NYISO Business Issues Committee Meeting Minutes -- DRAFT
Wednesday, December 15th, 2004

Desmond Hotel, Albany, NY

1. Welcome & Meeting Objectives
Jim Scheidrich, Chair of Business Issues Committee (BIC) called the meeting to order at 10:06 AM and welcomed the members of BIC. Attendees introduced themselves, naming the organizations they represent.

2. Approval of minutes for November 17, 2004
NYISO staff distributed final drafts of the minutes from November 17th to BIC members before the meeting.

Motion 1:
Motion to approve the minutes from the November 17th BIC meeting.
(Motion passed unanimously by a show of hands.)

3. Chair's Report
Mr. Scheidrich noted that committee participants were reviewing a proposed Working Groups Issues Matrix, and would be submitting their comments prior to the next BIC.

4. Market Operations Report
Ms. Belinda Thornton of the NYISO presented the Market Operations Report. Ms. Thornton noted that November prices were up slightly from October due to higher loads. Fuel prices and day-ahead regulation prices both decreased for the November period. Ms. Thornton reported that 2004 prices were lower than 2003 for the same period.

Mr. Scheidrich noted that the Daily Energy Reports posted on the NYISO OASIS should include a breakdown on supplier and load bids for virtual bidding. Kathy Whitaker of the NYISO noted that several identical requests had been received by the NYISO and that the matter would be addressed after the deployment of SMD2.

Ms. Doreen Saia of Mirant observed that the increase in day-ahead mitigation reported in the in-city mitigation report seemed counter-intuitive given the higher load levels in October. Ms. Thornton noted that there were multiple causal factors and she would address this issue at a later time.

Mr. Rich Dewey of the NYISO presented the SMD2 Readiness Report noting that during parallel operations the state estimator and contingency analysis performed well. Mr. Dewey observed that from a departmental standpoint, the NYISO groups tasked with running markets proved that all tools operated correctly. Although inconsistent participation obfuscated the NYISO's ability to establish direct correlations between the legacy and SMD2 markets, overall parallel operation performance was good. LECG verification is pending and will be provided. Mr. Dewey noted that a formalized summary of software issues and defects would be provided during the SMD2 Technical Conference in January 2005.

5. Regional Market Enhancements
Ms. Thornton noted that the NYISO, ISO-NE, and PJM would be scheduling a joint stakeholder Inter-market Coordination Group meeting in January to address potential seams projects in preparation for the quarterly FERC report. Michael Mager of Multiple Interveners asked about the elimination of rate pancake between the NYISO and PJM. Ms. Thornton noted that this would be discussed at an intra-ISO meeting in early January.

6. Final Bill Close-out Settlements – Monthly Load Ratio Share Proposal
Mr. Ken Davis of Hunton & Williams reviewed the plan for resuming final bill close-outs by posting and then invoicing successive batches of five invoice months at a time. Mr. Davis summarized the process by which Market Participant bill challenges and NYISO-identified billing issues are resolved. He stated that as of December 2004, there are 31 invoice months eligible under the tariff for final close out and the oldest eligible month for close-out is March 2000. A number of

issues affecting the next five-month batch (March 2000-July 2000) include two that require legacy system coding. Due to the need to keep the Legacy system stable during the SMD2 deployment, and the desire to resume closeouts in January 2005, the NYISO is proposing to use an Accounting and Billing Benchmark System (ABBS) to calculate values for the two billing issues.

Mr. Davis used meeting materials to describe the ABBS and its intended use for closeouts. He noted that all final bill challenges have been reviewed and acted upon. He explained that the ABBS will calculate accurate Power Supplier values for the two issues. Corresponding allocations to LSEs will be calculated using monthly load ratio shares. Mr. Davis noted that the applicable sections of the tariff refer to daily and hourly load ratio shares, not monthly, but that the difference from using a monthly measurement for these two issues was immaterial. He explained that since the tariff refers to daily and hourly metrics, the NYISO planned to file with FERC a request for waiver of just those tariff requirements, which would allow the NYISO to calculate the allocation of LSE charges for these two issues using monthly, rather than daily or hourly, load ratio shares. All other calculations will follow the Tariff. In response to a question from Mr. Tim Bush of Navigant, Mr. Scheiderich noted that the proposed monthly load ratio share allocation would be applicable only for the two issues noted in Mr. Davis' presentation. In response to a question from Ms. Saia, Mr. Davis stated that the proposal before the Committee was to use the ABBS only for the two issues described in the meeting materials. The NYISO will specifically ask the BIC for its support if the NYISO proposed to use the ABBS to correct other billing issues. Mr. Howard Fromer of PSEG asked if the vote on this proposal also indicated approval for subsequent batches. Mr. Davis confirmed that the vote extended to all the closeout batches affected by the two named issues.

