

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
William L. Massey, Linda Breathitt,  
And Nora Mead Brownell.

New York Independent System Operator, Inc.

Docket No. ER02-1900-000

ORDER ACCEPTING TARIFF REVISIONS FOR FILING

(Issued July 26, 2002)

1. On May 24, 2002, as supplemented on May 28, 2002, the New York Independent System Operator, Inc. (NYISO) filed proposed tariff changes pursuant to section 205 of the Federal Power Act (FPA),<sup>1</sup> to allow for the deliverability of energy from the New York control area by generators providing installed capability (ICAP) to external control areas. In this order, we will accept for filing the NYISO's proposed revisions to its Market Administration and Control Area Services Tariff (Services Tariff), effective July 1, 2002. This order benefits customers since the NYISO's proposed tariff revisions will help promote inter-ISO transactions and thus foster a more seamless market for energy transactions throughout the Northeast region.

**Background**

2. The NYISO states that its proposed tariff revisions will ensure the deliverability of energy by generators that supply installed capacity (ICAP) to external control areas and that have available generating capacity. The proposed revisions specify that the NYISO may not purchase energy sold by generators in the New York control area that are supplying ICAP to external control areas in response to a notification from that control area at times when the New York control area is experiencing a capacity resource emergency. The NYISO states, however, that it would be able to purchase this energy to avoid a security-related emergency that does not involve a reserves shortage, as consistent with the Independent System Operators' (ISOs) agreements.

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<sup>1</sup>16 U.S.C. § 824d (1994).

3. The NYISO also states that its proposed revisions would require generators supplying external ICAP to submit an hour ahead bid price to provide the highest economic priority to schedule the export transaction. According to NYISO, this will allow the Balancing Market Evaluation (BME) to schedule the transaction and should ensure the export to flow in real time and therefore, the deliverability of external ICAP.
4. The NYISO further states that its proposed revisions would allow the NYISO to take manual intervention action to guarantee that external ICAP will flow if the BME fails to schedule the transaction due to a reserves shortage in New York.<sup>2</sup>
5. The NYISO requests waiver of the Commission's 60-day prior notice requirement to permit its proposed revisions to become effective July 1, 2002. The NYISO asserts that good cause exists to grant the requested waiver because the proposed revisions resolve a significant seams issue and current inequities relating to the inability of resources located in New York to sell ICAP in the PJM Interconnection, L.L.C. (PJM) market, and increase the reliability and security of the Northeast ISOs.

### **Notices and Responsive Pleadings**

6. Notices of the NYISO's filings were published in the Federal Register,<sup>3</sup> with interventions, comments or protests due on or before June 21, 2002. Motions to intervene were timely filed by Mirant Americas Energy Marketing, LP, *et al.*<sup>4</sup> (Mirant Parties),

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<sup>2</sup>The NYISO does note, however, that the BME will not bump more economic transactions with an external control area in order to permit the external ICAP to flow if the interface is fully subscribed. This is to avoid raising the energy price in the New York market (the external control area would be receiving the maximum possible amount of energy from New York and should be indifferent). The NYISO will leave language in the Tariff that will allow curtailment of any transaction in the event the ISO issues Transmission Loading Relief procedures to avoid a violation of voltage, stability or thermal transmission limits; however, the exports of energy from generators supplying ICAP will receive the highest curtailment priority.

<sup>3</sup>67 Fed. Reg. 39,965, and 67 Fed. Reg. 41,706 (2002).

<sup>4</sup>Joined by Mirant New York, Inc., Mirant Bowline, LLC, Mirant Lovett, LLC, and Mirant NY-Gen, LLC.

Central Hudson Gas & Electric Corporation, et al.<sup>5</sup> (Member Systems), Keyspan-Ravenswood, Inc. (KeySpan), NEPOOL, H.Q. Energy Services (U.S.), Inc. (H.Q. Energy), PJM Interconnection L.L.C. (PJM), and Dynegy Power Marketing, Inc. (Dynegy).

7. Comments were filed by PJM and Dynegy. PJM states in its comments that the NYISO tariff revisions memorialize temporary measures agreed to in a coordination agreement between the two ISOs and are to be effective through 2003. PJM states that it understands that the NYISO will be revising and enhancing its software capability by 2004 such that the NYISO can address the interregional ICAP deliverability issue set forth in the agreement and the tariff revisions without the need for the manual invention that is allowed for here.<sup>6</sup>

8. Dynegy states that it supports the NYISO's proposed tariff revisions as solving the seams problem assuming they: (1) satisfy PJM requirements for firm transmission from a New York capacity resource to the NYISO/PJM interface; (2) require no additional requirements at the NYISO/PJM interface that would preclude PJM recognition of the capacity resource; and (3) allow a New York generator to sell into the PJM ICAP market (therefore not bidding into the New York day ahead market (DAM)) and not be penalized by NYISO for economic withholding. If these assumptions are incorrect, then Dynegy states that the proposed revisions would not solve the capacity seams problems and the Commission should endeavor to ensure that the seams problem is permanently solved. Dynegy states that it posed a scenario to the NYISO whereby a generator that commits to provide capacity to an external control area and bids into the New York DAM could potentially be selected to run by both control areas. Dynegy states that NYISO indicated that if the generator does not bid onto the New York DAM it could be deemed to have economically withheld and be penalized.

## **Discussion**

### **A. Procedural Matters**

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<sup>5</sup>Joined by Consolidated Edison Company of New York, Inc., Long Island Power Authority, New York State Electric & Gas Corporation, Orange and Rockland Utilities, Inc., the Power Authority of the State of New York, Rochester Gas and Electric Corporation, and Niagara Mohawk Power Corporation.

<sup>6</sup>PJM notes that, even though not included in the proposed revisions, PJM will have the right to audit the records and procedures of the NYISO to verify that agreed upon processes and procedures were followed during a curtailment or if New York ICAP resources could not be scheduled into PJM.

9. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2002), the timely, unopposed motions to intervene filed by the Mirant Parties, Member Systems, KeySpan, NEPOOL, H.Q. Energy, PJM, and Dynegy serve to make these entities parties to this proceeding.

**B. Analysis**

10. We accept NYISO's proposed revisions since they facilitate ICAP transactions between the ISOs, subject to condition, effective as of the date requested. We are concerned, however, that manual intervention is still needed by NYISO for interregional ICAP deliverability. The Commission recognizes that the ISOs need to work towards systems that do not require manual interventions in order to operate. We are also concerned with the scenario presented by Dynegy. One aspect of our concern is the scenario under which a generator could be penalized for economic withholding as a consequence of not committing the same resource twice. The other aspect that concerns us is that the requirements for bidding into the DAM, together with the different bidding schedules between PJM and NYISO, could leave open an opportunity where participants are able to take advantage of the market. We note, however, that NYISO is in the process of modifying its software to address the manual intervention problem and that bidding rules issues will be addressed in the Standard Market Design rulemaking, which is currently before the Commission.

The Commission orders:

The NYISO's proposed tariff revisions are hereby accepted for filing, effective July 1, 2002, as discussed in the body of this order.

By the Commission.

( S E A L )

Linwood A. Watson, Jr.,  
Deputy Secretary.