

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

New York Independent System Operator, Inc.            )            Docket No. ER05-1123-000

**MOTION FOR LEAVE TO ANSWER AND ANSWER  
OF THE NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.**

Pursuant to Rules 212 and 213 of the Commission’s Rules of Practice and Procedure,<sup>1</sup> the New York Independent System Operator, Inc., (“NYISO”) hereby respectfully requests leave to answer, and answers the *Motion to Intervene and Comments of the New York Transmission Owners* (“TO Comments”) that was filed on June 28 in this proceeding. The Commission should not accept the tariff changes proposed in Section III.A of the TO Comments because they are based on a misunderstanding and would create unnecessary confusion. The NYISO does not object to the changes proposed in Section III.B of the TO Comments.

**I.        MOTION FOR LEAVE TO SUBMIT ANSWER**

The Commission’s procedural rules generally prohibit answers to protests but do not bar answers to “comments.” The NYISO should therefore be allowed to answer the TO Comments as a matter of right.

In the event that the Commission deems the TO Comments to be akin to a protest, and thus subject to the general rule against answers, the NYISO respectfully requests leave to submit this answer. The Commission has allowed answers to protests when they help to clarify complex issues, provide additional information that will assist the Commission, correct inaccurate

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<sup>1</sup> 18 C.F.R. §§ 385.212, 213 (2004).

statements, or are otherwise helpful in developing the record in a proceeding.<sup>2</sup> The NYISO's Answer meets this standard because it is confined solely to shedding light on a complex issue that involves overlapping pricing and scheduling rules.

## II. ANSWER

Section III.A of the TO Comments argues that the NYISO's proposed tariff revisions should be modified so that generators that are committed by the Real-Time Dispatch ("RTD") and that require ten minutes to start up are not unfairly exposed to undergeneration penalties. The TO Comments' argument on this point is well-intentioned, but its proposed modification is nevertheless unnecessary. Generators that have ten-minute start-up times and are committed and dispatched by RTD under the NYISO's proposal will not be subject to penalties, as a result of the NYISO's proposed tariff revisions, in any manner that differs from their exposure to penalties today. Nor will they be treated any differently than they were prior to the implementation of RTD earlier this year. Penalties will not accrue solely on the issuance of "binding" base points, for reasons more fully discussed below.

The only undergeneration penalties imposed by the NYISO are set forth in Rate Schedule 3-A, of the Market Administration and Control Area Services Tariff ("Services Tariff"). Rate Schedule 3-A subjects generators that are not supplying Regulation Service<sup>3</sup> to undergeneration charges if they "persistently" undergenerate. Pursuant to Section 1.0 of Rate

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<sup>2</sup> See, e.g., *Morgan Stanley Capital Group, Inc. v. New York Independent System Operator, Inc.*, 93 FERC ¶ 61,017 at 61,036 (2000) (accepting an answer that was "helpful in the development of the record . . ."); *New York Independent System Operator, Inc.*, 91 FERC ¶ 61,218 at 61,797 (2000) (allowing "the NYISO's Answer of April 27, 2000, [because it was deemed] useful in addressing the issues arising in these proceedings . . ."); *Central Hudson Gas & Electric Corp.*, 88 FERC ¶ 61,138 at 61,381 (1999) (accepting prohibited pleadings because they helped to clarify the issues and because of the complex nature of the proceeding).

<sup>3</sup> Generators that provide Regulation Service are not subject to persistent undergeneration charges .

Schedule 3-A, the NYISO does not deem “persistent” undergeneration to have occurred unless a generator fails to begin moving towards its assigned basepoint within fifteen minutes (three consecutive RTD intervals). Generators that require ten minutes to start-up will therefore have ample time to begin moving toward their base points, and thus to avoid undergeneration charges, if they are committed and dispatched by RTD.

It should be remembered that Generators with ten-minute start-up times are in the same position under the RTS tariff today as they will be once RTD begins to perform a limited commitment function. Today, the Real-Time Commitment (“RTC”) software commits Generators with ten-minute start-up times. Penalties begin to accrue, as discussed above, only if an RTD-dispatched Generator fails to move towards its basepoint within 15 minutes of receiving it. Penalties will accrue only in these same circumstances if the NYISO’s proposal is accepted and Generators with ten-minute start-up times are both committed and dispatched by RTD.

Moreover, RTD’s predecessor, the Security Constrained Dispatch (“SCD”) software, was responsible for committing gas turbine units capable of starting within ten minutes in real-time. Yet generators with ten-minute start-up times were not subjected to unreasonable under-generation charges when they were turned on in real-time. The same will be true after the NYISO’s proposal takes effect.

The concern that generators with ten minute start up times will be subject to “binding” base points and schedules in the first RTD pass, and thus to penalties, is misplaced. The base points and schedules established during the first pass are “binding” in that they are actual base points and schedules that will be used for price calculation purposes. This distinguishes them from the “non-binding” advisory points and schedules that are established during the first RTD pass for points in time further than five minutes into the future. The fact that schedules and base

points are “binding” in this sense does not mean that generators will be subject to penalties if they do not meet them within five minutes.

Consequently, there is no need to add the language recommended by the TO Comments to Services Tariff Sheet No. 331.00d. Indeed, the TO Comments’ proposal would actually introduce confusion into the tariff by incorrectly implying that generators which require ten minutes to start up will somehow be treated differently under the NYISO’s price calculation rules. The NYISO appreciates that the recommendation in Section III.A of the TO Comments was meant to be helpful but must nonetheless ask the Commission to reject it.

### **III. CONCLUSION**

For the reasons set forth above, the NYISO respectfully requests that the Commission consider this Answer and reject the tariff changes proposed in Section III.A of the TO Comments.

Respectfully submitted,

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July 12, 2005

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day electronically served the foregoing document upon each person designated on the official service lists compiled by the Secretary in this proceeding in accordance with the requirements of Rule 2010 of the Rules of Practice and Procedure, 18 C.F.R. § 385.2010.

Dated at Washington, D.C., this 12th day of July, 2005.

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