Glenn Haake of IPPNY asked how the proposal would affect the local black start issue. Mr. Davis stated that the NYISO hoped to help resolve the local black start issue through discussions. He said that if the issue was not resolved, this would not impede the final bill close-out process. The issue would be made the subject of an administrative dispute resolution process. Mr. Davis noted that the resolution of any particular issue depended on the mechanism applied to that issue. Mr. Davis also noted that any billing issues that are in an administrative proceeding will be preserved pending the outcome of that proceeding. In response to an inquiry from James D'Andrea representing KeySpan-Ravenswood, LLC, Mr. Davis also noted that any settlement or resolution of local black start compensation would probably be processed as a below the line billing adjustment rather than "rerunning" the bills for past periods.

Motion #2:
Motion in Support of Request for Waiver of Tariff Provisions Regarding Allocation of Certain Charges

Whereas, the NYISO is preparing to issue Final Closeout Settlements for eligible periods under the provisions of the OATT and Services Tariff; and

Whereas, the NYISO must use Accounting & Billing Benchmark System (ABBS) software to calculate certain portions of the Final Closeout Settlements in a timely manner; and

Whereas, the NYISO has confirmed that the data inserted into, and the calculations produced by, the ABBS software are accurate for the two issues identified below; and

Whereas, the NYISO's consolidated invoice software can calculate the allocation of certain charges only according to monthly load ratio shares; and

Whereas, the OATT and Services Tariff establish that charges associated with Bid Production Cost Guarantee payments and Synchronous Lost Opportunity Costs are to be allocated according to daily and/or hourly load ratio shares; and

Whereas, the NYISO has determined that the allocation of these charges is not materially different regardless of whether monthly, daily, or hourly load ratio shares are used;

Now, Wherefore, it is moved that the Business Issues Committee supports NYISO's request to the Federal Energy Regulatory Commission for a waiver of tariff provisions that would require the allocation of Bid Production Cost Guarantee payments and Synchronous Lost Opportunity Costs to be made according to daily and/or hourly load ratio shares and to allow the NYISO to instead calculate the allocation of these charges using the consolidated invoice software, and monthly load ratio shares.

(Motion passed unanimously by show of hands with abstentions)

7. Proposed Modifications to NYISO M-Load Revision Process

Mr. Scheidrich made a proposal regarding the four-month true-up sub-zone load lockdown which he had discussed previously at the November 17 BIC. Mr. Scheidrich proposed that beginning with January 2005, the resulting metered values for monthly sub-zone loads be frozen, after the fourth month following the original service month of ISO operations. He stated that freezing or locking down M-loads after the 4 month period explicitly applied to wholesale loads and not end-use meters or ESCOs. He described how the proposal would support a shorter final bill. Mr. Fromer asked if in instances where a generator wanted more energy than was being produced at the Transmission Owner's meter, whether the number be locked down at the TO or generator value. Mr. Scheidrich replied that if the value were resolved differently, then the load would be recalculated for that particular sub zone at that point and billing would be resolved. Mr. Fromer asked about delays in data being provided from the TO to the generator. Mr. Scheiderich replied that the proposed lock-down would occur 4 months after the end of a given operating month in the NYISO. Further, any party to the data involved could challenge the results by making a reques to the ISO for a 90 day delay to resolve any differences.~~Mr. Scheidrich replied that the proposed lock-down would occur as of the 1st day after the end of a given operating month in the NYISO.~~ Mr. Fromer asked what the consequences would be if the dispute were not resolved within the allotted 90 days. Mr. Scheidrich responded that no firm process was currently in place and currently the Metering Authority provides all data to the NYISO. Mr. Tim Bush of Multiple Interveners noted that while he supported the concept he opposed freezing data at 4 months; he suggested bringing the proposal to the metering group for further discussion. Mr. Scheidrich asked if the NYISO were aware of missing data. Randy Bowers of the NYISO replied that although hourly billing quality data was missing in the initial years of the NYISO it had been provided in a timely fashion during the previous two years and has been markedly better with the implementation of web based reconciliation. Messrs. Fromer and D'Andrea were asked to provide an assessment of any impact such a proposal would have after reviewing their supplier contracts intenally, which they agreed to do

