

Cochrane, Director of the Commission's Division of Tariffs and Market Development - East, dated May 10, 2005 ("May 10 Letter"): "The 2004 Gold Book was the basis used throughout the stakeholder process to formulate the summer/winter differentials for the Demand Curves in the filing that was discussed at the Technical Conference and is the subject of the Commission's April 21 Order." The IPPNY Filing thus effectively requests re-opening of the record for consideration of new evidence in the form of the 2005 Gold Book, and seeks affirmative relief from the Commission in the form of revision of the Demand Curves. The Commission's Rules of Practice and Procedure therefore permit the NYISO to respond to the IPPNY Filing.³

To the extent that the NYISO's partial response is not expressly permitted under Rule 213, the NYISO respectfully requests leave to submit this response to provide information that will be useful to the Commission in considering the IPPNY Filing, and to correct certain inaccuracies in the IPPNY Filing.⁴

In addition, the NYISO requests that it be permitted to respond on the merits to the Gold Book issues raised in the IPPNY Filing in accordance with the schedule set forth below. That schedule will permit the NYISO Board of Directors to consider the views of interested stakeholders on the significance of the 2005 Gold Book for the recently-approved ICAP Demand Curves, as discussed below.

³ Rule 213(a)(3) of the Commission's Rules of Practice and Procedure allows an answer to filings seeking affirmative relief from the Commission. 18 C.F.R. § 385.213(a)(3).

⁴ 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).

Partial Response to IPPNY Filing

A. IPPNY Makes Unfounded Assertions about the Gold Book Process

In the May 10 Letter, the NYISO took the initiative in bringing the 2005 Gold Book to the attention of the Commission, and informed the Commission that

the NYISO will establish a process to discuss with market participants the causes and significance of the new Gold Book winter/summer differential data, and whether and to what extent the new information reported in the 2005 Gold Book may affect the Demand Curves recently approved by the Commission. This dialogue will take into account the established procedures for determining the Demand Curves prior to the publication of the 2005 Gold Book, the numerous other factors that are balanced in the Demand Curve determination and the value of certainty once Demand Curves have been established for a three-year period.⁵

Notwithstanding this letter, the IPPNY Filing implies that the NYISO deliberately withheld the 2005 Gold Book from the Demand Curve process. IPPNY's position is unwarranted and erroneous.

The IPPNY Filing asserts that the 2005 Gold Book was prepared under the supervision of Belinda Thornton and John Charlton, the NYISO's witnesses at the Technical Conference held in these dockets.⁶ IPPNY has informed the NYISO, and has authorized the NYISO to inform the Commission, that it now acknowledges this statement is not correct. The Gold Books are in fact prepared as part of the NYISO's capacity planning function. Neither Ms. Thornton nor Mr. Charlton have any supervisory responsibility for capacity planning.

The IPPNY Filing also asserts that the 2005 Gold Book data was deliberately posted to an obscure location on the NYISO website.⁷ This assertion likewise ignores the fact that Gold Book preparation is part of the capacity planning process. The Gold Book data was posted to the

⁵ May 10 Letter at 2.

⁶ IPPNY Filing at 2.

⁷ IPPNY Filing at 2 n.4.

NYISO website in the area devoted to capacity planning, as has been the case with all prior versions of the Gold Book. In general, the 2005 Gold Book was prepared and disseminated in accordance with NYISO procedures for the annual development of the Gold Books, and the IPPNY Filing provides no facts to the contrary.

B. IPPNY Makes One-Sided Assertions about the Significance of the 2005 Gold Book

As pointed out in the May 10 Letter, the 2004 Gold Book was used throughout the stakeholder review of the Demand Curves as the basis for assessing the seasonal winter capacity differential.⁸ That stakeholder review took place this past summer and fall, long before the publication of new Gold Book data. Moreover, it has been clear since the Commission's initial approval of ICAP Demand Curves that to foster market certainty the curves were to be established for three year periods, notwithstanding that much if not all of the data underlying the curves would change over time. The May 10 Letter nonetheless acknowledged the concerns that some market participants had expressed about the 2005 Gold Book data, and committed the NYISO to a stakeholder process that "will take into account the established procedures for determining the Demand Curves prior to the publication of the 2005 Gold Book, the numerous other factors that are balanced in the Demand Curve determination and the value of certainty once Demand Curves have been established for a three-year period."⁹

The IPPNY Filing now seeks to short circuit that process, contending that the 2005 Gold Book contains "factual data that is not subject to reasonable dispute," and that "a stakeholder process to discuss whether the Commission should now have access to the information for

⁸ May 10 Letter at 1.

⁹ May 10 Letter at 2.

purposes of correcting its April 21 Order is clearly inappropriate.”¹⁰ Both contentions are without merit, and neither supports IPPNY’s assertion that the Commission should *ipso facto* revise the Demand Curves as advocated by IPPNY on the basis of the 2005 Gold Book.

