governed by the settlement agreement ("Residual Errors"). These errors can be divided into two groups: revenue allocation errors ("Group 1"), which impacted the distribution of TCC auction revenues and DAM congestion balancing charges and payments among Transmission Owners, and auction modeling issues ("Group 2"), which impacted the TCCs sold in prior auctions and, by extension, the auction revenues received and the DAM congestion balancing payments paid or received by each Transmission Owner.

II. Communications

Communications regarding this report should be addressed to:

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³ The NYISO's July 22, 2004, compliance filing in Docket No. EL04-130-001 provides additional detail about the review processes established by the NYISO to help prevent future TCC database errors.

⁴ The NYISO respectfully requests waiver of 18 C.F.R. § 385.203(b)(3) (2004) to permit service on counsel for the NYISO in both Washington, D.C. and Richmond, Virginia.



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III. Report

The NYISO hereby informs the Commission that it will not be requesting regulatory action to address the Residual Errors. The NYISO will resolve the Group 1 errors through the normal billing adjustment process established in its Commission-approved tariffs.⁵ The billing adjustment process is the NYISO's normal means of resolving such billing issues, and there is no need for Commission action to effect the necessary corrections. The first of these billing adjustments will be applied to the Close-Out Settlements for the months of September 2000 through January 2001, which were posted for final market participant review on July 5 and will be invoiced on August 5. The Group 2 errors are not susceptible to correction, nor do they require correction, as explained below. Therefore, the NYISO is not seeking Commission action with regard to the Group 2 errors.

Unlike the Group 1 errors, the Group 2 errors cannot be addressed through the NYISO's normal billing adjustment process because the effects of these errors on prior TCC auctions cannot be reversed. As a result of the Group 2 errors, the set of TCCs that the NYISO made available for sale in TCC auctions between May 2000 and October 2002 was incorrect, reflecting, in total, more capacity than should have been included. There is no way to correct the system modeling errors used in those past auctions after the fact.

Beyond the fact that the Group 2 errors cannot be corrected after the fact, there is no compelling reason to seek to address the Group 2 errors because no party has been overcharged, underpaid, or otherwise financially harmed. Unlike the situation resolved by the *TCC Settlement Order*, Transmission Owners were not required to make payments to fund net excess congestion rent shortfalls as a result of the Group 2 errors.⁶ In this case, the excess TCC auction revenues created by the Group 2 errors exceeded the resulting excess congestion rent shortfalls. As a result, Transmission Owners were not financially harmed. Nor were TCC

⁵ Open Access Transmission Tariff, Section 7.2A; Market Administration and Control Area Services Tariff, Section 7.4.

⁶ This is a function of the system congestion experienced during this period as compared to that experienced during the period covered by the *TCC Settlement Order*. In this period, excess TCC auction revenues attributable to the Residual Errors exceeded the excess congestion rent shortfalls attributable to the Residual Errors. In contrast, during the period covered by the *TCC Settlement Order*, the excess congestion rent shortfalls, which are paid by Transmission Owners, exceeded the excess TCC auction revenues.

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Holders financially harmed, because all TCC auction prices were calculated correctly and congestion rents paid to TCC Holders were calculated correctly. In short, each TCC Holder received the benefit of its bargain notwithstanding the Group 2 errors.

The net excess TCC auction revenues attributable to the Group 2 errors did not result in a windfall to Transmission Owners. While Transmission Owners received additional auction revenues as a result of the Group 2 errors, some of those additional revenues were offset by additional congestion rent shortfalls paid by Transmission Owners that also resulted from the Group 2 errors. Any remaining excess auction revenues flowed through to reduce the Transmission Service Charge ("TSC") paid by the Transmission Owners' customers.⁷ Because these revenues flowed through the TSC, Transmission Owners did not retain any excess TCC revenues that resulted from the Group 2 errors and, therefore, Transmission Owners have not been unjustly enriched.

Although the NYISO believes that it is not necessary to take any action in the absence of any harm attributable to the Group 2 errors, it is submitting this informational report in order to keep the Commission apprised of TCC errors affecting past periods and their impacts on the NYISO markets. In addition to this report, the NYISO has reviewed these issues and the resolutions described above with its market participants in stakeholder meetings in April and May of this year. Because of the stringent review process instituted by the NYISO in the wake of the congestion rent shortfall problems it experienced in 2004, the NYISO does not anticipate similar problems in future TCC auctions.

⁷ Revenues generated from the sale of TCCs are used to reduce the Transmission Owners' TSC revenue requirements.




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IV. Conclusion

WHEREFORE, the New York Independent System Operator, Inc. respectfully requests that the Commission accept this informational report.

Respectfully submitted,

NEW YORK INDEPENDENT SYSTEM
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July 27, 2005

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