8. Proposal Addressing NYISO Direct Customers and NYS Tax Issues (folder 2 on tape)

Mr. Robert Fernandez of the NYISO discussed the NYISO's legal obligation to comply with directions from the New York State Department of Taxation and Finance as NYS sales tax collection agent and discussed varying Market Participants' concerns stated at previous meetings regarding the possible imposition of Gross Receipts Taxes ("GRTs") arising from sales to "Direct Customers." Mr. Fernandez discussed the nature of the sales tax and GRT issues and solicited Market Participant input on solutions. Describing how the ISO Tariff permits sales directly to end-use customers (so-called "Direct Customers")., Mr. Fernandez noted how the NYS Department of Taxation and Finance notified NYISO in Fall 2003 that NYISO is required to register as a collection agent. If the NYISO were to act as a collection agent under the current market structure, the NYISO would have to incur expensive changes to the billing and settlement system. Those expenses would be borne by the entire market. The NYISO-proposed solution would require Direct Customers to provide resale certificates, exemption certificates or direct pay permits as a condition of direct service. This solution would allow the NYISO to fulfill its legal obligation to register as a collection agent but avoid expenditure of MP funds to make expensive changes to the billing and settlement systems as there would be no sales taxes to collect and registration as a sales tax collection agent would be simply ministerial. Mr. Fromer questioned if a Market Participant had a direct pay permit but defaulted on its obligation, would the Dept. of Tax and Finance have recourse to the NYISO for payment of taxes. Mr. Whiteman (outside Tax counsel to the NYISO) replied in the negative and stated that insulation from liability is very strong with direct pay permits. Mr. Fernandez continued that the NYS Department of Taxation and Finance expects compliance by early 1st quarter 2005.

Mr. Fromer asked if the Market Participants eligible to purchase products under the ISO tariff were limited to wholesale entities, would the need to register be negated. Mr. Fernandez responded that they would still be obligated to register. Ms. Saia wondered if the NYISO could be held accountable for Direct Customers that do not hold exemption certificates. Mr. Fernandez stated this was correct. Ms. Saia asked about the level of residual liability. Mr. Fernandez stated that the potential does exist. Tariq Niazi of Multiple Interveners asked about the current number of Direct Customers in the NYISO market and an estimate of the potential liability. Ms. Kathy Whitaker of the NYISO responded that while no conclusive determinations have been made, an initial inquiry based purely on Market Participants inquiries indicated there were approximately 20 to 30 Direct Customers, of which less than 6 were affected by the sales tax issue.

Mr. Fernandez continued his presentation with a discussion of the Gross Receipts Tax. He described how the GRT is imposed on sellers of utility services, how the State GRT on commodity sales expires January 1st, 2005, and how over 350 local GRTs currently exist. Mr. Fernandez stated that the NYS Dept. of Tax and Finance proffered an advisory opinion stating that NYISO is not a business taxable under the GRT. Also, in contrast to the sales tax requirements, NYISO is not legally obligated to collect GRTs. Market Participants have raised concerns that: (a) certain stakeholders avoid GRT thereby creating an un-level playing field; and (b) NY State or local municipalities may seek to impose GRTs on sellers into NYISO Administered Markets. Mr. Fernandez suggested that the NYISO will facilitate collaborative efforts to develop solutions to Market Participant concerns and will facilitate dialogue with the NYS Tax Department. The NYISO, however, will not collect or administer any tax for which it is not legally responsible and will not provide tax or legal advice to individual market participants or sectors. Mr. Fernandez then described a proposed tariff solution that addressed both the NYISO's legal obligations under sales tax law and Market Participants' concerns about potential GRT liability.

Mr. Haake questioned if a reseller's certificate qualified as a valid exempt certificate. Mr. Fernandez replied in the affirmative. Mr. Haake asked if an entity failed to pay its local entity a GRT was the NYISO or the generator liable. Mr. Fernandez responded he was not sure if there was any liability associated with generators regarding GRTs.

Michael Mager of Multiple Intervenors stated that during the past 5 years, New York State has never attempted to collect GRT from a generator selling to a Direct Customer. Mr. Fromer opined that local entities could look for revenues from their local GRTs even if the state GRT expired. He stated that direct pay permits must provide the same level of protection as certificates for sales tax.