The issue for consideration by the stakeholders is not whether the data in the 2005 Gold Book is factually correct. The Gold Books are based on generator testing data submitted by the generation owners or operators. The NYISO is not aware of any contention, or basis for contending, that the Gold Book data was not accurately reported. Similarly, the stakeholder process will not discuss whether the Commission should have access to the data. The data is publicly available on the NYISO’s website. The issue for the stakeholders, and ultimately the Commission, is the significance of the 2005 Gold Book data, and whether it warrants revision of the recently-approved Demand Curves.

The suggestion in the IPPNY Filing that the 2005 Gold Book provides a new summer/winter differential number that requires an automatic and self-evident revision in the Demand Curves is an over-simplification. The IPPNY Filing omits consideration of at least the following factors:

- As the Commission recognized, the 2004 Gold Book was accepted in the development of the recently-approved Demand Curves as the basis for “an adjustment to account for the greater potential supply of capacity in the winter than in the summer that results from generators being capable of higher output in the winter, primarily because of the lower ambient temperatures.”¹¹ More than half (400 MW) of the increase in the summer/winter differential in the 2005 Gold Book as compared to

¹⁰ IPPNY Filing at 8-9 and 11.

¹¹ April 21 Order at P 52.

the 2004 Gold Book, however, is attributable to *decreases* in summer capacity as opposed to *increases* in winter capacity. As shown on the document distributed to the ICAP Working Group at its meeting on May 23, 2005 (copy attached), the 2005 capacity data is the first time that a Gold Book has shown a decrease in summer capacity, which suggests that there may be anomalies in the 2005 generator data.

- The recently-approved Demand Curves include an allowance for a 300 MW increase in winter capacity over the summer/winter differential reflected in the 2004 Gold Book.¹²
- The ICAP Demand Curves were intended to be established for three years, reflecting an important compromise between the potential for the data underlying the curves to change over time, and the market benefits of certainty and stability in the curves. Any after-the-fact revisions to the curves, as proposed by the IPPNY Filing must be weighed against the benefits of certainty and stability.
- The Demand Curve reference values (the points at which the curves cross the vertical axis) are already escalated each year to reflect any of a variety of costs that may increase from year to year. The NYISO Board must determine whether the 2005 Gold Book data warrants further adjustment of the curves.

In short, the IPPNY Filing does not provide a full and balanced basis on which the Commission can assess the significance of the 2005 Gold Book for the recently-approved ICAP Demand Curves.

¹² April 21 Order at P 68.

Request for Procedural Schedule

The IPPNY Filing speaks from the perspective of the suppliers, an important constituency in the development of the ICAP Demand Curves. But IPPNY does not speak for the load serving entities (“LSEs”), which will have to pay the costs of any increase in the Demand Curves, nor does IPPNY speak for the New York Public Service Commission. The IPPNY Filing does not and cannot show that IPPNY’s is the only voice that should determine the significance for the recently-approved Demand Curves of the 2005 Gold Book data.

As noted above, the 2005 Gold Book was discussed at a meeting of the ICAP Working Group on May 23, 2005. At that meeting, the NYISO requested written comments and reply comments on the significance of the 2005 Gold Book data from all interested stakeholders. The stakeholders requested that they have to June 3 to submit written comments, and to June 9 to submit reply comments. The NYISO anticipates that those comments will be considered by the NYISO Board of Directors in connection with the Board’s regularly scheduled meeting in the third week of July. Upon completion of the Board’s deliberations, the NYISO will inform the Commission of the Board’s determination, and file for Commission action, if any, as may be appropriate. The NYISO requests that the Commission defer any action on the issues raised in the IPPNY Filing until after receiving the NYISO’s submission, so that the issues can be decided on a full and balanced basis and with the benefit of the Board’s assessment.

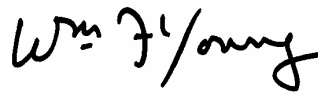
Conclusion

WHEREFORE, for the foregoing reasons, the New York Independent System Operator, Inc., respectfully requests adoption of the schedule discussed above for the submission of its Board’s evaluation of whether the recently-approved Demand Curves should be revised in light of the 2005 Gold Book data, based on review and assessment of the positions of the interested

stakeholders. The NYISO further respectfully requests that the Commission defer action on the IPPNY Filing until it has had an opportunity to consider the NYISO's submission after the Board's deliberations.

Respectfully submitted,
NEW YORK INDEPENDENT
SYSTEM OPERATOR, INC.

By:

A handwritten signature in black ink that reads "Wm F Young". The signature is written in a cursive, slightly slanted style.

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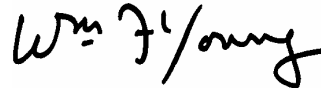
June 7, 2005

cc: Daniel L. Larcamp
Anna Cochrane
Connie N. Caldwell
Michael A. Bardee

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service lists compiled by the Secretary in Docket Nos. ER05-428-000 and ER05-428-001, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 2010.

Dated at Washington, D.C., this 7th day of June 2005.

A handwritten signature in black ink that reads "Wm F Young". The signature is written in a cursive, slightly slanted style.

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