Mr. David Koplas of Fluent Energy stated that, in addition to NYISO, the only substantive legal research and data has been provided by his company and no others. Mr. Ray Kinney of NYSEG stated that the NYISO had to expand its definition of a Direct Customer because it could potentially include generators providing station power. Mr. Fernandez replied that outside counsel was working on the issue. Ms. Saia suggested that with the number of solutions to the GRT issue, the NYISO might forbear on the sales tax issue to address the GRT. Mr. Fernandez indicated that the NYISO would inquire with the Tax Department as to whether it was comfortable granting an extension of time to comply with its directions on the sales tax. Mr. Fernandez indicated that if the Tax Department was not agreeable to such an extension, that the NYISO would need to come into compliance early in the first quarter of 2005. He indicated that compliance would hopefully take the form of a section 205 filing, but failing agreement on the same, the NYISO would recommend to the Board a 206 filing to come into compliance on the sales tax issue. Mr. ~~Jim~~ James D'Andrea of Key-Span~~- Energy Services~~Ravenswood, LLC. objected to the sales tax proposal because of the proposed definition of a Direct Customer. He stated that legal obligations can be met without implementing the definition. Mr. Fernandez stated that the proposal could be implemented without definitional change. Mr. Mager stated that he did not want the NYISO to forget that other Market Participants oppose impairments to the Direct Customer option. Mr. D'Andrea then stated that regardless of how the NYISO resolves these issues, market participants must be able to exclude themselves from retail transactions that are administered by the NYISO, whether they are to Direct Customers or others.

After discussion, a straw motion which in substance directed the NYISO to develop tariff language to address both the sales tax and GRT issues was presented. The motion was not moved nor seconded. Mr Fernandes requested that Market Participants submit comments and suggestions for resolving the GRT issue within the following week.

9. Proposed Revisions to the NYISO Virtual Bidding Credit Policy

William Roberts of Edison Mission elaborated proposed amendments to the current NYISO virtual bidding policy transactions and the amount of collateral required for such transactions. Mr. Roberts stated that the proposal addressed instances where the failure of one Market Participant would not hinder participation of another Market Participant in the virtual bidding market. Collateral should include, in line with FERC recommendations, the netting of Market Participants accounts receivable. Also, the proposed amendment would reduce the amount of collateral required. Mr. Ken Davis remarked that the proposal reflected discussions at working, sub-committee, and NYISO-staff levels.

Motion #3:
The Business Issue Committee hereby requests the NYISO staff to prepare the draft tariff amendments to the NYISO's credit policy for Virtual Transactions necessary to reflect the proposed changes to the credit policy described below for presentation and approval at the next scheduled Management Committee Meeting:

1. Acceptable Collateral for Virtual Transactions should include the netting of a Market Participant's accounts receivables from the NYISO as is currently permitted for other transactions in the NYISO's electricity markets; and,
2. The amount of collateral required for Virtual Transactions shall be reduced from "seven times the highest differential between the Day-Ahead and Real-Time Energy market prices in the NYCA at the 97th percentile over the previous ninety days" to "four times the highest differential between the Day-Ahead and Real-Time Energy market prices in the NYCA at the 97th percentile over the previous ninety days."

All other provisions of the NYISO's credit policy for Virtual Transactions shall remain unchanged.

The NYISO will monitor and verify that the collateral requirements applied to virtual transactions is sufficient and will provide periodic updates to participants.

(Motion passed unanimously by show of hands with abstentions)

10. Proposal Addressing Implementation of Scheduled Lines and the Cross-Sound Cable as a Scheduled Line

Mr. Alex Schnell of the NYISO provided an outline of the NYISO's External Scheduled Line Project, described the special provisions for the Cross Sound Scheduled Line ("CSC"), and provided an overview of the project and regulatory schedule. Mr. Schnell stated that the External Scheduled Lines generic project would enable the NYISO to implement multiple External Proxy Buses representing its interface(s) with a neighboring Control Area. He described proposed tariff revisions including the addition of a new Attachment M to the Services Tariff and additional modifications to both the OATT and Services Tariff. “Generic” External Controllable lines will follow the same scheduling protocols as existing External Proxy Buses. CSC schedules will be limited to the hourly TTC posted for the CSC and a maximum of 330MW in each direction. CSC specific scheduling provisions include an Advance Transmission Reservation, the scheduling of a corresponding transaction with ISO-NE, and a “Validation Passed” bid designation. Mr. Schnell detailed both the generic and special pricing rules applied to the CSC. Generic scheduled lines follow the same curtailment provisions as other NYISO scheduled transaction. In-hour curtailments of the CSC are to be based upon NERC priority of the associated Advance Reservations. Mr. Schnell outlined market monitoring provisions including the possibility of gaming opportunities with the establishment of multiple proxy buses and the resultant necessity for the MYISO MMP to share transaction information with the ISO-NE MMP. Mr. Schnell then enumerated the project milestones and the proposed regulatory schedule.

Kevin Jones of Navigant Consulting, on behalf of LIPA, provided the following commentary on Mr. Schnell’s proposal:

“LIPA supports bringing the proposed tariff language to the MC and FERC for consideration in order to ensure the timely implementation of the NYISO's controllable line scheduling software for the CSC.

As LIPA has noted in prior stakeholder and NYISO discussions, LIPA objects to the NYISO's failure to recognize the Cross Sound Cable reservations as the tiebreaker for economic transactions using the Shoreham Proxy Bus. LIPA believes that the NYISO's approach devalues the merchant transmission rights that were offered and awarded by CSC and, ultimately, will affect the secondary market releases of unused capability over the cable. Moreover, the NYISO’s approach will create an unnecessary seam between the markets since ISO-New England recognizes the CSC reservations as the tiebreaker for economic External Transactions over the Cross Sound Cable interface. LIPA and the NYISO have agreed that this is a matter that requires FERC consideration and LIPA will fully brief its position with the Commission upon the filing of this tariff language.

In order for LIPA to fully preserve its rights to address this issue before FERC, LIPA is abstaining from the vote on the motion.”

Tim Foxen of NRG Power Marketing noted that any other specific scheduling changes to a cross border or tie line would require a separate FERC filing or vote. Mr. Schnell observed that this was specifically stated on sheet 67 of tariff proposals. Mr. Schnell stated the NYISO does not agree with LIPA’s position for reasons discussed at prior meetings of the MC and the Scheduling and Pricing Working Group.

Motion #4:
The Business Issues Committee (BIC) approves the proposed implementation of a “generic” Scheduled Line scheduling solution, and a Cross-Sound Scheduled Line specific scheduling solution, as more fully discussed in the December 15, 2004 presentation to the BIC, and recommends to the Management Committee that the NYISO should be authorized to submit implementing Tariff modifications to the FERC.
(Motion passed unanimously by show of hands with abstentions)

11. Working Group Updates

A. Billing and Accounting
Recent topics at the BAWG have included final bill challenges, the change of the 85/15 allocation to 80/20, and the one year final bill January 2004. The January BAWG will consider the issue of suspending final bill re-spins.

B. Billing Issues Resolution Team
No report.

C. Electric System Planning (Joint OC/BIC WG)
During its December 1st meeting, the ESPWG discussed the comprehensive reliability process, including implementation criteria for halting a regulated project and a PSC straw proposal for a screening process. The ESPWG agreed on the posting process for the historical congestion posting matrix and referred the matter to the OC. The NYISO provided an outline for the comprehensive planning process for economics, which will be further addressed in January.

D. Installed Capacity
The January meeting will discuss UCAP calculations for intermittent resources, DMNC testing, GADS data, and the reset process.

E. Interconnection Issues Task Force
The deliverability study will be reviewed in January.

F. Market Structures
The December 14th meeting of the MSWG discussed instances in SMD2 parallel operations where 30-minute gas turbines did not recover BPCGs over the course of an hour. Additionally, the meeting addressed fall-back guidelines for setting prices following the cutover period to SMD2. Modifications to existing voltage support service payments were discussed and deferred to the January 13th meeting of the MSWG. A concept of operations will be produced for combined cycle modeling during the first quarter of 2005. The NYISO will meet with ISO-NE to discuss the ITS pilot project in early 2005.

G. Price Responsive Load
No report

H. Scheduling & Pricing
No report

12. New Business
Michel Prevost of HQ Energy Services noted an issue related to the netting of transactions on the HQ-NYISO interface, where the NYISO software does not net energy flows above 1200 MWs. The NYISO has suggested adding a 2nd proxy bus at the HQ interface and the issue will be discussed at the December 16th OC. Scott Englander of Charles River Associates noted that the scheduling of monthly TCC auctions is often affected by unplanned transmission outages. He proposed that the ISO schedule the auctions to occur, if feasible, 10 days before the first of each month, e.g., on the 20th or 21st, or close to that day should it fall on a weekend.

13. Administrative Matters
None

14. Adjournment
Meeting was adjourned at 3:33 PM.

Respectfully Submitted,
Caleb Derven
Recording BIC Secretary